

Gerben Bruinsma *Editor*

Histories of Transnational Crime

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Chapter 1

Criminology and Transnational Crime

Gerben Bruinsma

This volume with its historical chapters goes back to the centuries demonstrating that transnational crime is not a contemporary phenomenon, but one that have existed for a very long time. The contributions also show that transnational crime is not synonymous with organized crime, even when organized crime groups are very active crossing borders with their crimes. States, governments, armies or business corporations, and many entrepreneurial individuals also have a long tradition in committing and facilitating transnational crimes.

What is transnational crime? There is no clear definition in the criminological literature about what transnational crime is. It can be distinguished from *international* crimes, crimes that are defined by international (criminal) law. Genocides and other kinds of crimes against humanity for instance cannot be placed under the umbrella of transnational crimes. Transnational crimes have to do with crimes that are commissioned in more than one country, crossing national borders. Activities can be illegal in all nations where they occurred, or in one or more but not all countries (for instance in one country alcohol is forbidden by criminal law but not in its adjacent neighbors). Transnational crimes are about transferring legal and illegal goods and providing illegal services, illegally to other countries, but also includes forms of contemporary cybercrime on the internet. It is not limited to just profit driven crimes as Naylor (2003) suggests, although most of them are. Damaging business corporations by manipulating their websites from other countries for political or military strategic reasons can also be subscribed under the label of transnational crimes. Trafficking persons for humane reasons, to a new country to escape terror in their home country, can end up as human sex slavery in another country.

There are also not very clear boundaries of who the perpetrators of transnational crime are. They can vary from organized criminals like Mafia groups, terrorist groups, or traditional smugglers to national intelligence services, states or business corporations when committing crimes crossing borders. Committing crimes in other

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countries is not limited to criminal organizations as many criminological studies suggest. As Tjihuis (2006), made clear in his study on art smuggling and looting, individuals or legal art galleries carry out and facilitate transnational art crimes, although they always need co-offenders and a certain level of organization. We are not sure about all variations in kinds of transnational offenders in criminology because, there is no valid empirical overview of the amount of transnational crime in our world.

Transnational crime can be seen as a threat to all nations but the coin side must be highlighted as well. Residents or tourists want to have their drugs from other parts of the world; people like to buy cigarettes at a low price, prostitution is still wanted by customers without questioning where the prostitutes come from and under what terrible conditions they have to carry out their activities. Arab states tolerate their tourists to consume illegally alcohol during their stay, even when severe penalties are executed for consuming alcohol in public. For geo-political and other strategic motives, countries and intelligence agencies financially support terrorist groups to create chaos in other countries. Terrorist groups use the cocaine or heroin trade to finance their war against states. Most art collectors are aware of the fact that they buy paintings and sculptures at illegal markets that are stolen artifacts of museums or excavations (Tjihuis 2006). Governments may silently support or favor illegal human trafficking of their citizens to other countries to relieve the internal pressure to create jobs, to build houses and schools or because the immigrated citizens will send their earned money back to their home land to support their families. Human trafficking fuels the economy in many countries.

In general, many people do not realize or do not want to know where their preferred goods and services come from, under what conditions they are produced, the level of violence or bribery that has been used to coerce people from other, often poor countries, to deliver the goods. In many cases, they have no notion of who are “behind” all these illegal goods, who are making extreme profits on the back of others, and so on. It is easy to label that as “organized crime” without further specification. Nevertheless, despite all that knowledge, citizens appreciate in general these illegal and legal goods and services very much, because they are delivered against lower prices or because people enjoy their consumption. Together, they create stable markets with a structural demand and that fact attracts entrepreneurial criminals of all times to make illegal profits wherever they can.

Barriers and Limitations of our Knowledge on Transnational Crime

Criminology has studied transnational crime for a long time, mostly as one of the criminal activities of organized crime (e.g. Bruinsma and Bernasco 2004; Fijnaut and Paoli 2004; Paoli 2014; Passas 1995, 1999; van Duyn et al. 2002; Viano 2008). It is a very complex field of study in criminology to collect relevant data. In general, criminologists use police files and all kinds of intelligence information,

study (well-known) cases, interview (organized) criminals, study newspapers, or interview police detectives and corruption fighters or other relevant experts in the field of transnational crime. All these data sources have their inevitable limitations threatening the reliability and validity of research. Police files are selective and depend on the prosecution policies of a country; interviewing criminals raises all kinds of serious questions about reliability and subsequently, validity of their self-reports; newspapers have a strong and selective focus on certain forms of organized crime and are sometimes manipulated in their reporting by governments or criminal groups. Interviewing experts is less constrained by all these problems, although many experts are seldom open to academic work and experience confidentiality problems in many cases (especially criminal cases under investigation). Criminologists are handicapped by these data constraints they cannot alter. Traditional research designs and methods like longitudinal studies, experiments (natural or in a laboratory) or systematic surveys among transnational offenders are not feasible in this field of study for a number of obvious reasons.

To understand transnational crime, criminology needs to answer in a reliable and valid way descriptive research questions on the nature and amount of transnational crime and about why transnational crimes occur (causes). To answer these questions, criminologists in practice are “forced” to use a limited number of research designs like case studies or police and court files to study groups, illegal markets, or other societal phenomena. However, in addition to the previously mentioned limitations our knowledge on transnational crime is in general problematic. There are a number of barriers researchers encounter when studying transnational crime. First, a majority of the studies is national or local in scope (Viano 2008). Criminologists depend for their data on the collaboration of local police forces, governments or legal sectors that are national by nature. Russian criminologists study Russian transnational crime, Dutch criminologists research Dutch criminal organizations and US transnational crime is studied by US criminologists. They found out that “their” organized crime groups carry out criminal activities in other countries (to buy the drugs or to sell arms) but cannot study in detail what exactly these criminal groups are carrying out in other countries. They usually have no access to data of these other countries. Hardly any research is therefore *transnational by design* exploring and studying all kinds of data sources of various countries within one research project. The result is that our criminological knowledge is systematically biased. Second, it is not always clear what the units of analyses of the studies are, even within one study. Sometimes criminologists study criminal groups, sometimes criminal activities of groups of offenders within legal markets, individual offenders of larger companies, in rare cases a whole nation. Third, some countries have more experience with academic research on transnational crimes than other countries. What we know in criminology depends on a few countries in which the police and public prosecutors are so generous to share their data with (independent) academics. That fact implies that we know for instance more about the transnational activities of Dutch organized crime because the Dutch police are more open to support academic studies (Fijnaut et al. 1998; Kleemans 2007), while in the US, criminologists are more depended on incidentally available case files that are presented to them by friendly police chiefs

or detectives (Abadinsky 2003). The result is that our criminological knowledge on transnational crime is systematically one-sided and thus biased. Third, most of the studies on transnational crime are a-theoretical and descriptive by nature (Bruinsma and Bernasco 2004; Kleemans 2014). Because of its very complex field of study, researchers have to study transnational crime under conditions they cannot control or influence. It is anyway an immense task to present reliable and valid descriptive conclusions on transnational crime. Theory testing is almost impossible. Fourth, it is a well-known fact that governments, police forces, and intelligence agencies do not like scientists to make public that their countries, public organizations or business are more or less involved in transnational crime. They are very keen to avoid public arousal on transnational crime and deficient law enforcement. Criminologists have a tough job to resist pressures not to publish about transnational crime. Last, most transnational crime studies are a-historical. A majority of studies are on contemporary transnational crime without researching the historical roots of this phenomenon. The results of those studies give the wrong impression that human trafficking or arms trafficking are recent societal phenomena in the world. This volume, will hopefully contribute to the awareness by its chapters that transnational crimes and their roots goes back to early Egyptian and Roman periods.

It is very important that criminologists and other researchers keep on studying transnational crime even it is difficult to get the “ideal” data. The societal impact of transnational crime is too important to be avoided or neglected by criminologists because of the methodological and data problems. The intellectual challenge for academics must attract researchers whose aim is the disentangling of a very complex phenomenon.

Limitations of Criminological Explanations of Transnational Crime

Mainstream criminology is hardly focused on the explanation of transnational crime (Kleemans 2014). Its theories can be grouped in three types of explanations (Cullen and Wilcox 2010): (1) causal theories that are aimed to explain why individuals commit crimes; (2) theories that explain why certain areas (street blocks, neighborhoods or countries) have more crime and generate more offenders than other areas; and (3) specific theories that are formulated to explain specific crimes like white collar crimes, corporate crimes, sex crimes, or state crimes. In general, one could conclude that criminological theories are not good at explaining why individuals, groups, states, or corporations are involved in transnational crimes or “choose” transnational crimes instead of other crimes. Mainstream theories like the differential association theory, self-control theory, labeling theory, or strain theory with their strong focus on adolescents cannot explain why people are active in transnational crimes. The economic rational choice theory states that the profits of transnational crimes are higher than their costs or higher than other crimes even when we know that the costs to commit transnational crimes are higher than for local

crimes (transport, investments, trust other criminals and so on). Geographical and sociological theories aimed at explaining why certain areas have more to do with crime and produce more offenders having difficulties to explain properly the occurrence of transnational crimes crossing borders. Among this group of theories are, e.g., offender mobility theories, but those are more focused on local crimes like the mobility of burglars or sex offenders or in some cases on foreign offenders committing local crimes in other countries (not being transnational crimes) (van Daele et al. 2012). Within social disorganization theory it can be speculated why certain neighborhoods or countries are more vulnerable than other areas for transnational crime (economically deprived, less residential stability, less neighborhood cohesion or efficacy). Some cultural theories can put forward untested that some immigrant groups in society “bring their particular crimes” into the destination countries or connect their home land with the new country of destination to smuggle goods or people. That explains, for instance that Turks are more frequently involved in heroin trade in Europe than other ethnic minorities because they have extended family networks in their homeland (where the poppy grows) that assist them to transfer heroin. As written before, it is important that criminologists keep on researching transnational crime and keep on trying to understand and to explain why transnational crimes occurs, how it is carried out, who the offenders are and how it has developed during time. This books aims to contribute to this necessary knowledge by presenting historical studies to learn more from the roots of this complex world scale phenomenon.

Objectives of the Volume

This volume has three main and mutually related objectives.

The first objective is to describe and to uncover historical roots of transnational crime as we know it today. As said, most types of contemporary transnational crime are anything but new and have many and fascinating precursors. This book will provide an extensive and in depth overview of the history of five types of transnational crime written by historians.

The second objective is to put transnational crime in its proper and complete context. This means that transnational crime is analyzed more focused and at the same time more vast. It is more focused as it is separated from all kind of local variations of organized crime. At the same time, transnational crime is emphatically analyzed from a broader perspective, including political-economic factors. To use a phrase from Alan Block, transnational crime should become visible, where applicable, as part of “the serious crime community”, the loose merger of organized crime, corporate interests and political crime (Block 1994).

The third objective is to enrich theoretical notions to understand transnational crime, its causes, development, and wider context, independent of particular types of transnational crime.

In the next chapter Bruce Elleman presents a history of piracy. We are now faced with piracy in the waters around Somalia tracking the attention of the trading nations in the world. Elleman describes how and when piracy was a worldwide problem in the past. In the Greek Bronze Age and Roman Empire, piracy and robbing vessels was not perceived as wrong doing. Romans were active all the time to fight pirates in their Empire. We learn from Elleman that for merchandisers and trading companies, piracy was one part of daily business problems they have to face and to deal with. The author describes various periods in history when piracy has its heydays, and distinguishes kinds of piracy and pirate organizations, and how nations dealt with piracy. As shown, governments used piracy deliberately to fight their enemies and to disturb the merchandise of their opponents. Most sailors of captured ships ended up in prolonged slavery in other countries.

Marlou Schrover makes clear in her contribution that humanity has a very long tradition in human slavery and human trafficking. Nowadays, the slave trade between the sixteen and nineteen century of Africans into the US by English and Dutch entrepreneurs are fixed in our minds, but centuries before that awful period, human slavery was part of and the result of many wars and conflicts. Knights captured farmers and forced them to join their armies. Schrover then focused on the “framing” of human slavery and trafficking in various historical periods and how slavery was problematized. She analyzed 1526 articles of Dutch newspapers that have been published between 1900 and 1940 and the moral panic in society about white slavery (women who were kidnapped to serve in prostitution). One of her conclusions is that in history not all forms of assisted travel of humans were labeled as smuggling or trafficking.

In the fourth chapter, Jonathan Grant presents us an insight in the history of legal and illegal arm trading. As long as nations or groups make war, other parties supply them with guns and ammunition, spears or warships. Western Europe has a long tradition in arm trafficking. In the Golden Age the Dutch made a fortune by being the leading arm export country in the world. In every area with political, economic or religious conflicts, arms will be supplied legally or illegally by nations, intelligence agencies or business corporations. Today the main players in the world are the US, Russia, China and European countries. Geo-political coalitions, temporary or long-standing, lie at the basis of this arm supply.

Drugs are the prime example of transnational crime. The raw materials of many drugs grow in particular countries with a suitable climate or are produced in local factories. These materials need to be exported to other countries to be manufactured. Hundreds of thousand of kilos of drugs are annually sold to customers all over the world through very sophisticated distribution networks. The drugs are finally sold in pubs, restaurants, on streets, in apartments, or other places less visible for bystanders or the police. The prohibition of drugs in the world stimulated the involvement of organized crime in this business. The prohibition of alcohol in the US in the 1920s is a good example of how new forms of business like organized crime emerged to supply alcohol demands of wealthy customers (Cressey 1969). Alcohol was smuggled from Canada to the US, despite all law enforcement efforts

to stop it. Carlo Trocki describes the history of drug trafficking in Asia and Africa (China and the Opiate War). He informs the reader that drug trade, arms trade, and terrorism are linked together in the history of mankind. His final conclusion is that contemporary drug policy in the world, led by the US “war on drugs”, could have disastrous consequences.

Noah Charney focuses his contribution on one of the oldest forms of transnational crime: the traffic of stolen and looted art and antiquities. Looting was and still is common practice in wars. The wealth of the defeated enemy belongs automatically to the victor as trophy or for its value. Charney makes clear that looting and stealing art was in the past business of kings, emperors and generals and their staff, and in the contemporary world also an activity of transnational organized crime. The Roman Marcellus stole the statues and other art from the Greek city of Syracuse, and his successors continued that looting practice. Again, this chapter makes clear that art trafficking and looting are connected with conflicts and wars, like drugs, and arms trafficking. Charney discusses some historic case studies with which the names of Napoleon, Göring and other Nazi leaders, and popes are connected. The Arab uprisings in the last 15 years had as a consequence that the Museums of Baghdad and Cairo have been looted. Rich art collectors all over the world enjoy their Mesopotamian and Egypt illegal art and antiquities in their privacy.

Wim Huisman and his criminology colleagues Annika van Baar and Madelijne Gorsira address two relevant topics, representing two distinct research traditions in criminology: corporate transnational crime and corporate complicity to transnational crime. The authors discuss a neglected issue of the role of business corporations in the field of transnational crime. To get a better understanding of the historical context of modern corporate crime, they address some cases of transnational corporate crime before World War II (East India Companies; rubber trade in the Congo Free State and a few US examples). They subsequently make clear the involvement of transnational business corporations in money laundering, environmental crimes, corruption practices, and violation of human rights in contemporary world.

In his reflective chapter on criminal organization and transnational crime, criminologist Edward Kleemans discusses different theoretical perspectives on organized crime, including, e.g., protection theory, bureaucracy theory, illegal enterprise, criminal network theory, and situational approaches. The second part of his contribution reviews how historical studies as presented in this volume can provide valuable insights into the topic of criminal organization and transnational crime. They teach us, following Kleemans, that the organization of transnational crime is dependent on context, place, and time, and that opportunities change during various periods in history. According to Kleemans, research into organized crime should take a wider view on the context within which opportunities for criminal activities arise and in which criminal networks develop that take advantage of these opportunities. Historical research teaches us a lot about these opportunities and how criminal networks may evolve, during various periods in history within varying contexts.

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Chapter 2

Historical Piracy and its Impact

Bruce Elleman

Piracy can be carried out by individuals, by collectives, by clans, by organized crime groups, and even on occasion by governments. Ransoms obtained by Somali pirates are a major source of state income, and there appears to be strong links between the pirate organizations and the Somali clans that control the government.

The rapid growth of piracy during the twenty-first century, if it continues unabated, could threaten the global system, which is based on maritime trade. Over a hundred thousand merchant vessels transport over 80% of the world's commercial freight. Container shipping is considered particularly susceptible, with millions of containers moving constantly around the globe.

Due to overlap among two or more countries' territorial seas, contiguous zones, and EEZs, patrolling the seas to halt piracy has become much more complex. Of special concern to the US government and to other industrialized nations is that the threat of piracy is not just growing worldwide, but that it is growing most quickly in exactly those parts of the world—such as Africa, South Asia, and Southeast Asia—where global trade is rapidly expanding. If piracy is not stopped, then this failure could have a negative impact not only on world trade in general, but more particularly on the long-term development of these regions.

Introduction

Piracy suddenly hit the front pages of the popular press with the 1985 *Achille Lauro* incident, in which terrorists took control of a cruise ship.¹ While this event was not particularly long—only 2 days—or violent—only one person was killed—it

¹ Technically, this takeover was not piracy, but a hijacking, since the terrorists had boarded the ship as passengers, but many newspaper headlines failed to make this distinction clear.

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occurred at a time of rising global terrorism, and it involved a highly public target that had not previously been associated with acts of terrorism, so the *Achille Lauro* hijacking gained a “special symbolic as well as substantive importance.”² Since that time international acts of piracy on the high seas, both economically and politically motivated, have increasingly attracted global attention.³ Prior to this sudden increase, piracy had been considered by many scholars to be an ancient relic on its way to extinction.⁴

Historically, piracy could be conducted by individuals, groups, or by state-sponsored organizations. For example, government-sanctioned European privateers preyed widely during the almost constant wars of the seventeenth to nineteenth centuries on vital trade routes from the Caribbean to the Indian Ocean, even while state-sponsored Muslim corsairs off of North Africa interfered with Mediterranean trade. Commerce raiding in one form or another continued through until the twentieth century. During the “Great War,” the major navies were all engaged in attacks on commerce, and the Allies were particularly challenged by the appearance of Germany’s unrestricted submarine warfare campaign. Later still, in 1939, during the early days of World War II, one of the final ship-on-ship attacks of this type took place when the German pocket-battleship *Admiral Graf Spee* cruised the South Atlantic and Indian Ocean from August to December and sank nine British merchant ships totaling just over 50,000 t. The German raider’s final battle with three British cruisers was “the last in naval warfare comparable to those of the past—with the enemy always in view.”⁵

From the twelfth century Crusades onward, east–west trade predominated. Because of increasing trade between Europe and Asia, piracy off the African coast, in South Asia, and in Southeast Asia became of greater concern to merchants. To fight piracy in these regions, European countries—and particularly England—sought to defend free trade under the rubric of “freedom of the seas.” Many of England’s so-called “imperialist” policies in this region were linked to its efforts to eradicate piracy, as it attempted to prop up and strengthen local governments so that their own self-interest would convince them to eliminate the pirates. This chapter will focus on early historical cases of piracy, divided by region, before turning to an examination of the late twentieth and early twenty-first centuries.

² Simon 1986.

³ “An Analysis of the United States’ Response to the Achille Lauro Hijacking.” *Boston College Third World Law Journal* 8(Winter 1988): 137–49; Halberstam 1988.

⁴ Literature on historical pirates is vast, and books published both before and after 9–11 can often make it falsely appear that piracy was a generally unwelcome phenomenon that ended by general consent prior to the twentieth century; see, for example, Karraker 1953; Lucie-Smith 1978; Little 2005.

⁵ Ortzen 1973.

Historical Piracy in Europe and Africa

Throughout written history in Europe, piracy has been considered to be a perfectly normal occupation. Warfare among the Greeks consisted “largely of plundering raids from the sea,” with the most famous raid of all—the siege of Troy—being merely an exception of scale, not of methods. So long as the raids were not conducted on one’s own people, then there was no sense of wrongdoing: “Sea roving or ‘sea robbing’ in this Greek Bronze Age was largely indistinguishable from legitimate warfare.”⁶ Although pirates almost certainly predated written descriptions of their actions, Homer reported an act of piracy in *The Odyssey* that would have occurred around 1000 B.C.⁷

The Romans also had to deal with the scourge of piracy. In 102 B.C., Marcus Antonius was responsible for a campaign to Sicily to locate and destroy pirates.⁸ Julius Caesar himself was captured in 76 B.C. and, after paying the ransom for his release, “fitted out a squadron of ships to take his revenge.”⁹ Following the Roman creation of standing fleets at Misenum and Ravenna, supporting by auxiliary fleets in Egypt, Syria, and, along the coast of modern-day Libya, “for the first time in history the whole of the Mediterranean was adequately patrolled, and the inhabitants of its coast obtained respite from marauders.”¹⁰

Following Rome’s collapse, piracy expanded rapidly, soon controlling many crucial rivers, including the Rhine, Elbe, and Oder. During the ninth century, in particular, the Vikings moved southward into Western Europe, where they “prowled the narrow seas between the British Isles, Scandinavia and the mainland of Europe, raiding, plundering, and murdering as they went.”¹¹ The threat from the sea was particularly great in seaports and river towns. Piracy became such a problem during the early Middle Ages that many major European cities were built 10–20 kms inland for greater protection.¹²

During this period, piracy was considered to be the norm, not the exception. This applied in particular to the British, later the most strident opponents of piracy, but: “In the Middle Ages, English seamen in the Channel were accounted the hardest pirates in the world.”¹³ As east–west trade increased in the twelfth century, spurred on by the Crusades, which once again connected Western Europe with the trade routes from the Orient, piracy boomed. Much of this was centered on Italy, since the city-states there controlled the majority of the trade from further east. Although attempts were made to halt piracy, the Italian city-states often were more concerned

⁶ Little 2010.

⁷ Burnett 2002.

⁸ de Souza 1999.

⁹ Karraker, *Piracy was a Business*, 17–18.

¹⁰ Ormerod 1978.

¹¹ Cochran 1961.

¹² Meier 2006.

¹³ Johnson 1962.

with fighting rather than cooperating with each other: “As a consequence, professional piracy, quite unmolested, expanded once more over the Mediterranean, and guerilla warfare, which is revealed as nothing less than partly concealed plunder of the enemy, threw on the rivalry of the Italian republics.”¹⁴

Caught between East and West were the well-known pirate communities in Northern Africa. The Mediterranean Sea was long known as a haven for pirates, and for centuries piracy was pursued by Christians and Moslems alike. Captives were enslaved and sold throughout northern Africa. With the Conquest of Granada in 1492, however, and the exodus of tens of thousands of Moors from Spain throughout the Barbary coast, the number of piracy attacks increased dramatically: “Joined by African Moors and led by Moslem adventurers from the Levant, these new pirates embarked on a career of plunder and slave-hunting on the Spanish coast.”¹⁵

When the Ottoman navy was defeated at the Battle of Lepanto in 1571, many former sailors turned to piracy and were called “corsairs.” Later, the total expulsion of Moors from Spain in 1609 added further to this problem: “The corsairs not only scoured the sea, but often raided the coasts of Italy, Spain, and the various Mediterranean islands, sometimes advancing considerable distances inland, robbing houses and villages, and carrying off the inhabitants into slavery.”¹⁶ Between 1569 and 1616, it was estimated that 100 such Moorish ships captured a total of 466 English ships, selling their crews into slavery.¹⁷

One of the most famous of these pirates was Kheyraddin Barbarossa, who Sultan Selim I eventually made his “beylerbey,” or governor-general, over all of North Africa. Barbarossa is credited with founding the pirate empire in North Africa that exacted tribute from European states for more than two centuries. For the next 200 years, the European countries sent numerous expeditions against the Barbary coast. However, the more normal arrangement was to pay tribute—little different from protection money—so that their ships would not be attacked by the corsairs.

One early response to the piracy threat was the creation of new mutual aid trade groups, like the Hanseatic League, intended to protect its members from attack. European countries experienced a particularly rapid increase in piracy in or around 1530, preying largely on the Spanish riches from the New World. This largely corresponded to the so-called Commercial Revolution, during which time European countries projected and organized European trade on a global scale. Because of the enormous profits that could be made, privateering went through many stages of official and unofficial sanctions before the national interests led to its gradual termination beginning in the mid-1800s.¹⁸ As Daniel Defoe derisively stated in 1724: “Privateers in time of War are a Nursery for Pyrates against a Peace.”¹⁹

¹⁴ Karraker, *Piracy was a Business*, 17–18.

¹⁵ *Ibid.*, 31.

¹⁶ Allen 1965.

¹⁷ Karraker, *Piracy was a Business*, 44.

¹⁸ Carse 1957.

¹⁹ Defoe 1972.

New World Piracy

With the European discovery of the “New World,” piracy quickly moved into the Western Hemisphere. One underlying reason for the growth of piracy was that in the 1494 Treaty of Tordesillas Pope Alexander VI gave Spain all of the Americas, except for Brazil, which went to Portugal. This decree largely ignored the economic interests of the British and the other European states, who were quick to take action. By 1563, it was estimated that there were over 400 pirate vessels roaming the seas preying mainly on Spanish treasure ships from the New World.²⁰ In 1572, Queen Elizabeth ordered her Lord Admiral to clear the seas of pirates, but in reality the wealth the privateers brought back to England both crippled Spain’s empire in the New World and filled the British treasury with gold. Many British “pirates” were treated as national heroes.

In 1575, the British captain, John Oxenham, crossed the Panama Isthmus and conducted raids along the Pacific coast in a small pinnace, but he was captured and imprisoned as a pirate by the Spanish. To prove that they were sanctioned by their home government, privateers were required to carry letters of marque, which Oxenham was not in possession of: “Oxenham and his officers were taken to Lima and, being unable to produce Letters of Marque there, were hanged as pirates.”²¹

Oxenham may have been the first Englishman to see the Pacific, but his death prevented him from returning to England to announce his find. Three years later, Francis Drake, in 1578, became the first British navigator to round the tip of South America and enter the Pacific Ocean by sea. On 1 March 1579, Drake’s ship, *Golden Hind*, took the Spanish treasure ship *Nuestra Senora de la Concepcion*, nicknamed *Cacafuego* or “spitfire.” As a result of this one attack, Drake obtained “13 chests of silver coin, approximately 26 t of silver bars, 80 pounds of gold, and coffers of pearls and gems.”²²

Fearful of encountering Spanish galleons if they tried to go home by sailing to the south, Drake went north instead, looking for the hoped-for Northwest Passage. Failing to find it, he eventually returned to England by going west and circumnavigating the globe, arriving home on 26 September 1580, almost 3 years after he had departed. This voyage was only the second time when the globe had been circumnavigated, following Juan Sebastian de Elcano’s return in 1522 on *Victoria*, a year and a half after Magellan’s death on 27 April 1521 at the hand of natives near Cebu.

The riches and treasures brought back to England by, now, “Sir” Francis Drake, spurred other European mariners of many nations to follow his example. The 1588 British naval victory over the Spanish Armada ensured the Royal Navy’s continued domination of the seas. New groups of pirates now began to operate in the Caribbean. Pirate hunting parties on the island of Hispaniola would cut wild pig meat and smoke it into dry strips called *boucan*, spawning the term “boucaniers” and later

²⁰ Course 1969.

²¹ Course, *Pirates of the Western Seas*, 3.

²² Sherry 1994.

still “buccaneers.” After 1629, pirates formed a settlement on Tortuga Island, just north of Hispaniola. In 1641, France claimed Tortuga, and soon began to issue letters of marque to “the boucaniers to legalise their piracy against Spanish ships and give to it the name of privateering.”²³

Meanwhile, the British-claimed island of Barbados soon became a major base for British privateers. Later, Port Royal in the Bahamas also developed into a major pirate headquarters. Another famous pirate haven was the tiny island off East Africa called St. Mary’s, just north of Madagascar, and from this base the pirates could attack the lucrative Red Sea and Indian Ocean trade. Through until the early 1700s, British privateers were considered perfectly legitimate auxiliaries to formal navies. Strict rules required all prizes to be returned to their home country so that special courts could determine if it was a fair prize or not. Interestingly, many of the spoils were taken to the colonies in America to be traded for “powder and rum.”²⁴

Although the practice was widely condemned, the economic effects of piracy could be highly positive. When Thomas Tew came back from St. Mary’s in 1693 to Newport, Rhode Island, he reportedly brought 10,000 pounds worth of loot with him; sums of this size could not help but spur economic growth in the colonies.²⁵ It is often overlooked that if there had been no buyers, the pirates would have been put out of business: Thus, “... many men were willing to sail without papers because there were always merchants in the West Indies or the North American colonies who were willing to do business with them, regardless of the legal niceties.”²⁶

A major cause for a sudden rise in this kind of piracy dates to 1651, at the time of the British Navigation Acts. In order to monopolize all commerce with the 13 colonies, England stipulated that trade had to be conducted by British ships, that English colonies could sell only to England, and in turn had to buy all of their goods from England. In addition to receiving lower than market prices for their tobacco and other agricultural products, English manufactured goods were marked above market prices. Also, cargoes from England had to pay high customs duties, thus making them even more expensive in the colonies, and non-English manufactures had to be imported in English vessels and by English merchants. Many luxuries, such as “silks, spices, perfumes, and the like,” were as a result vastly overpriced or were simply not available in the colonies.²⁷

Rejecting this monopoly, merchants in the 13 colonies, with the knowledge and tactic support of local officials, traded with privateers. Undoubtedly many of these privateers could really be considered pirates, since they did not take their spoils back to England to be divided, as they were normally required to do:

In colonial cities all along the Atlantic coast, privateer loot was ‘imported’ in defiance of the Navigation Acts and resold openly. In almost every colonial port, privateers could be sure that they would not only find buyers for their booty but also obtain hospitality, provi-

²³ Course, *Pirates of the Western Seas*, 20–24.

²⁴ Karraker, *Piracy was a Business*, 53.

²⁵ *Ibid.*, 91.

²⁶ Starkey et al. 1997.

²⁷ Sherry 1986.

sions, protection, and crewmen for future enterprises. Very often the same merchants and officials who furnished the illegal market for privateer plunder also outfitted expeditions in exchange for guaranteed shares in a ship's loot.²⁸

One reason for what appears to be a dramatic increase in piracy after 1690 was that Britain concluded peace with Spain during the 1680s and fighting soon broke out between Britain and France, including the French and Indian wars in North America. This trade reached its climax in the early 1700s, when there were so many pirates along the New England coastline that one official described the region as being in a "state of war."²⁹ During this period, British privateers' attacks against Spanish ships were not condoned, and so were considered piracy. In fact, the primary difference was not that the attacks increased, but was that they suddenly were considered illegal, as versus the legal status the privateers had enjoyed previously. This resulted in one of piracy's most infamous eras known as the "Golden Age of Piracy."

The "Golden Age of Piracy"

Piracy reached a peak during the 10 years between 1716 and 1726. According to one view, it was "during those decades, [that] the world experienced the most intense outbreak of seaborne banditry ever recorded."³⁰ It has been estimated that during this decade, there were some 2400 ships attacked, or an average of about 218 attacks per year. As a point of comparison, the yearly figures in Southeast Asia alone from 2000 to 2004 averaged 184 attacks per year.³¹ While this comparison might normally appear to undermine the perceived threat posed by traditional pirates, these modern numbers include many minor thefts and robberies, while the traditional pirates often absconded with entire ships, their crews, and their cargoes.

During the early 1700s, war once again broke out between England and Spain. Privateering revived and was particularly widespread during the War of the Spanish Succession, 1702–1713. Privateers were defined as a private man of war bearing a commission or letter of marque from their government, thereby allowing them to harass enemy commerce and take any captures as a far prize before a Vice-Admiralty Court.³² Although legal so long as the privateer had a valid letter of marque, if this letter was lost then privateers—William Dampier's sojourn in a Dutch prison as a pirate is a good case in point—could expect to be mistreated. In May 1720, Captain Shelvocke even risked drowning when he entered his sinking *Speedwell* to retrieve his "commission scroll and the chest containing 1100 \$ of the owners' money."³³

²⁸ *Ibid.*, 24–25.

²⁹ Karraker, *Piracy was a Business*, 67.

³⁰ Sherry, *Raiders and Rebels*, 7.

³¹ Eklof 2006.

³² Lloyd 1966.

³³ Poolman 1999.

After the war ended, and the peace of Utrecht was signed in 1713, many privateers refused to quit and return to civilian life. Many years of war, during the War of the Spanish Succession, had resulted in the training of thousands of new recruits in piracy. According to one source: “In spite of the cooperative attitude of the Governments of England and Spain in the Caribbean and on the Spanish Main, and the increasing vigilance of English naval ships, piracy continued. But it could not be camouflaged as buccaneering.”³⁴

Even though Spain and England had signed a peace treaty, there was still stiff competition to control the resources of the Caribbean. For example, when Henry Jennings heard that a Spanish galleon had sunk, and was being salvaged off the coast of Florida, he “persuaded some merchants in Port Royal to put up the money to finance an expedition to capture the booty, although England and Spain were at peace. Three hundred buccaneers were recruited and sailed to Florida in three small ships. They surprised the garrison guarding the treasure and stole 300,000 pieces-of-eight.”³⁵ Captain Henry Jennings was then instrumental in founding a new pirate base at New Providence, Bahamas, in 1716.

By 1715 an estimated 2000 pirates were operating out of Nassau. Their favorite targets were Spanish galleons, often carrying gold and silver back to Europe from Spain’s South American colonies. The profits that could be made from even one successful attack were enormous. In the Atlantic, soon there were not enough Spanish ships to attack, so many pirates began to focus on the lucrative trade between England and her North American colonies. According to one 1717 estimate by James Logan, colonial secretary of Pennsylvania, there were at least 1500 pirates cruising “at any one time off the coast of North America and that no one could travel safely by ship.”³⁶

During this period, piracy reached new heights, including the famous exploits of Edward Thatch (or Teach), alias Black-Beard the Pirate, who was finally killed in 1718. Two female pirates, Mary Read and Anne Bonny, were eventually captured and imprisoned, but both fortuitously escaped execution due to being pregnant at the time. Finally, Captain Bartholomew Roberts reportedly pirated some 400 ships during just “3 years of looting and burning,” before he was finally captured and executed.³⁷

Although the Royal Navy responded to the piracy threat by setting up convoys to protect merchant ships, or even offering—for a hefty fee—to transport cargo on its warships, it proved difficult to track down and eliminate the pirates. There was simply too much money in piracy, and “the profit to be made from such convoy duty made many Royal Navy captains less than zealous to destroy the pirates who were the indirect source of their profits.”³⁸ It took a concerted effort by the Royal Navy

³⁴ Course, *Pirates of the Western Seas*, 73.

³⁵ *Ibid.*, 44.

³⁶ Sherry, *Raiders and Rebels*, 212.

³⁷ Karraker, *Piracy was a Business*, 217.

³⁸ Sherry, *Raiders and Rebels*, 216.

to track down and capture the pirates. Only by around 1725 were the most infamous pirates captured and hanged.

While this took care of most of the British pirates, French privateers based in Guadeloupe and Martinique continued to prey on the British slave trade throughout the mid-nineteenth century. During the Napoleonic Wars some 2100 British ships were seized during the 3 years, i.e., between 1793–1796, alone. This new period of unrest turned privateers into pirates. Admiral Lord Nelson even stated his belief that “all privateers are no better than pirates.”³⁹ However, the Royal Navy were able to fight off the French privateers: “During this era the Royal Navy developed effective convoy tactics, fast frigate escorts, and matchless gunnery skills—all of which made the lone-wolf privateer all but obsolete.”⁴⁰

The 1856 Treaty of Paris outlawed privateering by individual ships, but state-operated navies could still legally stop, search, and capture commercial ships, guilty of carrying contraband to the enemy. Thus, government-sanctioned commerce raiders, often better known as “sea raiders,” were also legal according to the rules of war. Sea raiders were especially prevalent during the two World Wars. Meanwhile, the introduction of submarine warfare—especially Germany’s unrestricted submarine warfare campaign—propelled commerce raiding against enemy trade to new heights.⁴¹ These types of predations only ended for good in Europe and in the Western Hemisphere following the Anglo-American victory in World War II.

Historical Piracy in the Indian Ocean Through Malacca

Since premodern times, piracy has always been widespread in the Indian Ocean, in the Malacca Strait, and in and around Indonesia. When European ships first appeared in these waters, they had to contend with local pirates. Piracy was particularly prevalent against the eastward flow of trade from the Indian Ocean, through the Malacca Strait, and then into the South China Sea.

Merchant ships traveling from Europe to the Far East had to be concerned about piracy attacks on the western coast of India. Along the coast from Bombay to Goa were the Malabar pirates. As described by Marco Polo during the fourteenth century, a 100 or more pirate ships would work together during a raid: “These pirates take with them their wives and children, and stay out the whole summer. Their method is to join in fleets of 20 or 30 of these pirate vessels together, and then they form what they call a sea cordon, that is, they drop off till there is an interval of 5 or 6 miles between ship and ship, so that they cover something like a 100 miles of sea, and no merchant ship can escape them.”⁴²

³⁹ Course, *Pirates of the Western Seas*, 2.

⁴⁰ Sherry, *Raiders and Rebels*, 360.

⁴¹ For more, see Elleman and Paine 2013.

⁴² Biddulph 1907.

Piracy was even more of a problem further to the east. During the earliest period of East–West trade, from approximately the first century B.C. onward, merchants would cross from India along the shores of the Bay of Bengal to the Isthmus of Kra, which then involved a 35-mile-long portage to the Gulf of Thailand. One reason for crossing here was that it cut off an extra 1600 miles to the trip. A second reason was that this allowed seafarers to avoid the dangerous shoals and currents that were present further along the Malacca Strait. A third and even more important reason was that “at various times the shores along the straits were believed to be the home of even more dangerous pirates.”⁴³

Eventually, merchant ships did regularly journey back and forth all the way through the Malacca Strait. It was a dangerous journey, however, since the strait is shaped like a funnel, with the western opening very wide but narrowing near Singapore to only about a mile wide. Approximately halfway through the strait, the channel narrows at a location popularly called One Fathom Bank. At this point, there is usually only sufficient leeway for one large modern ship to pass in each direction. From here to Singapore the majority of the channel runs through Indonesian waters. An estimated 80% of the modern-day piracy in the Malacca Strait occurs in this stretch: “It is almost a pirates’ dream opportunity—all they require is a suitable base, some means of getting on board ships underway or at anchor, and a market for their loot.”⁴⁴

In premodern times, such a lengthy journey by sail could also only be carried out at certain times of the year. Due to the annual monsoons, ships from India had a relatively narrow period every year in which the winds were favorable for reaching the Gulf of Thailand, and then they would have to wait until the winds changed again before they could make the return voyage, or wait for favorable winds to continue on to China. Sometimes, it would take months before the winds shifted. The monsoon winds were dependable, however, so “all the ships, whether they were going to or coming from China, tended to arrive in Southeast Asia at about the same time and to leave at about the same time.”⁴⁵

Pirates, of course, could also take advantage of these periodic winds. Mainly due to the opium trade, pirates seemed to prey less on trade from East-to-West, but more on the West-to-East trade. According to a fourteenth century Chinese account of the area around the Malacca Strait:

The inhabitants are addicted to piracy [...] when junks sail to the Western [Indian] Ocean the local barbarians allow them to pass unmolested but when on their return the junks reach Chi-li-men [the Karimun islands] the sailors prepare their armour and padded screens as a protection against arrows for, of a certainty, some two or three hundred pirates praus [boats] will put out to attack them for several days. Sometimes [the junks] are fortunate enough to escape with a favourable wind; otherwise the crews are butchered and the merchandise made off with in quick time.⁴⁶

⁴³ Shaffer 1996.

⁴⁴ Villar 1985.

⁴⁵ Shaffer, *Maritime Southeast Asia to 1500*, 21.

⁴⁶ Eklof, *Pirates in Paradise*, 6; citing Wheatley 1961.

This account makes one suspect that goods from China were considered commonplace, and so not worth the pirates' attention, but that goods from further West in the Indian Ocean were considered to be more rare. This trade had a major impact on piracy throughout Southeast Asia.

Piracy in Southeast Asia

Piracy in Southeast Asia was not necessarily multi-directional, but often relied on preying on trade from a fixed direction. In traditional times, pirates preyed on the opium trade. In the 1980s, however, this same phenomena was reported in the Malacca Strait: "Most attacks occur in the eastbound lane of the Phillip Channel and Strait of Singapore..."⁴⁷ In a similar way, seasonal pirates in the New World could often be found cruising the coast of North America during the summer, but would remain mainly in the Caribbean islands during the winter months.⁴⁸

Opium, which already enjoyed a lively East–West trade before the arrival of Western merchants in the region, was perhaps the most sought after commodity by pirates. Beginning of every January ships began to arrive in the region with the new season's Indian opium.⁴⁹ The movement of ships was dependent on the weather, since from April to November there are squalls known as "Sumatras," and between May and October there are even stronger storms, known as "Southwesterly" squalls, occurring in the northern waters of the Malacca Strait.⁵⁰

During the fifteenth century, alliances between Melaka and the *organ laut*, or local sea nomads, allowed for the growth of trade in Malacca. This corresponded with the high point of the Ming dynasty in China, and to the seven "treasure" fleets led by Admiral Zheng He to the region between 1405 and 1431. To put an end to the threat of piracy, Zheng He's ships attacked and destroyed a group of Chinese pirates located at Palembang. He also "offered Malacca's ruler, Paramesvara, security in the form of a special relationship with China." This arrangement helped keep Malacca secure for "decades, until the Chinese government abruptly abandoned its overseas expeditions in the 1430s."⁵¹

Malacca continued to thrive during the rest of the fifteenth century. With the arrival of the Portuguese, and their success in securing Malacca in 1511, instability once again returned. In order to dominate the regional trade, Portuguese ships attacked and sank Muslim commercial vessels, who dominated the Indian Ocean trading network through the beginning of the sixteenth century. Instead, they forced ships to pay for a *cartaze*, or certificate of safe passage.⁵² Those that refused to pay

⁴⁷ Ellen 1986.

⁴⁸ Defoe 1972.

⁴⁹ Tarling 1963.

⁵⁰ Burnett, *Dangerous Waters*, 121.

⁵¹ Shaffer, *Maritime Southeast Asia to 1500*, 103.

⁵² Eklof, *Pirates in Paradise*, 7.

this protection money were, in the eyes of the Portuguese at least, the transgressors. This poor treatment of the locals practically insured the revival of piracy.

Many of these professional pirates, like the Illanun from the Philippines, had perhaps always been pirates, but others were forced to become pirates, sometimes as a direct result of Western expansionism. No better source for this can be found than James Brooke, who became the first ever “white” Raja of Sarawak with the goal of freeing “the Borneo seas from the scourge of piracy.”⁵³ When discussing an 1841 encounter with Illanun and Maluku pirates, Brooke stated of the latter: “These Malukus, from their own account, since the capture of their Rajah and the subjugation of their country, have led a wandering piratical life.”⁵⁴

After the Portuguese came the Dutch, who also tried to monopolize trade. According to Wright, “Dutch attempts to monopolize the spice trade through the Malacca Strait from the 1670s onward served to dramatically increase the instances of piracy in Southeast Asia by disrupting and distorting local trading patterns.”⁵⁵ William Dampier reported in 1689 that piracy was “provoked by the *Dutch*,” and that “the Pirates who lurk on this Coast, seem to do it as much to revenge themselves on the *Dutch*, for restraining their Trade, as to gain this way what they cannot obtain from way of Traffick.”⁵⁶

According to some scholars, therefore, the European advance undermined local government, which increased piracy. For example, Nicholas Tarling has argued: “One result of the loss of commerce and revenue was a shift to marauding on a more general scale than before... The old empires decayed, but were not replaced, and within their boundaries marauding communities appeared, led by adventurous Sharifs, or deprived aristocracies, or hungry chiefs.” While previously there had been state-imposed limits on piratical violence, the “corrective elements within the system, which had provided a certain security and stability, were destroyed.”⁵⁷

From the late eighteenth century, large pirate fleets terrorized the entire region:

... large raiding fleets—sometimes composed of hundreds of vessels carrying thousands of men—set out each year from the Sulu archipelago in the southern Philippines, swarming through Southeast Asian waters from the Strait of Malacca in the west to the Moluccas in the east. The pirate fleets set out with the southwest monsoon, which usually started in the Philippines in early May, and 3 months later they reached the Malay peninsula, where the months from August to October became known as the ‘pirate season’ and the monsoon itself was referred to as the ‘pirate wind’.⁵⁸

However, these pirate fleets were composed not of dispossessed or alienated peoples, but by professional pirates. In sharp contrast to the view that the West’s arrival in Southeast Asia undermined the local structure, thus resulting in greater piracy, other scholars have argued that the local peoples adapted to the new circumstances

⁵³ Rutter 1987.

⁵⁴ Brooke 1995.

⁵⁵ Chalk 2002; citing Wright 1976.

⁵⁶ Tarling, *Piracy and Politics in the Malay World*, 10–11; quoting Dampier 1931.

⁵⁷ Tarling, *Piracy and Politics in the Malay World*, 8, 11.

⁵⁸ Eklof, *Pirates in Paradise*, 9; citing Warren 2002.

and attempted to get profit from the greater opportunities offered by the new global trading system: “The surge in piracy and slave raiding, from this perspective, was not a symptom of decline but rather constituted a successful adaptation, or even manipulation, of global capitalism.”⁵⁹

In discussing the Illanun (or Iranun) pirates, for example, Brooke provided clear examples of how their life of piracy was by choice, not because they were pushed into it by outside circumstances:

Their chief constitution is as follows:—one chief, a man usually of rank, commands the whole fleet; each boat has her captain, and generally from five to ten of his relations, free men; the rest, amounting to above four-fifths, are slaves, more or less forced to pursue this course of life. They have, however, the right of plunder, which is indiscriminate with certain exceptions; viz. slaves, guns, money, or any other heavy articles, together with the finest description of silks and cloths, belonging to the chiefs and free men; and the rest obey the rule of ‘First come first served’. No doubt the slaves become attached to this predatory course of life: but it must always be remembered that they are slaves and have no option; and it appears to me, that in the operation of our laws some distinction ought to be drawn on this account, to suit the circumstances of the case.⁶⁰

Of the Illanun pirate leaders, Brooke further stated:

The Datus, or chiefs, are incorrigible; for they are pirates by descent, robbers from pride as well as taste, and they look upon the occupation as the most honorable hereditary pursuit. They are indifferent to blood, fond of plunder, but fondest of slaves: they despise trade, though its profits be greater; and, as I have said, they look upon this as their ‘calling’, and the noblest occupation of chiefs and free men. Their swords they shew with boasts, as having belonged to their ancestors who were pirates, renowned and terrible in their day; and they always speak of their ancestral heir-loom as decayed from its pristine vigour, but still deem the wielding of it as the highest of earthly existences. That it is in reality the most accursed, there can be no doubt...⁶¹

John Anderson, an official with the East India Company, confirmed that piracy was not considered unusual in Southeast Asia, even though its effect on British trade was extremely negative: “the grand hindrance of the extension of British trade, and the civilization of the Archipelago, is the system of piracy which has been carried on in these seas from time immemorial.” Clearly the pirates themselves did not feel they were in the wrong, and Anderson further clarified: “I use the word ‘system’ advisedly; for it would be absurd to treat with reprobation a practice with which no dishonourable idea is associated in the mind of the natives. The system of piracy in the Archipelago is just what the system of private wars was in Europe in the middle ages; an evil arising not so much from moral laxity as from political disorganization.”⁶² A lack of organization also impacted piracy in Australian waters.

⁵⁹ *Ibid.* 10–11.

⁶⁰ Brooke, “A Friendly Encounter with Illanun Pirates,” 122.

⁶¹ *Ibid.*

⁶² Tarling, *Piracy and Politics in the Malay World*, 10; Quoting Anderson’s letter to the “Indian News,” 10 October 1844. F.O. 12/2.

Historical Piracy in Australian Waters

Piracy in Australia has deep roots. Unlike in most of the other piracy cases, such as in East Asia and Europe, the focus was not on goods or scarce commodities, but on people. In the early years of Australia's history, when it was used as a penal colony, the goal of various so-called "pirates" was either to avoid reaching Australia or, if they were already there, to find a way to leave. Taking control of a ship was usually the first step in such a venture.

One of the first examples of piracy included the extreme case where the crew mutinied and absconded with their own ship. In 1797, HMS *Jane Shore* was transporting convicts, primarily female, from England to Australia. When a barricade between the convicts and the ship's crew was removed, the female convicts seduced the sailors and military guards and persuaded them to go to South America, there to "lead a life of freedom and safety." As one commentator noted: "The demoralizing effect of little strumpets picked up on the streets of London, wandering about among the sailors and guards can better be imagined than described. It is a wonder that more vessels were not lost in the same way as the *Jane Shore*."⁶³

Convicts sentenced to serve their terms in Australia often attempted to take over visiting ships so as to escape. In 1825, a group of convicts took *Eclipse* in New South Wales and escaped, never to be seen again. In 1827, another group took *Phoebe* and eventually reached Tahiti, where they were all recaptured. By far the most interesting event of this type, however, occurred on 9 August 1829, when 18 convicts bound for Sarah Island in Macquarie Harbour took command of the brig *Cyprus* at Recherche Bay. They were not completely villainous, and decided to drop off the crew, guards, and passengers with a large quantity of provisions. Not a single person was killed. According to one account: "Never in the history of the sea was there a mutiny and piratical seizure of a vessel accomplished so politely, humanely, and efficiently, as the seizure of the *Cyprus* brig."⁶⁴

Cyprus sailed east toward New Zealand and then on toward Tahiti. Within sight of the island they were forced by bad weather to turn west and eventually landed at Niue Island, just east of Tonga. Leaving seven of their party on the island, ten others headed north toward Japan, where they were turned back, and so headed toward Canton, across the East China Sea. Two more of the crew disembarked on a small island, leaving only eight crew members, which was just barely enough to sail the ship.

After reaching the Chinese coast, *Cyprus* was scuttled and the remaining crewmembers continued into port in a long boat. Claiming to be from a shipwrecked merchant ship, *Edward*, eight of the convicts attempted to pass themselves off at Canton as the sole survivors of the ship. Although they obtained passage back to England, the story eventually got out and most of them were rearrested and charged with piracy. Out of the original 18 convicts: "One was drowned at sea; one was con-

⁶³ Norman 1946.

⁶⁴ For a fictional account of the *Cyprus* events, albeit backed up by archival research, see Clune and Stephensen 1962.

signed to the ‘Ocean Hell’ that was Norfolk Island; three were hanged; four went in chains to Macquarie Harbour; and nine disappeared without trace.”⁶⁵

In December 1831, 11 escaped convicts took over the schooner *Caledonia* in Moreton Bay, Australia (later Brisbane). The crew were released, but Captain Browning was ordered to navigate for New Caledonia. During the cruise, three of the pirates were killed or thrown overboard. Upon arrival, two others left the ship, leaving only six convicts and the captain on board, plus three native women taken hostage at Rotumah Island. On 29 February 1832, three more convicts and the three women got off at Davi Island, leaving only four people on-board. After scuttling *Caledonia*, the remaining pirates and Captain Browning reach Tofoa Island, where Browning was eventually rescued by the whaling ship *Oldham* and returned to Sydney to tell the tale. Only one of the pirates, named Evans, was ever caught and returned to Australia.⁶⁶

In January 1834, nine convicts took control of the brig *Frederick* in Macquarie Harbour. After releasing the ten crewmembers on shore, and providing them with food, John Barker was elected captain and headed the ship for South America, landing in Chile 6 weeks later. While the majority of the convicts disappeared, four were eventually recaptured, returned to England for trial, and “were brought back to Hobart Town in March 1837, after a voyage that had taken them around the world.”⁶⁷

While other cases of Australian piracy undoubtedly existed during the nineteenth century, the 1838 recommendation by a Parliamentary Select Committee that transportation to Australia be abandoned undermined the rationale behind this type of maritime crime: “In 1840, the British government abolished assignment throughout the Australian colonies, halted transportation to New South Wales altogether, and directed the entire stream of transported felons to Van Diemen’s Land and its dependency Norfolk Island.”⁶⁸ The Tasmanian convict settlement at Port Arthur continued to receive new convicts through the 1850s, but was finally closed in 1877.

Traditional Piracy in East Asia

Pirates also plagued East Asia, beginning with the mid-fifteenth century onward, when China had to parry constant attacks of Japanese–Chinese pirates, known as Wokou (in Japanese Wako), who were conducting raids along China’s eastern coast. The Manchu conquest in 1644 saw a rapid growth in piracy, much of it in support of a Ming revival, but this largely ended in 1683 when a Qing fleet successfully invaded Taiwan. But pirates continued to be a concern throughout the Qing dynasty. Between 1790 and 1810, in particular, China witnessed an upsurge in piracy all

⁶⁵ Wannan 1974.

⁶⁶ *Ibid.*, 30.

⁶⁷ *Ibid.*, 35.

⁶⁸ Clarke 2002.

along the southern coast from Zhejiang province to Hainan Island.⁶⁹ There were over 70,000 pirates, organized into several powerful leagues, who not only challenged the imperial state but severely disrupted legitimate trade.

In Asia, piracy was common for a 1000 years or more, and included elements of political and economic competition making up a complex social web.⁷⁰ One of the first recorded cases of piracy occurred in 414 A.D., as discussed by a Buddhist Monk named Shi Faxian, who described cases of piracy in the South China Sea. While the Wokou were a scourge along China's coastline, particularly during the fifteenth to seventeenth centuries, piracy in the South China Sea, "was an evil so old, so widespread, and with so many facets that it baffled efforts [to suppress it] for many years, for it was an honorable profession which was connived at, promoted, or even directly engaged in by the highest potentates... And nowhere else in the world is geography so conducive to piracy."⁷¹

The Manchu government in China limited the effects of piracy through until the end of the eighteenth century, largely by utilizing foreign merchants as intermediaries. For example, when the Portuguese became the first Europeans to reach China by sea in 1516, they founded the trading center of Macao on a number of small islands to the west of the entrance to Canton. The Portuguese often acted like pirates themselves, "robbing and killing to obtain their ends."⁷² However, before being permitted to trade in China they had to promise the Chinese government that they would "assist in the suppression of piracy."⁷³

Limahong, a sixteenth century Chinese pirate, was particularly famous for attacking the Spanish-controlled city of Manila in the Philippines.⁷⁴ Although piracy was largely eliminated from Chinese waters by 1565, a large Chinese and Japanese pirate fleet under Limahong attacked Manila in November 1574:

... Limahong and his fleet of invasion, consisting of sixty-two trim, large and well-armed junks each of which could accommodate from 100 to 200 men, left the coastal waters of China on its sinister voyage of conquest towards its destination—Manila. In these flat-bottomed, high-sterned vessels with square bows and towering masts supporting large and wide lugsails, rode about 2000 soldiers, 2000 seamen and 1500 other passengers including quite a number of families, women abducted from China and Japan, farmers, artisans, carpenters, masons and other laborers and even children—in all almost 6000 assorted types of humanity strong enough to conquer, colonize and make a settlement on any island in the Pacific.⁷⁵

Limahong was narrowly defeated by the Spanish.

These events overlapped with a new threat from the West, as the Dutch pushed the Portuguese out of their far eastern bases, securing Taiwan in 1624, Malacca in

⁶⁹ Murray 1987.

⁷⁰ Young 2005.

⁷¹ Robinson 1998.

⁷² Karraker, *Piracy was a Business*, 27.

⁷³ Miller 1970.

⁷⁴ Callanta 1979.

⁷⁵ *Ibid.*, 27.

1641, Ceylon in 1658, and the Spice Islands in 1660.⁷⁶ Meanwhile, off the China coast Zheng Zhilong and his son, Zheng Chenggong (Cheng Ch'eng-kung)—also known in the West as Koxinga—were some of the most famous pirates. Between 1640 and 1646, Zheng held sway throughout southeast China's coastline, even rivaling the power of the Qing emperor before being imprisoned in Beijing in 1646. His son continued to fight against the Qing, and even took Taiwan from the Dutch in 1661, and used it as a base to oppose Beijing. In 1662, the Emperor issued a decree commanding that “all the people upon the coasts of the maritime provinces should remove themselves and their effects into the interior to the distance of thirty *li* [about 12 English miles] from the shore, on penalty of death; also that the islands be abandoned, and commerce utterly cease.” When this decree was actually put into effect, many villages and even large cities along the coast were deserted. Eventually, a Manchu fleet retook Taiwan in 1683.⁷⁷ This ended a long period in which Taiwan was a major “rendezvous” for pirates in far eastern waters.⁷⁸

Pirates returned in large numbers to China during 1795–1810, however, and the Qing government faced “their most serious maritime threat since the suppression of Cheng Ch'eng-kung (Koxinga) and the conquest of Taiwan more than a century before;” in Guangdong province there were an estimated 50,000–70,000 pirates by 1805.⁷⁹ Supported by Vietnam's new emperor, who came into power as part of the Tay-son Rebellion, many Chinese pirates were given legitimacy when they were made part of the Vietnamese navy and received the status of privateer: “in creating privateers, the Tay-son legitimized piracy and thus radically transformed the standing of its underworld practitioners, elevating them from ‘scum of the sea’ to ‘sailors in a King's navy’.”⁸⁰

Following the defeat of the Tay-son in 1802, however, the pirates—who had organized their ships into five independently operated squadrons—moved north into Chinese waters. Under Zheng Yi, the pirate scourge reached its apex, preying on shipping, and defeating Chinese naval force that tried to oppose them. Upon Zheng Yi's death in 1807, his wife, Zheng Yi Sao, took command of the pirates. Although Qing officials were able to end the pirate infestation through a combination of “pardon and pacification,” in fact “the only victors were the pirates, many of whom stepped into new lives ashore with their proceeds from piracy intact.” One British official, who had only recently begun to appear in South China in large numbers, noted: “From such arrangements we cannot be induced to look forward to any permanent relief from piratical depredations.”⁸¹

Chinese piracy exacerbated Sino-British tensions. In 1835, \$ 50,000 was pirated from the British ship *Troughton*, and the pirates reportedly “escaped the penalties of

⁷⁶ Karraker, *Piracy was a Business*, 29.

⁷⁷ Miller, *Pirates of the Far East*, 120–121.

⁷⁸ Karraker, *Piracy was a Business*, 26.

⁷⁹ Murray, *Pirates of the South China Coast, 1790–1810*, 1.

⁸⁰ *Ibid.*, 54.

⁸¹ *Ibid.*, 157.

the Imperial Code because of the connivance of the Chinese authorities.”⁸² In 1838, the British ship *Diana* was sent to China to pursue pirates, but with little success.⁸³ However, with the British victory in the first Opium War (1839–42), the Europeans could focus on their efforts against pirates off China’s lengthy coastline. The Governor of Hong Kong controlled the waters within 3 miles of the island, and during the years 1843–1844, the jail in Hong Kong averaged “from 60 to 90 Chinese prisoners a month, many of whom were guilty of piracy.”⁸⁴ As a result of the Arrow War (1856–1860), the British were able to force China to uphold anti-piracy laws that helped quell what had previously been considered an unsolvable scourge along the Chinese coast.⁸⁵

Changing Definitions of Piracy

Piracy can be divided into several categories based on size: the smallest type includes pirates robbing a ship’s crew while at sea, the second type includes taking the ship’s cargo in addition to robbing the crew, and the third type of piracy includes taking control of the vessel, re-flagging it, and then using the captured ship to smuggle drugs, transport illegal immigrants, or to conduct further acts of piracy. Of these three types, the third is by far the most dangerous. Not only the crews of such “phantom” or “ghost” ships are often killed, but the pirates can use a captured ship to carry out more raids.

The definition of piracy has changed over time. On 10 December 1982, the United Nations Convention on the Law of the Sea (UNCLOS) was signed at Montego Bay, Jamaica. This convention determined that freedom of navigation existed in “all types of zones, straits, and archipelagos,” and that four territorial zones would be recognized, including territorial seas up to 12 nautical miles (nm) off shore, contiguous zones up to 24 nm from shore, and exclusive economic zone up to 200 nm from shore, and finally the continental shelf, which can extend up to 350 nm from shore.⁸⁶

Because of these new limits on what is officially considered to be sovereign territory, as versus the high seas, the definition of piracy necessarily had to change as well. Article 101 defined piracy in the following terms:⁸⁷

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

⁸² Fox 1940.

⁸³ *Ibid.*, 88.

⁸⁴ *Ibid.*, 91.

⁸⁵ Elleman 2010.

⁸⁶ Mueller and Adler 1985.

⁸⁷ Eklof 2006.

1. On the high seas, against another ship or aircraft, or against persons or property on board such ships or aircraft.
 2. Against a ship, aircraft, persons or property in a place outside of the jurisdiction of any State.
- (b) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft.
- (c) Any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Unfortunately, international law and domestic law do not always overlap, especially when it comes to defining piracy: “Regrettably, international law and domestic laws are not in agreement as to a proper definition of piracy so that an act committed outside the territorial jurisdiction of a particular nation might be piracy as defined by international law, yet not be so within the domestic law of that nation.”⁸⁸ In most cases, if a pirate ship is not on the high seas, but “is within the sole jurisdiction of one state or another,” then there is no excuse for a naval ship from another country to stop it, since it is the responsibility of that state to monitor activities—legal or illegal—within its waters. Even in international waters and on the high seas, there are only a few cases where a ship can legitimately be stopped: “if the flag state gives its permission, if the ship is stateless, if it is a pirate ship, if it is transporting slaves, or if it is being used for unauthorized broadcasts.” Because of the strict limits this puts on searching suspected ships, the US government has sought, under the Proliferation Security Initiative (PSI) and as amendments of the SUA convention, to increase the rights of search to include if a ship “is suspected of terrorism or carrying weapons of mass destruction (WMD), their delivery systems or related materials.”⁸⁹

Due to the highly precise definition under UNCLOS, modern-day “piracy” really only includes illegal acts on the high seas, in other words outside of the jurisdiction of any state. Illegal activities within a state’s waters would most often be considered maritime crime. Thus, the region in which “piracy” can technically occur has gotten smaller. Within each of the four zones the rights and responsibilities of party’s differ, but in general “piracy” includes only those crimes outside of the 12 nm limit. Since it is further defined that the perpetrators must be on either a ship or aircraft, and they must be attacking another ship or aircraft, then attacks from the shore or when the victim is docked also do not technically count at piracy.

When the ICC-International Maritime Bureau (IMB) set up a Regional Piracy Center (RPC) in Kuala Lumpur, Malaysia, it blurred the lines between these two even further by listing both types of maritime events as acts of piracy.⁹⁰ The IMB definition of piracy states: “Piracy is an act of boarding any vessel with the intent to commit theft or any other crime and with the intent or capability to use force in

⁸⁸ Ellen and Campbell 1981.

⁸⁹ Bateman 2007.

⁹⁰ Ellen 1998.

the furtherance of that act.”⁹¹ This definition has allowed for a higher reporting of piracy than would normally fit under UNCLOS guidelines.

Definitions of piracy are still disputed, however. For example, in January 2002, the Syrian government protested when ships from the US Navy’s Sixth Fleet stopped and searched two Syrian cargo ships for displaying “suspicious behavior.” Although the goal of the search was to locate WMD or terrorists, and when nothing was found the ships were released, the Syrian view was that the USA actions were an “act of piracy” since the conditions under which the search was conducted did not fit the UNCLOS limitations.⁹²

Geography and Piracy

Equally important to the types of piracy is the geography in which pirates are forced to work. The most successful piracy was typically focused on ports, straits, and gaps. Ports, for example, are the best location for petty theft, often without the crew even knowing that thieves are on board. Straits, by contrast, are the best place for boardings because the ships do not have the chance to maneuver to escape. This often involves something more than simple piracy, including hijacking entire ships. Straits, which are narrow and/or long sea lanes through which ships must pass include the Malacca Strait, which for many years was considered one of the most dangerous regions in the world, in large part because all of the shipping must go through a very long and narrow maritime path. Gaps, which include relatively small openings between two maritime areas that are otherwise being patrolled by regional states, can also pose a danger. While gaps, unlike straits, can be susceptible to both, ships have the option of maneuvering away from attackers, and so present greater challenges to those attempting to board.

Gaps are less well known, but might include the sea lanes between various Southeast Asian countries. One recent case was an attack on a ship steaming from the Philippines to Australia. In early June 2008, the Philippine Coast Guard reported that a cattle transport ship bound for Western Australia came under 2 h of heavy fire by pirates in four speedboats about 70 nautical miles south of Balut Island, within hours after sailing from Mindanao’s General Santos City. The 4600-tonne, 100 m-long MV *Hereford Express*, carrying 22 Filipino crew, was heading to Broome to pick up a shipment of cattle when it was attacked in Indonesian waters, south of Mindanao. Lieutenant Armando Balilo stated: “The vessel did not stop and tried to manoeuvre to escape the attack by changing course to the north-west, away from the island.”⁹³

Geographic factors can also help to determine whether an attack at sea event is called piracy on the high seas or maritime crime in a country’s sovereign waters.

⁹¹ “Co-operation for law and order at sea,” *CSCAP Memo* 5, 14.

⁹² Burnett, *Dangerous Waters*, 286.

⁹³ Warwick 2008.

Traditionally, pirates located their bases on numerous small islands or in archipelagos immediately adjacent to major commercial sea lanes. Because of the secrecy surrounding their bases, pirates could be extremely difficult to locate and even more difficult to attack and destroy. Usually, pirates were captured while at sea, and most often during a raid gone wrong. As a result of these factors, even in the modern world it can be extremely difficult to locate and destroy pirates on land, thus forcing modern security forces to wait until the pirates attack. However, waiting for the pirates to attack is tiring, expensive, and highly intensive in terms of wasted man-hours.

Piracy can undermine global and regional trade directly, in terms of lost cargos and ships, and indirectly, in terms of increased insurance premiums and the cost of operating commercial shipping. A rapid increase in piracy interferes with free trade and undermines the US government's support for freedom of the seas. Piracy has traditionally focused on several "hotspots," including in Africa, South Asia, the Malacca Strait, and the South China Sea. While some of these piracy hotspots have a long history of local piracy—the Sulu region is a good example—other regions do not, which suggests that history and culture are not the only major determinants for piracy. To add to the confusion, there are many different types of piracy.

Types of Piracy

There are many different types of piracy, including simple robbery at sea, absconding with a cargo, and even taking control over a ship, reflagging, and then attempting to sell the ship intact. Each type of piracy requires different leadership skills and organization. Over time, pirates have become more professional, and began to specialize in particular types of piracy. For example, in China during the 1920s, pirate leaders would travel in the ships that they planned to attack—often paying for first class fares—just so that they could observe the workings of the ship. Such detailed preparations would result in pirates taking control over the entire ship, after which the passengers would be robbed of their valuables, and the ship and passengers would then be ransomed for huge sums. This practice became so widespread and common that some British ships were pirated numerous times.

In the modern world, pirates can attack a random ship or they may also have confederates aboard the ship they are attempting to seize. As a result of this advantage their knowledge of the ship and its defenses may be much better than the captain and crew suspect. Technically speaking, if a crewmember initiates the seizing of a ship this is mutiny, not piracy, although if that crewmember then lets non-ship members on-board the distinctions between the two become blurred. If it is a ticketed passenger that initiates the action, then this is technically hijacking, but again the addition of new confederates from outside the ship can blur hijacking and piracy.

When the Harardhere ring moved into high seas piracy it used the traditional tools available to Somali fishermen. They began to employ small motorized boats made of fiberglass with styrofoam cores. By 2004, the pirate groups began to use

multiple skiffs in their work, with a larger skiff acting as a “mother” ship to support one or more smaller boats. The smaller skiffs, with a crew of four or five pirates in each, would come astride a vessel, with one to starboard and the other to port with the larger skiff astern in pursuit. They then placed one or more of their number on board the target vessel to intimidate the crew, allowing the rest of the boarding party to bring the captured vessel into port.⁹⁴

Implemented beginning in early 2005, this technique resulted in some notable successes, including the capture of M/V *Feisty Gas*, a compressed gas transport, in April 2005 and M/V *Torgelow* during October 2006. The presence of Combined Task Force 150, especially after the *Seabourne Spirit* incident, prompted a change in pirate habits. The Harardhere group began using captured low-value vessels as mother ships for the skiffs. In this they sought the advantage of surprise by appearing as part of the normal commercial traffic of the region.

Opportunity is a major factor in piracy, with increase in attacks most often the direct or indirect result of increases in either commercial shipping—such as the huge growth in trade through the Malacca Strait—or in the numbers of vulnerable ships—such as the “boat people” exodus leaving Vietnam and traveling through the Gulf of Thailand. Once opportunistic piracy has proved highly profitable, then organized crime often moves in, pushing out the original perpetrators, and attempting to make even greater profits off of the trade. Or, in some cases the two types of piracy appear to work together: “The relationship between the opportunistic local pirates in the southern Malacca Strait region and the syndicates thus seems to be symbiotic rather than competitive, thereby perpetuating piracy in the region and adapting it to changing external circumstances.”⁹⁵

Protection rackets are also quite commonly linked with pirates. Organized crime is usually in charge of providing protection against being pirated. For example, the Stolt ships were being attacked regularly by pirates, but then it stopped, reportedly because the shipping company decided that it was cheaper to pay protection money in advance. This is a throwback to the eighteenth century, when European states and the US government paid tribute to the Barbary pirates, as well as to attempts by the nationalist-linked guerillas during the 1950s who tried to shake down British shipping off of Communist China. Although the morality of paying protection money is suspect, it can in actual practice help ships avoid being attacked. According to Eric Ellen, whose has background as a lawyer and expert on terrorism and maritime crime led him to create the IMB, cruise ship companies often pay protection so that they are not attacked: “It saves lives. It is cheaper in the long run.”⁹⁶

⁹⁴ See “Pirates Attack UAE Ship Off Somalia,” <http://asia.news.yahoo.com/060125/3/2e0lb.html>. [Accessed 21 July 2008]; Puchala 2005.

⁹⁵ Eklof, *Pirates in Paradise*, 159.

⁹⁶ Burnett, *Dangerous Waters*, 191.

Pirate Organizations

As the descriptions above make clear, piracy can be carried out by individuals, by collectives, by clans, by organized crime groups, and even on occasion by governments. Early on, piracy was equated with simple robbery, just robbery that happened to occur on the seas. Sir Charles Hedges, Judge of the High Court of Admiralty, stated on 13 October 1696: “Now piracy is only a sea term for robbery, piracy being a robbery committed within the jurisdiction of the Admiralty.”⁹⁷ In many parts of the world, including in Asia, global commerce spurred large pirate fleets composed of professional pirates to terrorize entire regions. The Illanum pirates in Malaysia were particularly adept at piracy, and took great pride in their accomplishments.

In the modern era, organized crime and crime syndicates have moved into piracy. For example, syndicates might bribe naval personnel to hijack ships. Reportedly, for as little as \$ 300,000 a client could point to any ship in the Manila harbor from the rooftop bar at the Pan Pacific Hotel, and a local syndicate would then arrange for it to be stolen. After the ship is at sea, it would be given a new name and registration, before being delivered to a predetermined location.⁹⁸

An example of a hijacking by organized criminals was the Panama-flagged bulk carrier MV *Cheung Son*. In November 1998, she was hijacked in the South China Seas on her way from Shanghai to Malaya. Her crew of 23 were lined up, hooded, clubbed, shot, and stabbed, before being thrown into the sea. Her manifest stated that she was carrying furnace slag, which is of little commercial value, so perhaps the pirates wanted the ship to smuggle goods. Others speculate that the ship may have really been carrying illegal weapons. China eventually put 38 pirates on trail for this hijacking in what was called the “biggest case of robbery and murder in 50 years of Communist rule.”⁹⁹

Meanwhile, *Inabukwa*, which was a 980-ton cargo ship registered in Indonesia, disappeared. Although almost worthless as a ship—valued at less than \$ 100,000—it was carrying a cargo of tin ingots, zinc, and white pepper that was valued in excess of \$ 2,000,000. After being seized, and her crew marooned, the ship steamed for the Philippines. About the same time, a Philippine coast guard unit in Sabinagi, in Ilocos Sur, located a ship that did not have proper registration. Although the ship had a new name, no ship register carried it. Apparently, the pirates were preparing to offload the goods at sea when the pirated ship put in for Subinagi for repairs. After the Coast Guard seized it, the pirate syndicate tried and failed to regain it. Eventually, the owner of the cargo paid \$ 50,000 for the return of the cargo.¹⁰⁰

One of the most puzzling cases took place on 17 April 1998, when the MT *Petro Ranger*, a Singapore-owned petrol tanker on its way to Vietnam, was captured by a dozen pirates, who sailed it to Hainan Island. This was reportedly a hijacking

⁹⁷ Rutter, *The Pirate Wind*, 25.

⁹⁸ Burnett, *Dangerous Waters*, 225–26.

⁹⁹ Sakhuja 2007.

¹⁰⁰ Burnett, *Dangerous Waters*, 216–17, 224–25.

arranged by Chew Cheng Kiat (or alternately as David Wong), one of the most notorious crime syndicate kingpins in Hong Kong and Southern China. After putting one of his own men on-board the ship, a dozen pirates approached from the stern, climbed up ropes onto the ship, and took over the bridge. The ship's cargo was worth \$ 2.3 million.¹⁰¹

There is a difference of opinion concerning fault. Some people later blamed the captain, claiming that he did not take proper anti-piracy precautions. Others point to the fact that there was an inside man on-board ship, which would have negated most of the anti-piracy efforts anyway. Either way, the crew were locked in the ship for 10 days before making port. When the pirates reached Haikou and then tried to offload the cargo of diesel and jet fuel, they were arrested and the crew was freed. There is a difference of opinion on how this happened. The captain, the Scottish-born merchant marine Ken Blyth, says that the crew managed to escape and alert the Chinese Marine Police at Haikou Harbour.¹⁰² Other reports, much less sympathetic to Blyth, say that the pirates were arrested by a Chinese patrol boat that stopped the ship to examine its papers.¹⁰³ China's decision to release the pirates was part of a "deep plot to cover-up China's participation in criminal activity. This is not the first time that Chinese ports have been used to shelter hijacked vessels."¹⁰⁴

Organized crime syndicates can often take advantage of pirates to help cover-up their own criminal activity. For example, they might own a particular ship that agrees to deliver another company's goods between two countries. Once the ship leaves port, however, its name and registration are changed and the merchandise is sold elsewhere to an unsuspecting buyer. Hundreds of millions of dollars in goods are lost every year by this method. In one such case a "Phantom Ship" bound for Vietnam was finally located discharging its cargo in China months after the cargo and ship had disappeared. Because of the apparent link with Chinese triads, "the perpetrators of these crimes are highly organized, and they are attributed to the Chinese who are resident in most countries of the region."¹⁰⁵

Another relevant example of piratical organizations based on clans has appeared recently in northeastern Africa, off the Horn of Africa. Somalia is considered by many to be a failed state. Although the pirates' main goal is to rob or capture ships and their crews, so that they can obtain ransoms, there is an intimate relationship between the internal political situation in Somalia and the maritime security situation offshore. In the north of the country, the self-proclaimed Republic of Somaliland established a coast guard to combat piracy off Somaliland's shores. Meanwhile, in northeast Somalia, the Puntland authorities also established a maritime force called the Puntland Coast Guard.¹⁰⁶ Further to the south, the "Somali Marines" operated mainly from the port of Harardhere, located just to the north of Mogadishu, while

¹⁰¹ *Ibid.*, 226–227.

¹⁰² Blyth and Corris 2000.

¹⁰³ Burnett, *Dangerous Waters*, 227.

¹⁰⁴ *Ibid.*, 233.

¹⁰⁵ Ellen 1998.

¹⁰⁶ Hansen and Mesoy 2006.

a second group called the “Somali National Volunteer Coastguard,” was based on south of Kismaayo on Koyema Island in southern Somalia.¹⁰⁷ These groups, while appearing to be in competition with each other, also seemed to achieve a precarious balance, as they sponsored the hijacking and ransom from passing ships and their crews.

In 2006, the sudden rise of the Islamic movement in the south altered this balance. The spread of the UIC (or ICU, for Islamic Courts Union) had an immediate impact on law and order offshore, since it publicly “declared war” on piracy as contrary to Islamic law. The UIC’s crackdown, coupled with increased international patrolling and greater precautionary measures on the part of passing ships, was credited with virtually eradicating piracy off southern Somalia in the second half of 2006.¹⁰⁸ However, the UIC’s defeat in December 2006 appears to have reversed this trend.¹⁰⁹ Piracy once again increased, with a small cargo ship, the MV *Rozen*, being hijacked in February 2007, and another cargo ship, the MV *Nimattulah*, on 1 April 2007. According to news reports, the Xarardheere-based pirates, called “Somali Marines,” demanded \$ 1 million for the return of the South Korean fishing vessel *Dongwon-ho*, which was accused of illegally fishing in Somali waters.¹¹⁰ During August 2006, the crew and the ship were finally released after they paid what was reported to be a \$ 400,000 ransom.¹¹¹

Perhaps due to the very success of these piracies, links between pirate organizations and the Somali clans that control the government is highly likely. Piracy is just one of a number of illegal businesses that the Somali government, or perhaps corrupt government officials, can profit from. According to one theory, which might be termed as the “evolutionary explanation,” once fishermen realized how much money foreign interests were prepared to pay for the return of fishing boats and crews, they abandoned fishing in order to exploit this more lucrative line of work. “It’s true that the pirates started to defend the fishing business,” a Somali diplomat explained but then, as he put it, “they got greedy.”¹¹² Somalia is reportedly involved with international drug-smuggling, gun-smuggling, and people-smuggling, especially via Somaliland and Puntland to Yemen.¹¹³ As a result of all of these activities, many international shipping companies have been cautious about sending ships through this region.¹¹⁴ This has been exacerbated by increasing concerns over possible links between pirates and terrorists.

¹⁰⁷ von Hoesslin 2006; Lehr and Lehmann 2007, p. 5.

¹⁰⁸ International Maritime Bureau (IMB) 2007.

¹⁰⁹ *Ibid.*, 24.

¹¹⁰ Murphy, *Contemporary Piracy and Maritime Terrorism*, 30.

¹¹¹ “Freed South Korean trawler arrives to cheers in Kenya,” *Kaleej Times*, 5 August 2006.

¹¹² Gettleman 2008.

¹¹³ Adow 2004.

¹¹⁴ Schofield 2004.

Piracy and Terrorism

The same kind of treatment cannot be said about another group—terrorists—that are known to cooperate with pirates. Terrorists might seek to use the ship’s identity papers to transport goods and weapons—potentially even including WMDs—into otherwise secure port areas. The impact of terrorists, unlike the effects of piracy that are usually small and localized, can generate greater potential for an incident with wide-ranging effects. Admiral Sir Alan West, the UK’s First Sea Lord and Chief of the Naval Staff, 2002–2006, warned that maritime terrorism could “potentially cripple global trade and have grave knock-on effects on developed countries.” For example, if a hijacked ship were to block—either intentionally or by accident—a major international waterway, or SLOC, this could have a profound effect on global trade. Reports from 2005 suggest “that terrorists had considered sinking ships in the Suez Canal.”¹¹⁵

Similarly, an environmental disaster caused either intentionally, or perhaps unintentionally if undertaken by amateurs who botch a hijacking, could also interfere with the free flow of commerce. A variety of ship cargoes, including oil, gas, or nuclear fuel, could be misused by pirates or terrorists if they are located and captured. In addition, military hardware or ammunition, which is “usually transported on civilian vessels, which is hijacked would also have potentially serious security consequences.”¹¹⁶ During June 2002, for example, it was reported by Moroccan security forces that they had captured three Saudi Arabians, linked to Al-Qaeda, who were “preparing to attack USA and British ships in the Straits of Gibraltar with explosive-packed dinghies.”¹¹⁷ Although these attacks were stopped in time, it is just a fact that “as the sea becomes a more contested realm, terrorists are, quite simply, presented with more potential targets and opportunity for attacks at sea.”¹¹⁸

One reason it has been difficult to defeat the terrorists threat is that countries such as the USA, which fear piracy incidents being used by terrorists, are not located in the region and so have little impact on local policing. Meanwhile, most regional countries affected by piracy do not fear it as a terrorist weapon, since they are not the primary targets. As Stefan Eklof has observed, piracy will probably not be seen as an “important security objective” within the region until a “regional, multinational maritime security regime” is created that addresses the region’s other major problems, including “illegal fishing, smuggling, and environmental degradation.”¹¹⁹

It should also not be ignored that the failure to oppose piracy effectively is a possible sign that a country’s security system could not handle terrorists: “while we should not take piracy as a marker for terrorism, it is a useful indication of the level of security... whatever means [are used] to suppress piracy will have a ‘knock-on’

¹¹⁵ Murphy, *Contemporary Piracy and Maritime Terrorism*, 42. 60; citing “First Sea Lord Warns of Al-Qaeda Plot to Target Merchant Ships,” *Lloyd’s List*, 6 August 2004.

¹¹⁶ *Ibid.*, 71.

¹¹⁷ Burnett, *Dangerous Waters*, 193.

¹¹⁸ Murphy, *Contemporary Piracy and Maritime Terrorism*, 85.

¹¹⁹ Eklof, *Pirates in Paradise*, 163.

effect of making the operating environment more difficult for terrorists.”¹²⁰ As one terrorism expert has commented, “The absence of effective security measures is a necessary cause... [in explaining why states cannot] prevent terrorism.”¹²¹

Meanwhile, the likelihood of terrorists turning to maritime crime to fund their activities is probably on the rise. Administrative costs of running a terrorist group can be high. For example, Ronald Noble, the secretary-general of Interpol, estimated that al-Qaeda’s 2001 expenditures of \$ 30–50 million were divided 90–10, with 90% devoted to administrative costs and only 10% actually spent on attacks.¹²² As funding sources for terrorism dry up on land, terrorists might turn to the sea for money: “in a busier and even less regulated maritime world, where there may as a result be more opportunities for criminals of all kinds to act with impunity in the future, such functional relationships between networks of common criminals and insurgents using terrorism could thrive and their combined skills and resources could present greater challenges to maritime security.”¹²³

Efforts to halt piracy have to date been half-hearted since losses have not been great, especially in terms of the overall trade flow. For many countries in the region, such as Indonesia, the yearly cost of regulating piracy would outweigh economic losses. Until piracy increases to the point where it will actually threaten the economic livelihood of the local countries, then there is little motivation to stop it. However, a former Chief of Naval Operations of the US Navy, Admiral Mullen, stated that “piracy... can no longer be viewed as someone else’s problem. It is a global threat to security because of its deepening ties to international criminal networks, smuggling of hazardous cargoes, and disruption of vital commerce.”¹²⁴

Conclusions

As this chapter has attempted to show, historically piracy was prevalent throughout European, New World, African, Indian, Southeast Asian, Australian, and East Asian waters. It was not in any way a phenomenon that originated with one group of people or in only one time period, in one region, or in one country. For centuries, the threat of piracy was just one of the many factors that a merchant would have to take into account before setting out on a sea journey. Business was business, and piracy was also considered a business, albeit outside of the normal state controls that normally regulated other economic transactions.

Over time, opposition to piracy grew, mainly as a result of increased trade. During the Roman empire, piracy was almost eliminated from the Mediterranean, only to return with a vengeance during the Middle Ages. In the early modern era, the

¹²⁰ Murphy, *Contemporary Piracy and Maritime Terrorism*, 86; citing Xavier 2004.

¹²¹ *Ibid.*; citing Crenshaw 1981.

¹²² *Ibid.*, 77; citing Husband 2004.

¹²³ *Ibid.*, 78.

¹²⁴ *Ibid.*, 85; citing Mullen’s remarks to the 17th International Seapower Symposium.

gradual decline of piracy was arguably a response to the economic power of the British empire, which it should not be overlooked was itself founded with the help of privateers and pirates who focused their efforts mainly on Spanish and Portuguese ships: “The first significant change was in the attitude of merchants and government officials who had often sponsored piracy in the past. Now they were more intent on enjoying the profits of empire and regular trade and were less willing to suffer losses from uncontrolled brigandage.”¹²⁵

As more resources were allocated to eliminating pirates and protecting trade, the pirates’ profits slumped. By the early nineteenth century, piracy “had become less profitable, due to the better protection being given merchant ships against sea robbers.”¹²⁶ As former pirate havens, like New England, became wealthier, its attitude toward piracy also changed: “Once the merchants had created regular trade and a steady prosperity, however, the need to do business with pirates waned and so did their support. The merchants quickly joined the anti-piracy crusade and instead of finding a warm welcome, the pirates were confronted by the hangman and a long rope.”¹²⁷

In recent years, and in particular in the decade following the end of the Cold War and the collapse of the USSR, maritime piracy has reemerged as a major threat to international commerce. The rapid growth of piracy during the twenty-first century could threaten the entire global system, which is based on maritime trade. At the turn of the century, for example, there were “approximately 112,000 merchant vessels, 6500 ports and harbor facilities, and 45,000 shipping bureaus... linking 225 coastal nations, dependent territories, and island states. This network caters to around 80% of commercial freight, which, in 2001, included an estimated 15 million containers that collectively registered 232 million point-to-point movements across the world’s seas.”¹²⁸ Container shipping is considered particularly dangerous, with millions of containers moving constantly around the globe. Of this number, by 2004 “Nearly 7 million containers arrive by sea in the US ports alone each year carrying goods worth more than US\$ 730 billion.”¹²⁹

The potential threat of piracy is particularly grave off the coast of Somalia. Between 1993–2005, over 700 piracy incidents were reported in this region, and there was also a “dramatic increase in kidnap and ransom” activities.¹³⁰ The pirates’ goal was to obtain maximum ransoms for return of the ships and their crew, and in 2006, the Xarardheere-based “Somali Marines,” demanded and received \$ 1 million for the return of *Dongwon-ho*, a South Korea tuna-fishing vessel, which they accused of illegally fishing in Somali waters.¹³¹ This huge ransom upped the ante for all later ransom demands, and arguably spurred Somali pirates to take greater risks. As of

¹²⁵ Starkey, et al. *Pirates and Privateers*, 12.

¹²⁶ Karraker, *Piracy was a Business*, 224.

¹²⁷ Starkey, et al. *Pirates and Privateers*, 17.

¹²⁸ Greenberg et al. 2006.

¹²⁹ Richardson 2004.

¹³⁰ von Hoesslin 2006.

¹³¹ Murphy 2007.

September 2011, at “least 49 vessels and more than 500 hostages” were being held by Somali pirates, and the average ransom had increased to \$ 5 million per ship.¹³²

While various world navies have increased their efforts to locate and stop pirates, halting piracy and maritime crime has been made more difficult in recent years because of the long-term “enclosure” trend to add more and more sea territory into a state’s sovereign waters. While historically a country’s sovereign waters were measured at 3 nautical miles from shore, the approximate length of a cannon-ball shot, a 12 nautical mile limit (about 22 kms) is now standard, plus another 12 nautical mile contiguous zone beyond that. Most countries also recognize a 200 nautical mile Exclusive Economic Zone (EEZ) in which they control all of the marine resources, plus various countries have requested that the USA recognize their control over those parts of their surrounding continental shelf that extend greater than 200 nautical miles off their shores; recently Australia was granted its continental shelf request.¹³³

Due to the inevitable overlap between two or more countries’ territorial seas, contiguous zones, and EEZs, patrolling the seas and attempting to halt piracy has become much more complex. This was particularly true in Southeast Asia, where most maritime countries have competing claims against their neighbors. While there have been doubts that piracy can ever be stopped in this region, one important indicator occurred in early 2005 after the devastating earthquake and tsunami. The US Navy’s post-tsunami humanitarian mission off of Aceh Province, in northern Indonesia, included sending 25 US Navy and Coast Guards ships to the region. This operation had the completely unintended ancillary effect of dramatically diminishing acts of piracy throughout the Malacca Strait.¹³⁴ Whether this sharp decline in piratical attacks occurred because of the greater foreign naval presence in the region, or because the pirates were adversely affected by the tsunamis, for example through the widespread loss of vessels used during their attacks, is almost impossible to determine.¹³⁵

Such a dramatic drop proves that it is possible to halt piracy, assuming there is sufficient political will and adequate funding. Of special concern to the USA and other industrialized nations is that the threat of piracy is not just growing worldwide, but that it is growing most quickly in exactly those parts of the world—such as Africa, South Asia, and Southeast Asia—where global trade is rapidly expanding and yet where many international terrorist groups are actively functioning or have supporters. If piracy is not defeated, then this failure of the newly emerging global order could have a negative impact not only on world trade in general, therefore, but more particularly on the long-term development of these regions.

¹³² “Vietnam firm pay’s ‘millions’ to free pirated ship,” AFP, 26 September 2011.

¹³³ <http://www.ipsnews.net/news.asp?idnews=42359>.

¹³⁴ “IMB Report Finds Piracy Declining,” IMB Press Release, 20 July 2005.

¹³⁵ Elleman 2007.

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Chapter 3

History of Slavery, Human Smuggling and Trafficking 1860–2010

Marlou Schrover

Introduction

This chapter is not about the number of people who were enslaved, smuggled or trafficked in the past, but about when and why migration was framed in newspapers and in policy papers in the terms of slavery, smuggling or trafficking, and when, how and why this changed over the past 150 years. Examples are taken mostly from the Netherlands, but the story applies to changes that are more general. A fine line separates slavery, smuggling and trafficking from other forms of assisted travel. This chapter shows when and why the line was drawn and redrawn in the past 150 years.

State of the Art: Counting, Defining and Stretching It can be argued that slavery, smuggling and human trafficking have been overstudied. These subjects have, in recent decades, received extensive attention from politicians, NGOs, the media and academia (see for instance Salt and Stein 1997; O'Neill Richard 1999; Aronowitz 2001; Doornik 2001; El-Cherkeh et al. 2004; Staring et al. 2005; Anderson and O'Connell Davidson 2006; Van Liempt 2007; Van Liempt 2008). The vast literature is however lopsided and does not bring us nearer to solving the problem. Four points characterize the literature. In the first place, a large part of this literature deals with attempts to count: how many people were smuggled or trafficked, and how many people are now or have been in the past enslaved (Lehti and Aromaa 2006). In the literature there is a tendency to link issues: trafficking is linked to slavery, and currently also to human organ harvesting, forced marriages, prostitution and female genital cutting. Trafficking and slavery are suitable for issue linkage because nobody is in favour of these practices. Restrictions on and

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control over mobility can be made acceptable by linking them to subjects on which everybody agrees they need to be stamped out.

Second, in the literature policies are suggested but hardly ever are previous policies evaluated. Authors do not look back to see what the effect was of measures such as registrations, control and the creation of international bodies and treaties.

Third, the literature is dominated by what could be called a Western perspective. Trafficked women may come from Africa or Eastern Europe (currently) or be brought to Latin America (in the nineteenth century), but irrespective of the country of origin or destination, studies take a Western perspective. Very little attention is paid to how types of bondage were looked upon in what can be labelled non-Western societies. An exception is a study about slavery in current Mali, which shows how part of the people, who were regarded as slaves by themselves and by others, chose to stay slaves because they considered it their best option (Pelckmans 2011).

In the fourth place, personification is used as a favoured strategy in the literature. Around 1900, the figurehead victim of white slavery was called Maria, while currently the stereotypical victim of trafficking is called Natasha, and trafficking is called the Natasha trade (Hughes 2001). Stories about trafficked victims include personal and heart breaking details about the lives of the women who are mostly referred to as girls. Similarly, most reports about slavery are impressionistic and anecdotal (Quirk 2006). Personification is a very effective strategy for drawing attention to a problem, but has the disadvantage that it results in attempts to save the emblematic victim, rather than defining or fighting causes.

This chapter adds to the literature by studying changes over time, and addresses the question how and why stretching of concepts occurred. It not only looks at when the labels slavery, smuggling or trafficking were used but also when they were not used, but could have.

Problematization This chapter ties in with debates about problematization. Problematization is the process in which actors (academics, politicians, journalists, NGOs, lawyers or others) analyze a situation, define it as a problem, introduce new terms which lead to seemingly endless debates about definitions, expand the problem by attaching issues to it or by exaggerating the number of people or the cost involved, sensationalize and personalize the issue, use metaphors and strong tropes like slavery to emphasize seriousness and urgency and finally suggest a solution (Foucault 1984; Schrover 2011a, 2011b; Schrover and Schinkel 2014).

The current trafficking discourse, involving innocent victims, violated borders and criminality, is a way of problematizing immigration and justifying anti-immigration policies (Berman 2003, p. 57). The current problematization shows continuity over time with its emphasis on youth, innocence, whiteness, corruption and foreignness (Doezema 2005). Trafficking around 1900 was constructed as a problem, in the same manner as it is today. From the 1980s onwards, the issue of trafficking of women evolved into a moral panic (Cohen 1980), like it had been in the first decades of the twentieth century. The purpose and the outcome were largely the same, as this chapter will show.

History of Slavery Before moving on, it is important to emphasize that slavery has a very long history. As long as there has been a written history of mankind, there have been accounts of slavery. People captured ‘others’ whom they considered to belong to a different tribe, or to be the enemy or infidels and made them work without wages, used them to satisfy their needs (including sexual needs) or sold them back to their families. Men, women and children were considered war booty or commodities in Ancient Egypt, Ancient China, the Roman Empire and many other old civilizations. In Ancient Greece slavery was a common practice as it was in the Roman Empire. Vikings in early modern Europe captured slaves on their raids and sold them on Islamic markets. In the Middle Ages, Arab slavers brought people from Sub-Saharan Africa. The Ottoman Empire in the Medieval Period ‘gathered’ Christian boys on the Balkan, converted them to Islam and employed them as soldiers. Between the sixteenth and the nineteenth century, Barbary pirates attacked coastal towns in Italy, Portugal and Spain, captured its population and sold or used them as slaves. Slaves have been maltreated, and transported over large distances since ancient times.

Around 1500, slavery had more or less ceased to exist in Europe but continued to exist everywhere else. Spain, Portugal, Britain and the Netherlands build their colonial empires using slave labour, and profited from slave trade. Slavery was endemic in Africa before the Dutch and the British started to transport large numbers of slaves from Africa to the Americas. The Dutch and the British changed slavery practices in Africa because their activities increased demand. Furthermore, they made it impossible for people to pay a ransom for those who had been taken during a raid, or to trade their own people for people they had taken during raids, as had been the practice before Dutch and British traders moved onto the scene. The Dutch and British traders transported slaves across the Atlantic before ransom negotiations could take place (Lofkrantz and Ojo 2012). US slavery was unique because the slave population trebled after the official end of the Atlantic slave trade, and it made slavery hereditary (Scheidel 2005). Slave owners also regarded their own children, which they fathered by slave women, as slaves.

In the 1860s, US abolitionists used the new possibilities of a picture postcard campaign to protest against slavery. The picture postcards, which were mass printed and sold for 25 cent, showed children of mixed-race parentage and of a very pale complexion. The pictures of these—what were called—white slave children were used to emphasize that in the USA white children were slaves. It proved that it was impossible to draw a colour line, and slavery should be abolished completely, the abolitionists argued.

In the nineteenth century European countries tried to forbid and abolish slavery, first in their own colonies, and in the twentieth worldwide (Drescher 2009). By the end of the twentieth century, slavery had formally been abolished everywhere, but informally continued to exist. The extent to which it was considered to exist depended on the definitions used.

Defining Slavery and Defining Trafficking The redefinition of key concepts and problems makes it difficult to count people and to decide what the problem is and

how it should be solved. Frequent redefinitions were a rhetorical instrument, but they were more than that. It is difficult to draw boundaries between trafficking, smuggling and slavery. Slavery could be defined as buying and selling of people, as if they were goods or animals. Recent authors have stretched the definition to include all sorts of bondage, coerced labour, and restrictions on choice. Slavery has been applied to situations in which people are transferred while money changes hands. This means that paying a bridal price could be regarded as a form of slavery. Giving up children for adoption in exchange for ‘compensation’, while also intermediaries take their share, could similarly be framed as slavery. Earning a wage which is barely enough to stay alive can be labelled wage slavery, but it is not slavery. Similarly, child labour can be regarded as terrible but it is not slavery. Debt bondage, which was common in India, Pakistan and Nepal, is frequently called slavery although the ‘victims’ are not sold, but rather they sell themselves (Quirk 2006). Somewhere a line is crossed, but not everybody agrees where.

Until the 1920s trafficking (in women) was only metaphorically described as slavery (white slavery to be more precise). In the 1920s, the definition was changed and trafficking was redefined as non-metaphorical slavery. The anti-trafficking lobby had multiple goals including fighting prostitution and abolishing licensed brothels. The emphasis on trafficking and slavery was a means to an end. Lobbyist did not agree on whether all prostitution should be abolished or only prostitution that involved the transfer of women across national borders. They also disagreed if only women, or also boys and girls should be included as target groups. Furthermore, the fact that a part of the women (usually a small part) was foreign, led to debates: did this make it an international problem or not? A recurring debate was further what should happen to the victims of trafficking, once they had been rescued. Should they return to their countries of origin, risking that they would return to a life of vice, or be starved or resold into slavery by family members who had done so before? Or should they be rehabilitated in their countries of destination, thus sanctioning and rewarding this way of migration? A similar argument applies to the victims of slavery. From the 1980s onwards, NGOs such as the Christian Solidarity International have in certain parts of Africa been buying slaves from middlemen, who had bought them from Arab cattle herdsman after raids. The idea was to set these slaves free. The activities of the NGOs led to more raids and an increase in slavery (Quirk 2006).

After slavery had been formally prohibited in most countries, a key question became which practices were sufficiently similar to slavery to deserve to be classified as such (Quirk 2006, pp. 566–567). Definitions were formulated at conferences and for treaties. The women’s movement first started to attract attention to the problem of trafficking in women, and claimed that prostitution was form of modern slavery. In 1839, the French term *traites des Blanches* was used (Bronsveld 2004). In 1899, William Alexander Coote, secretary of the National Vigilance Association (NVA, created in 1885), organized a conference in London, which targeted the ‘white slave’ traffic. At this conference it was decided to form the *Association pour la répression de la Traite des Blanches*. The NVA’s main aim was to fight realistic art. It managed to get Zola’s work banned in England and destroyed 50,000 indecent

prints. The issue of the white slavery trade was added later as a cause (*Het nieuws van den dag* 17 December 1898). It was an issue that appealed to a larger audience. In 1898, Cooze toured Europe. He talked to government officials about the possibilities to solve the problem of the white slave trade at an international level. The NVA became the centre of a European anti-trafficking coalition. National committees were created under NVA supervision in many European countries (including Austria, Belgium, Denmark, France, Germany, the Netherlands, Russia, Sweden and Switzerland). In 1899, these committees organized an international conference in London, which became the starting point for the international campaign against the ‘white slave trade’ that culminated in the 1904 Paris Conference and Convention. The focus was on abolition of the traffic in European women for prostitution (Lehti and Aromaa 2006).

Between 1899 and 1913, conferences were held in several European cities. In 1902, governmental delegates from sixteen countries agreed to the Paris Protocol in Paris (*Agreement for the Suppression of the White Slave Traffic*). The twelve governments that signed it in 1904 (Belgium, Denmark, France, Germany, Great Britain, Italy, the Netherlands, Norway, Sweden, Portugal, Russia, Spain and Switzerland), committed themselves to investigate the traffic in women and take protective measures (De Vries 2005; Leppänen 2006). The outcome was tightening border controls and attempts to establish identity of the women involved.

In the USA, the white slavery trade was the issue of the 1909 New York City elections. A committee was formed which investigated the trade in women in great detail. The committee started to investigate the European situation and joined forces with European lobbyist. In 1910, the Paris Protocol was followed by the *International Convention for the Suppression of the White Slave Traffic* which obliged states to punish ‘any person who, to gratify the passions of others, has by fraud or by the use of violence, threats, abuse of authority, or any means of constraint, hired, abducted or enticed a woman or a girl of full age for immoral purposes’ (De Vries 2005; Lehti and Aromaa 2006). It was ratified by the same nations as the previous agreement, including Austria–Hungary and Brazil, excluding Norway. The convention identified the trafficked person as a woman or girl who has been led away for immoral purposes or in order to gratify the passions of another person.

In 1913, a broad coalition of anti-trafficking groups agreed in Madrid on a joint agenda of future action, which focussed on eight points: abolition of licensed brothels, creation of a global data bank on victims of trafficking, creation of programmes for assisted repatriation and rehabilitation of victims, creation of methods to protect female emigrants en route, uniform legislation on regulation of employment agencies offering jobs abroad, total criminalization of trafficking of minors for prostitution regardless of the consent of the victims, full suppression of colonial prostitution, and more effective punishment of procurers and third parties involved in the exploitation of the prostitution of others. No international data bank was ever created, and the gathering of information remained sporadic (Lehti and Aromaa 2006).

During the First World War, prostitution increased. In 1919, The League of Nations Covenant declared that it would oversee the international anti-sex trafficking movement (Pliley 2010). The League of Nations’ Advisory Committee on the

Traffic of Women and Children (CTW) was formed in 1921, and existed until 1936. The League asked international voluntary organizations to sit on the committee, including the International Women's Organization, *l'Association catholique des oeuvres de protection de la jeune fille*, *Fédération des unions nationales des amies de la jeune fille*, the Jewish Association for the Protection of Girls and Women and the International Bureau for the Suppression of the Traffic in Women and Children. These committees year in year out reported on trafficking. Their reports followed the same format: they presented five to six individual cases and warned that in the future numbers might increase.

A report by the US committee led to an international investigation by the League of Nations. Campaigners did not settle on the definition of the problem. In 1921, a League of Nations conference in Geneva tried to renew attention for trafficking. At a conference where 34 countries were present, it was decided to replace 'white slavery' with 'traffic in women and children' so as to make clear that it should be applied to women of all races (Lappänen 2006). It opened the *International Convention for the Suppression of Traffic in Women and Children* for signature.

Activists had different objectives. Purity reformers tended to understand trafficking as concerning women forced into prostitution or child prostitution, but expanded their concern to issues such as obscene literature. Feminist campaigners included arranged marriage, child marriage, adult prostitution and unsuitable adoptions of girls. Some activists saw licensed houses of prostitution as the cause of the problems, and their main aim was to have these forbidden. Licensed brothels were introduced in France in 1802 to stop the spread of syphilis among French troops. The so-called French system was later introduced in other European countries and in European colonies. The French disagreed that the licensed brothels were the problem and saw poverty as the root cause. Government control of brothels and medical examination of prostitutes gave prostitution an aura of legitimacy in the eyes of some.

The League of Nation committee wanted to gather scientific evidence in order to counterweight distortions in the press which had published extravagant and baseless stories. As a result of the sensational and dramatic accounts claims about trafficking were met with suspicion, and this harmed the cause. An international inquiry was launched but parties did not agree on the methods that should be used to collect data (Knepper 2012).

In the late 1920s, definitions of trafficking and of slavery started to converge. The 1926 *Slavery, Servitude, Forced Labor and Similar Institutions and Practices Convention* defined slavery as the status or condition of a person over whom any or all of the powers attaching to the right of ownership were exercised. Parties were to prevent and suppress the slave trade and to bring about the abolition of slavery in all its forms. The Convention did not specify how far a 'right of ownership' extended. Slavery was defined narrowly because many European countries were cautious in dealing with potential slavery in populations under their colonial jurisdiction. Since countries in the East had been ignored on previous occasions, special attention was paid to those countries. A travelling commission was formed which produced a 529-page report in 1932. The press largely ignored it (Knepper 2012).

More treaties on trafficking followed, including the *International Convention for the Suppression of the Traffic in Women of Full Age* in 1933, the *Protocol to Amend the International Agreement for the Suppression of the White Slave Traffic* in 1949, the *Protocol to Amend the International Convention for the Suppression of the White Slave Traffic* in 1949 and the *International Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* in 1950. In the 1950 convention, trafficking was clearly separated from prostitution. In the 1990s the 1950 convention had been ratified by 68 states, but not by the USA, the UK, Canada, Germany, the Netherlands, Sweden, or Australia. Sweden, Australia, Germany, Canada, the UK and the Netherlands had signed the previous conventions of 1921 and 1933.

The 1956 *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery* expanded the definition. It marked a turning point since it stretched the concept of slavery to include all sorts of servitude (Quirk 2006). It obligated parties to take all practicable and necessary legislative and other measures to bring about the abolition or abandonment of institutions and practices, where they still existed and whether or not they were covered by the definition of slavery contained in article 1 of the *Slavery Convention* signed in 1926. The practices were debt bondage, serfdom, servile marriage and the transfer of persons under eighteen for the purpose of exploiting their labour. The Convention did not explicitly classify these as types of slavery, instead to persons of servile status. In 1975, the *United Nations Working Group on Slavery* favoured an open-ended approach. There was consensus that a broader definition was required, but no definition was provided. Instead, the report gave an outline of what such a definition should include. Slavery was conceived as any form of dealing with human beings leading to the forced exploitation of their labour and all institutions and practices which by restricting the freedom of the individual, are susceptible of causing severe hardship and serious deprivations of liberty. In 1991, a fact sheet published by the United Nations (UN) Centre for Human Rights, held slavery to encompass an extensive list of abuses. In addition to what could be called traditional slavery and the slave trade, these abuses included the sale of children, child prostitution, child pornography, the exploitation of child labour, the sexual mutilation of female children, the use of children in armed conflicts, debt bondage, the traffic in persons and in the sale of human organs, the exploitation of prostitution and certain practices under *apartheid* and colonial regimes (Quirk 2006, pp. 566–567).

In 2000, the *Palermo Protocol (to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, a supplement to the UN Convention against Transnational Organized Crime)* connected trafficking and slavery even stronger. The *Palermo Protocol* was the first convention that distinguished between trafficking and smuggling. According to the *Palermo Protocol*, smuggling is the facilitation and (attempted) transportation of persons across borders illegally or assisting persons to enter a country using fraudulent documents. Trafficking is the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception or the abuse of power for the purpose of exploitation. Exploitation includes prostitution,

forced labour, slavery or practices similar to slavery, servitude or the removal of organs. The consent of a victim to the (intended) exploitation is regarded as irrelevant. The definition of trafficking emphasizes that people are transferred against their will, while the definition of smuggling stresses movement to which migrants agree and for which they pay (Koser 2005, p. 7).

In the 2002 *Framework Decision* of the European Union, trafficking in human beings is defined as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. The *Explanatory Memorandum* on the Framework Decision makes clear that the drafters were aware of the fact that the line between coercion and voluntariness is not easy to draw. According to the Explanatory Report, some trafficked persons do not know what is in store for them while others are perfectly aware that they will be engaging in prostitution (Oude Breuil et al. 2011).

Currently, almost all texts on trafficking use the term slavery (Pickup 1998; Stone and Vandenberg 1999; Bales 2000; Day 2009; Schaeffer-Grabel 2010). Trafficking is used as a synonym for prostitution, which in turn is equated with abuse (Phizacklea 1998; Doezema 2002; Andrijasevic 2004; Agustin 2005). The work of migrant domestic servants and the migration of so-called mail-order brides are discussed in the same context as trafficking and prostitution, thereby expanding the problem (Schrover and Yeo 2010). Marriage migration is discussed in terms of trade and trafficking (Morokvasic 1991), and the employment of migrant women is presented as the result of recruitment and trafficking (Lutz 1997). Expansion of the subject followed the same pattern in many countries (O'Connell Davidson 2006; Andrijasevic 2007).

Overall, what this overview of definition and redefinitions shows is that first prostitution was equated with trafficking, and trafficking was metaphorical linked to slavery. From 1920s onwards, the link between trafficking and slavery became stronger. The definition of slavery was stretched endlessly to include all sorts of evil. This made it difficult to develop policies, put them into practice or evaluate them.

Changes in Mediation and Changes in Migration Before proceeding it is important to look at what started the increase in debates on prostitution and trafficking around 1900. It started with worries about the mobility of young women, which in turn were related to how domestic servants found employment (Schrover 2005). In the Netherlands domestic servants from the early modern period until about 1850 found work with the help of women who were called placers (bestedsters). Placers were intermediaries between domestic servants looking for work and middle-class women seeking help. In England and in France there were agencies—employment

bureaus, register offices or placing agencies—that mediated between the servants and their employers. They were mostly large formal institutions, sometimes controlled or sanctioned by the government (McBride 1976). In the early nineteenth century, people could also resort to employment fairs. Intended primarily as a means for hiring agricultural labour, these markets also included household servants. By the middle of the nineteenth century they were in disrepute because of the slave-market atmosphere they engendered (Horn 1975). In 1910, Dutch state reports, which were part of attempts to regulate mediation, mentioned that placers were directing young women into prostitution. This form of mediation, which had functioned for centuries, had started to fall into disrespect (Poelstra 1996, p. 255).

In the second half of the nineteenth century, the overall demand for domestic servants doubled because more families could afford domestic help. Growth of cities made the labour market for domestics less transparent. The majority of the domestic servants changed employment every May. After 1870, newspaper advertisements became more important for servants and potential employers alike (Poelstra 1996, p. 72). Newspapers became cheaper, thicker and more informative, and were more widely read. Newspapers reached a wider audience than ever before. Domestic servants could save on expenses by surpassing placers and other mediators. In the second half of the nineteenth century, the number of advertisements sharply increased. A newspaper in Amsterdam had 80 advertisements for domestics in 1860. In 1898, there were 1271 advertisements from domestic servants asking for work in the month of January alone (Poelstra 1996, p. 184). Since January was not the month in which domestics changed jobs (May was), we can safely estimate that the total number will have been more than 15,000 per year in one newspaper only.

Domestic service was the most important profession for women. The conditions under which women worked were not always good: they got little pay, but they did receive residence, clothes and food. Some were maltreated or seduced by their employers. Many of the servants were young: 15 years or younger. From the countryside poor peasant families send their daughters to larger farms or to town. Although there were negative aspects to domestic work, girls were better off in this employment, than when they stayed at home, where the mortality among girls exceeded that of boys (Poppel 2009). The poor working conditions of domestic servants in Europe, or the plight of girls in poor families on the countryside were never compared in newspapers or elsewhere to that of girls in Asia, to be discussed later.

Changes in hiring practices made the mobility of young, single women more visible and this partly explains the problematization. Women were warned against the risks of advertisements. Stories about young women being lured into prostitution by offering them a position as a domestic servant, appeared next to advertisements for help wanted. According to the papers, women responded to advertisements that read: ‘wanted; decent girl for proper employment as a housekeeper, nanny, or governess. High wages and good treatment’. Respondents were asked to come in for an interview and met a properly dressed, elderly lady. The girl was hired and was asked to report for work the next day. At arrival she found that she was going to work as a ‘white slave’. In 1884, the Dutch Minister Modderman (Justice) tried to get his Belgian, English, French, German and Swiss colleagues together to talk about

this problem. The proposal was met with enthusiasm, according to the newspapers, but led to nothing (*De locomotief: Samarangsch handels- en advertentieblad* 18 March 1884).

Governments responded to the new mobility. Shortly after the end of the First World War, several European countries restricted the movement of unaccompanied women by refusing them passports (Tait 1927). Organizations for the protection of travelling women made sure that women greeters met the single women as they disembarked from ships in the USA or from trains in Europe so as to protect them from procurers and seducers (Henkes 2001; Moch 2010).

The Shipping Companies in the 1920s and 1930s Debates about trafficking led to restrictions on migration. US authorities wanted to prevent paupers and criminals from coming by introducing controls and barriers at the frontier (Ellis Island was opened in 1892) as well as in the European countries of departure. In 1882, US Congress passed the first federal migration laws, which were amended and followed by other laws. Entry was denied to aliens who were physically or mentally defective, contagiously diseased, alien paupers or beggars, and aliens generally who were destitute, or incapable of maintaining themselves, or likely to become a public charge, contract labourers, or aliens induced or solicited to migrate by offer or promise of employment, assisted aliens, or those whose passage was provided by any corporation, association, society, municipality, Japanese and Korean labourers with limited passports, and Chinese laborers (Earlv et al. 1911; Hall 2013; Feys 2010). Also denied was the entry of people who were considered to belong to the category of the morally unfit: prostitutes or women and girls imported for immoral purposes, procurers and persons attempting to bring in such persons, polygamists, anarchists, convicts and self-confessed criminals (except those guilty of purely political offenses) (Peirce 1910). The inclusion to prostitutes in this wider category expanded the problem. The Likely to Become a Public Charge provision (LPC) was used to exclude or evict women who were suspected of immoral behaviour (Moloney 2006). Although men could also be excluded or deported under the LPC provision, between 1892 and 1920 women were by far the main victims, especially those who travelled alone.

Private shipping companies, rather than state authorities, were given the task of exercising control over the people who left Europe (Brinkmann 2008; Feys 2010). The Holland America Line (HAL) and other shipping lines tried to circumvent US regulations. The HAL had a clear interest in doing so since it made a profit on every person it could bring into the USA and had to pay for the transport back to Europe of passengers who were rejected by US authorities. Via a network of agents, the HAL circulated information in Europe on immigration laws and on how to circumvent them. At the port of departure, company doctors examined passengers. The purser of the ship filled out the passenger manifests used by American inspectors to track down excludables. He adapted the answers that might raise suspicions. Groups of single men having the same final destination could be suspected of being contract labourers. HAL stewards informed them about this and gave them advice on how to pass controls. Some companies hired translators to prepare passengers on board

for inspections. Upon arrival, clerks of the HAL screened the passengers while accompanying them to Ellis Island. For the people who were likely to be detained, relatives and friends in the USA were tracked down so they could send money, post bond or appear before the board of special inquiry to facilitate the migrants' entry (Feys 2010).

The shipping companies acted as modern the 'travel agents' who currently assist people who try to evade or circumvent regulations. They did everything in their power to get migrants into the USA. This assisted travel was never discussed in terms of smuggling.

White Slavery In 1913, Maria Schulte, the daughter of a German entrepreneur, went missing. She was 19 years old, had blond hair and a healthy complexion. Local German police authorities sent a telegram to police forces in Germany and the Netherlands. A Dutch newspaper wrote that a trader in white slaves had probably kidnapped Maria, forced her into a car and brought her across the German–Dutch border (*Nieuwe Tilburgsche Courant* 11 November 1913). The newspaper article about Maria's disappearance is emblematic for the white slavery scare of around 1900: the emphasis on Maria's whiteness, youth and middle class position, the international character of the crime, the international cooperation in an attempt to find her and the modern means of transport (the car) and communication (the telegram). The story of the abduction stereotypically came in two templates. In the first template a girl—innocent, gullible and from the provinces—was seduced by a handsome, deceiving young man, who posed as her boyfriend and talked about marriage. In the second template a middle class girl was forcefully kidnapped and sedated, only to wake up in a brothel in a faraway country. The discourse was anti-Semitic; the traders or seducers were frequently labelled Jewish (Soderlund 2002). The second template was the most threatening: this could be you or your daughter. It was appealing to a readership: they could sympathize with the victim and her family (compare Smolei 2010).

The white slavery scare held Europe and the USA in its grip around 1900. In the Netherlands, the term White Slaves (*Blanke Slavinnen*) was only used in the feminine form (referring to women or girls). From 1880s onwards, 'white slavery' was used almost exclusively to refer to women or girls, who were lured into prostitution, and not, for instance, to refer to actual slaves of a white complexion in the USA or Africa. In 1853, the Dutch paper *Het Algemeen Handelsblad* (10 October 1853) wrote about actual white slave women in Turkey. In 1890 it did so again (2 February 1890). Later these types of white slave stories became less common. Socialists in 1880s sometimes used the term white slaves to refer to women who were exploited as workers or domestic servants, and encouraged them to unionise (*Algemeen Handelsblad* 16 October 1885). In 1884 a Dutch Indian newspaper still felt the need to explain what 'white slavery' meant when it wrote about the trafficking of women for prostitution (*De locomotief: Samarangsch handels- en advertentieblad* 18 March 1884), but a few years later this need had apparently disappeared.

There were not only newspaper articles but also novels, pamphlets, theatre plays and several movies, including the box office success film *Traffic in Souls*

(1913). The film led to controversies because it was considered voyeuristic and sensationalistic by some, while others thought it might help to raise awareness (Gartner 1982/1983; Haynes 2004; Diffie 2005). Other films followed, which led to similar controversies. In 1926, a German movie, *Mädchenhandel—Eine internationale Gefahr*, about a Berlin nightclub worker who accepts a job in Budapest, gets kidnapped by white slave traffickers and is rescued from a brothel in Athens, was banned in England because it was considered too scandalous; although, the film started with an announcement of an organization fighting white slavery (Robertson 1993). The moral panic about white slavery was a response to what was seen as an international crime (Doezema 2000; Keire 2001; Moloney 2006; Page Moch 2010). Emphasis was on the slave-like conditions in which women worked and lived.

The story about how the scare started is important because it became a model for later reports. The white slavery scare started when *Lloyd's Weekly Newspaper* (4 April 1852) published an article entitled 'Horrible traffic in young girls' between London and Paris. The article was only 329 words, and there was no follow-up. In 1880, Alfred Dyer claimed to have proof of the trafficking of English girls to Belgium. Dyer was an important figure in the campaign against organized vice and editor of the Christian journal, *The Sentinel*. Dyer's story held the elements of false promises, dark numbers and policemen who could not be trusted, which returned in later stories. British newspapers called for an end to the 'organisation of rape, torture and murder' (*The Bristol Mercury* 23 June 1880). Dyer's revelations had sufficient impact to lead to the formation of the London committee for suppressing the traffic in British girls in 1880. W.T. Stead, the editor of *The Pall Mall Gazette* produced a report entitled 'The maiden tribute of modern Babylon', which fuelled a panic that spread across the continent, and in Britain caused a massive public outcry in favour of repressive legislation. Innocence was presented in the assertion of the girls' naivety and child-like nature. Newspaper articles from the beginning used slave trade language (Diffie 2005, 416). Dyer wrote that 'she was as much a slave as was ever any Negro upon Virginian soil' (*The Daily News*, 2 January 1880).

Patches and Not Our Problem Dutch newspapers wrote about the trade in girls between England and Belgium. The trader was a man from Ghent, who had been convicted earlier, according to Dutch papers. The assumption was that he managed to bring 250 girls yearly from England to Belgium on the steamboat connection between Dover and Ostend (*Nieuwe Tilburgsche Courant* 19 July 1885). The article was stereotypical for this panic and later panics. Stories travelled between countries, were reproduced and expanded with details that would appeal to local readers.

In 1885, the Dutch noblewomen Van Hogendorp and thousands of other Dutch women made an appeal to the members of parliament to stop the trade in white slaves. Parliament decided there was no need for further action, since talks had already started at an international level (*Algemeen Handelsblad* 21 October 1885). The initiative came from a women's league, as was the case in other European countries. In 1895, the Dutch newspapers *Het Algemeen Handelsblad* (2 July 1895) and *De Tijd* (27 March 1895) wrote that a court in Antwerp had convicted a Hungarian woman and four of her accomplices to a prison sentence of 10 years and a fine,

for trade in white slaves. *Het nieuws van den dag* (12 August 1896) published an article of six lines only about a 24-year-old German girl who had been hired by a pub in Amsterdam. Upon arrival she found out the true nature of her work. She did not want to stay, but was locked up until she managed to call in the help of the police. *Het Algemeen Handelsblad* (13 October 1900) wrote that the *New York Herald* had published an article about an international cooperation which traded in white slaves. The Parisian girl Marie Auclair had been rescued just before she fell into the hands of the New York traders. The cooperation was organized like a firm, with an office, a chairman, secretary and administrators. Parisian girls were lured to New York under false pretenses and met a fate which the readers could guess, according to the newspaper. Committees travelled, as did plays and later movies, and stories were copied from one newspaper into the other. William Alexander Coote gave lectures in Utrecht, Amsterdam and The Hague, which were announced in newspapers. Dutch organizations (*De Middernachtzending* and *Den Nederlandsche Vrouwenbond tot verhooring van het Zedelijk Bewustzijn*) were present at these lectures and added their views (*Algemeen Handelsblad* 13 December 1898). In 1900, the Dutch had their organization to fight trafficking (*Nationaal Comité tot de bestrijding van den handel in vrouwen*). In 1900, a Dutch dissertation was published about the white slavery trade (Collard 1900). All this helped to enlarge the ‘problem’ and keep it visible.

The urgency for Dutch government measures was discussed in Dutch parliament by presenting numbers, which related to other countries, and not to the Netherlands. The number of women and girls who had become victims of trafficking in the Netherlands was, ‘of course’, not known, according to Dutch parliamentarians, but in Switzerland 3500 girls had been saved from the ‘claws of recruiters’ in one year, in Berlin 10,000 and in London 2100 (Minutes of debates in the Lower House (LH) 1906–1907 6 December 1906, p. 681). The Dutch government made money available and created institutions, as other countries had done. Policies were copied from one country to the next.

In 1910, Dutch parliament debated about the fact that some women, who were regarded as victims of traffickers, were already working as prostitutes prior to being trafficked. The Minister of Justice stated that the issue at stake was not personal freedom (of the woman), but vice (and thus the risks to society) (LH 1910–1911 no. 28:6). Even if the women were prostitutes already, the traffickers were still showing immoral and thus punishable behaviour. This debate shows how the problem was redefined.

In 1910, Dutch newspapers wrote about two girl students in New York who posed as women interested in buying girls for work in a brothel. They found two girls, who were sold like black slaves had been sold in the past. The girls came from the poorest neighbourhoods. The girl students bought two girls, who were both below 18 (one was 15 only). They were promised a third girl, 11 years old. Because of the work of the girl students, the villains could be arrested, a Dutch newspaper wrote (*Tilburgsche Courant* 14 May 1910). The *Nieuwe Tilburgsche Courant* (17 September 1912) wrote that in France a gang had been uncovered, which specialized in the trade in white slaves to South America. The gang had brought 11 girls

to South American cities between January and March 1912. The *NRC* (11 March 1925) wrote in an article of similar length about lieutenant-colonel Day, who would ask questions in the British House of Commons about the in the number of English girls who were going abroad, especially to the USA, as dancers. Their managers were no doubt on the pay-role of traders in white slaves. The passports of girls going abroad as dancers were checked more closely. *De Nieuwe Tilburgsche Courant* (11 August 1930) wrote that the police in Kenitra (Morocco) had arrested traders in white slaves who made it their business to transport Moroccan women to Spanish territory.

The endless repetition of this type of information, mostly in a few lines only and framed in a standard format, served two purposes. In the first place these types of messages were used as patches to fill empty spots on newspaper pages. Readers were always interested in these sensationalized stories, which fed on a voyeuristic need. Second, and more importantly, these stories did not necessarily lead to calls for interference, by governments or private organizations, because many of them were about foreign girls in faraway countries.

As mentioned above, in 1921 the anti-trafficking protocol had been expanded to include trafficking outside the Western world and mainly in Asia, which meant in the Dutch case, the start of debates about women of colour in Dutch colonies (LH 1922–1923 313, no. 4). After 1923 the issue of trafficking was mostly discussed in Dutch parliament as a problem of the colonies, and no longer as a problem in the Netherlands. Funds were allocated to the Dutch East Indies in order to set up safe houses for women and girls of colour who had been the victims of trafficking (LH 1924–1925 no. 5: 1, 83). The policy was expanded to include boys (LH 1925–1926 372: 3). Dutch parliament furthermore decided that women and children travelling on emigration ships should be warned on board, and at the ports of departure and arrival against the risks of trafficking, and about where they could find support (LH 1922–1923 313, no. 5).

The actual number of cases that were brought to courts was low. There were five cases in the Netherlands, which led to convictions on account of trafficking: in 1911, 1913, 1920, 1926 and 1928. All cases involved women who already worked as prostitutes, prior to being trafficked. Furthermore, women as a rule were unwilling to cooperate, according to parliamentarians. Stories about kidnappings and sedated women or girls were produced by the press, which wanted to trigger the emotions of the readers, according to the Minister of Justice in 1930 (LH supplement 1930–1931, 2, IV, 15). Such stories were never substantiated by evidence. Parliamentarians started to believe that the problem was solved or maybe was less extensive than they had been made to believe.

Between 1900 and 1940, Dutch newspapers published 1526 articles about white slavery. About half of these were announcements and reviews of theatre plays and movies, a quarter related to protocols and agreements being concluded, and a quarter to European (hardly ever Dutch) girls who had been rescued from brothels, frequently in Argentine, or who had been saved when they were about to be smuggled aboard a ship. About 350 articles consisted of two lines only, and were of the type ‘trader in white slaves caught in Paris’. 300 articles provided more details. In 1923,

some newspapers wrote that the trade in white slaves was largely a myth. Research amongst 8000 women had shown that there were no cases in which decent girls were lured into brothels. ‘The public has been tricked for years by all sorts of private institutions’, *Het Vaderland* (22 April 1923) quoted a researcher. It was no reason for this paper to stop its reports about white slavery. In the same year the paper wrote about a ring of German and Dutch traders which had been rounded up and which had brought 50 German girls to the Netherlands over the summer of 1923. For his services the Dutch middleman received 60 million German Marks. The girls were brought to an amusement hall in the Netherlands (*Het Vaderland* 15 October 1923).

The *NRC* (5 September 1924) published an article of a few lines only in which it was announced that an international conference would be held on the attempts to restrict the trade in white slaves. The chairman of the committee declared that between October 1919 and June 1920, 3700 women and girls had disappeared in large German towns. Precisely the same data were used in an article from 1921, but this time the problem was expanded to venereal disease. In 1921, *NRC* wrote that there were 6 million Germans who suffered from venereal disease. Every 25th child born in German had hereditary syphilis. In Hannover there were 221 children younger than 15 who had a venereal disease. A German NGO (the German midnight mission in Hamburg) asked the government for 200,000 Mark to start a *Heim* (house) for girls (*NRC* 4 October 1921).

In 1925, *Het Nieuws van den Dag voor Nederlandsch-Indië* criticized the sensationalized short articles. Articles were published, and everybody talked about the case. National Dutch newspapers paid attention to a case for some days, then suddenly stopped reporting, and never mentioned the case again. The stories were moving. The girls were mentioned by name, touching details were given, references were made to earlier cases and then nothing more was said about the case. The newspaper concluded that the stories must have been fictive from the beginning. However, the stories did have consequences, the newspaper added. The police, the ministry of foreign affairs, the government, were all called upon to give their views and all knew nothing. The public thought, ‘there must have been something’. *Het Nieuws van den Dag voor Nederlandsch-Indië* (19 November 1925) called it irresponsible reporting.

Yellow Slavery In the 1890s, San Francisco based newspapers started to write about yellow slavery. The term was mostly used for Chinese women. The stories emphasized how white women in the USA were saving infantilized Chinese slave girls from Chinese men. In the stories polygamy, opium dens and prostitution were conflated. Papers sensationalized the sale of Chinese women under the guise of marriage, and equated Chinese marriages with slavery. The stories were used to call for restrictions on Chinese migration to the USA (Cho 2009a, Cho 2009b).

The debate about yellow slavery exploded in the 1920s after the League of Nations shifted its interest from Europe to Asia, and started an investigation into prostitution in Asia. One reason to begin this investigation was that after the First World War and the Russian Revolution, 700 to 800 Russian (Jewish) women started to

work as prostitutes in Asia. The attention was initially directed at these women. In Bombay, a city with a population of one million in the 1920s, there were 67 European prostitutes on a total of 15,000 prostitutes (Chang 2012). Later researchers started to include other women and girls, who worked as prostitutes. Reports were produced in which the numbers were so large, the ages of the girls so low and the atrocities so dreadful that all previous Western reports paled in comparison. It was reported that Chinese children were adopted at a young age and raised to be sold into prostitution when they reached puberty (Chang 2012).

In Hong Kong there was tradition called *mui tsai*. *Mui tsai* (literally little younger sister) were young girls (5 to 14 year old) who were transferred from their parents household to another household, where they worked as domestic servants from when they were about 13 until a suitable marriage was arranged for them, or they became a concubine at age 20. The girls were not at liberty to leave and the parents were paid a lump sum at the moment the girl was transferred. Debates focussed on cases in which girls were kidnapped to be sold into servitude or were sold into prostitution. In the campaigns the girls were portrayed as suffering, silent and child-like (Paddle 2003). The *mui tsai* were always called slaves by the League of Nation lobbyists.

The 1933, report of the continuing *Commission of Inquiry into Trafficking in Women and Children* contained a section on Chinese women and girls. The Chinese girl slaves were a problem because Hong Kong was a British colony. The *mui tsai* became a cause célèbre for the mid-war feminists and women's groups. At the time it was noticed that this slavery was not much worse or different from the removal of Aboriginal children from their families in Australia. Aboriginal children were removed by white authorities and moved into the care of people outside their own culture, and put to work as domestic servants. Chinese children were sent away by their own parents and community and remained within their own culture. The Aboriginal children did not receive much attention, while the *mui tsai* did (Paddle 2003). The situation of the *mui tsai* was furthermore not that different from that of young domestic servants in Europe, described above. No cross-reference was however made.

Hong Kong had become a British colony in 1841. Lobbyists emphasized that the *mui tsai* system was slavery, and since Britain was a nation of civilization and Christianity it should not tolerate this 'evil'. Because Hong Kong was a British colony the British Slavery Law of 1825 applied (Ko 2008). The British had promised local authorities to honour existing traditions when Hong Kong became a colony. Leading Chinese in the colony pointed out that obtaining girls for domestic work was a longstanding Chinese practice, and not slavery. If poor parents could not sell their daughters they would drown or starve them. The food, clothes, and other necessities the girls were given by their masters could be considered a wage. The system was to the advantage of the girls, Chinese advocates argued. They were fed and dressed better than when they were by their parents, and they were cared for when they fell ill. They got training in needlework, embroidery, reading and writing. Once they were married they were free. The parents could redeem their daughters and could call for an investigation if the daughter was mistreated, died or disappeared.

In 1921, a large British media campaign started regarding the child slaves of Hong Kong. In 1922, the British government declared that the *mui tsai* system was slavery, but the Ordinance was largely ineffective (Poon 2000). Masters evaded the system by calling the *mui tsai* adopted daughters.

British worries about Chinese slave girls in Hong Kong did affect Dutch authorities in the Dutch East Indies. In the Dutch East Indies a small part of the population was Chinese. Dutch newspapers occasionally reported about, what they called ‘yellow slave girls’ (De Vries 1997). It was observed in Dutch parliament that the term ‘white slaves’ was incorrect, since in the colony there were yellow slave girls. Dutch authorities should care for the girls and women in the colonies (minutes of debates in the Upper House (UH) February 1906 IV 257. 70, 258).

In 1901, *Het Bataviaasch Nieuwsblad* (March 21 1901) wrote about the ‘import’ of Japanese and Chinese women. The use of the word ‘import’ turned the women into a commodity. Chinese women were more expensive than other women and fetched a price of 1900 guilders, the paper wrote. That was an enormous sum of money.¹ More worrying was that Javanese girls were brought to Singapore from Deli and elsewhere. Shiploads full of livestock, the paper wrote, were transported (livestock meant girls in this context). The choice of these words was meant to dehumanize.

The social democratic newspaper *Voorwaarts* (5 March 1923) wrote about a Chinese girl, aged 13. The father-seller got 30,000 guilders for her, a house and 14,000 guilders worth of jewelry. This was an exceptionally large sum of money. *Het Nieuws van den Dag voor Nederlandsch-Indië* (24 April 1932), under the heading ‘Yellow Slavery Trade’, wrote about a Chinese girl who had been sold for 150 guilders to a brothel. Other newspapers followed up with similar articles. *De Tilburgsche Courant* (17 May 1939) added that not only were Chinese girls, age 14 to 16, brought into Batavia (the capital of the Dutch East Indies) but also that authorities knew about this and were bribed to say nothing. *De Sumatra Post* (21 August 1917) wrote about a Chinese slave girl, called Poui Kwi Hoa, who had been bought by a Chinese family in the small town of Bondowoso (on East Java). She worked as a slave in the household. When she turned 18 her mistress got jealous. She beat the girl repeatedly and starved her, until she died.

The problem was expanded when *De Indische Courant* (9 July 1926) wrote that not only Chinese girls were sold into slavery and prostitution in the Dutch East Indies but also Dutch Indian girls. These girls mostly had a Dutch father, and a so-called native mother. Their parents or the widowed mothers, who had fallen into poverty, sold the girls who because of their beauty fetched a much higher price than Chinese girls, according to *De Indische Courant*. The girls were sold in the Dutch East Indies, but some were brought to Bangkok, Singapore, Hejaz (currently Saudi Arabia) and Egypt.

In 1933, Dutch newspapers reported that the League of Nations had named the Dutch East Indies as the largest market for the trade in women and children (*Nieuwe*

¹ A skilled weaver in the Netherlands earned 9 guilders per week in 1900. This sum is thus for times his yearly salary.

Tilburgsche Courant 17 October 1933). The League of Nations organized an internal conference on the topic in Bandung in 1937. Running up to the conference the *Indische Courant* (10 November 1936) wrote that 12 countries had been invited. Nine accepted the invitation: The British Empire (for Hong Kong and the Malay-an Straits), China, France, British Indies, Japan, the Netherlands, Portugal, Siam and the USA (as an observer). Afghanistan, Iran and Iraq declined. There were six points on the agenda: cooperation between authorities in the East, emigration and immigration control for women and children, cooperation between authorities and private organizations, the appointment of female civil servants, closure of brothels and lastly the position of Russian women in the East, who might become prostitutes. Almost 20 years after the Russian Revolution this was still considered an important issue. *Indische Courant* emphasized that the Dutch already had an agency in the Dutch East Indies, for dealing with the subject of the conference. Brothels were forbidden. That was one of the main instruments for fighting prostitution since the brothels imported the white and brown slaves, according to the paper, and the anti-trafficking lobbyist. Border control in this Empire of Islands was difficult. The Netherlands was participating in the conference, and it was hosting the conference, the paper wrote so as to stress that the Netherlands was already doing more than enough. The country did not really need international cooperation to solve problems, according to the paper.

The Dutch delegate at the conference explained the measures that had already been taken by Dutch authorities: a Dutch government committee had collected data in the Dutch East Indies (*Het Bataviaasch Nieuwsblad* 4 February 1937; *Het Nieuws van den Dag voor Nederlandsch-Indië* 2 February 1937). The committee was in touch with numerous organizations. Trafficking in women was mainly a Chinese issue or business, according to delegate. As had been observed in other countries, methods changed when authorities tried to stop the traffickers. The women were brought into the country as actresses. They appeared in one or two plays, and were than brought to brothels. Chinese women were also brought into the country via bogus marriages. A handler in the Dutch East Indies posed as her husband and had the marriage registered by the authorities for instance in Semarang. The husband disappeared and the woman was later found in a brothel.

One way to avoid control was presenting 'slave girls' as adopted children. The Netherlands did not have a law on adoption until 1956, but in the Dutch colony adoption was allowed for Chinese couples. In 1937, *De Sumatra Post* (23 July 1937) wrote about a surprising phenomenon. British babies—unwanted by their mothers—were exported to the Netherlands and the USA for adoption. They were also brought to the Dutch East Indies. British authorities were trying to stop this export. In the Netherlands foster parents always risked that birth parents demanded their child back. In England birth parents were able to give up their children for adoption, declining all rights. According to the paper, hundreds of children had been brought from England to the Netherlands and the Dutch East Indies. Girls were in more demand than boys. In England there had been cases with reek of trafficking in children. The story was not connected explicitly to the yellow or white slavery, but a connection was implied by using similar terms and constructions.

The shift towards Asia did several things. It removed the term ‘white’ from the debate about slavery and made the problem less a European or Western problem because the emphasis moved away from the Western world. It however stayed a Western problem since it was only considered relevant because it happened in European colonies. The shift expanded the problem and stretched the definition of slavery. The shift occurred when in Europe considerable critique was voiced regarding inflated reports and sensationalistic reporting. In Asia the girls were so young and the number of girls transferred was so large that nobody could deny that there was a problem. Equating the *mui tsai* system with slavery was however questionable. The inclusion of this system in slavery foreshadowed later expansions. However, while on the one hand the definition was broadened, on the other hand some forms of migration were not called smuggling, trafficking or slavery, when they could have been.

Escapees In 1955 two boys, aged 11 and 13, escaped from a boarding school in Austria, stole a bicycle, and accidentally crossed the Austrian–Hungarian border (*Limburgs Dagblad* 6 October 1955). Hungarian authorities detained the boys and were only willing to send them back if a Hungarian businessman, who had shortly before escaped from Hungary to the West, was returned to his country. Austrian authorities declined to be part of, what they called, this form of human trafficking.

During the Cold War a lot of people, however, were traded from East to West or assisted in their migration without it being called trafficking or smuggling. People who wanted to leave the ‘workers’ paradise’ were helped during their heroic escape. The ‘escapees’ paid for forged papers and to be smuggled out of the country (Caruthers 2005). Furthermore, West Germany paid large sums of money to facilitate the migration of people from East Germany, Poland or Romania: first 5000 Deutsch Marks per head, later 7800 (1983) and 11,000 (1988). East Germany labelled these payments as compensation for damages and the costs for education (Marshall 2000). In East Germany, persons who wanted to escape or leave had to pay or bribe officials in order to get assistance and forged papers, but this form of smuggling was not criminalized in the West (*De Telegraaf* 23 July 1993).

Although a few decades later smuggling and trafficking were stretched to cover an increasing number of issues, some issues remained exempted from this coverage. For instance, when in 1991, during 36 h of non-stop flights, 34 Israeli aircrafts lifted 14,325 Ethiopian Jews out of Ethiopia (Operation Solomon), the word smuggling was never used. It was framed in the terms of flight and similar to the Cold War rescue operations (*NRC* 7 November 1991). The state of Israel managed to save the Ethiopian Jews; the fate European Jews had suffered during the Holocaust, papers wrote. The Israel government paid \$ 35 million to the failing and almost collapsed Ethiopian regime, which was in no position to either sanction or forbid the departure of its citizens, and used the money to buy guns (*NRC* 27 May 1991). Only the Ethiopian opposition used trafficking and slave language and said that the Ethiopian government traded in people and sold Jews for ransom (*NRC* 11 June 1991).

International Adoption Shortly after the end of the Second World War, there were some high profile cases about what should happen to Jewish orphans, who had

either survived the camps or had lived with non-Jewish families during the war. Jewish organizations wanted the children to grow up in Jewish families or in Jewish orphanages. Disputes over these cases led to laws on adoption in some European countries (Fischman 1978). Furthermore in the USA, there was a large interest for the adoption of European war babies who were either children who were orphaned because of the war or children who were born shortly after the war out of romances between US soldiers and European women.

In 1960s, first Americans and soon also Europeans, started to adopt babies from Korea. In the discourse on these adoptions, familial love, child rescuing, anti-communism and US paternalist responsibility were intertwined. Adoptions became part of the justification for US intervention in the region. Adopting Korean babies became the US domestic equivalent of fighting communism in Asia. Korea profited financially from what became a well-organized adoptive industry. Between 1953 and 2004, 156,000–200,000 international adoptions took place in Korea. 100,000 children went to the USA and about 5000 to Canada, Australia and New Zealand. European countries adopted almost 50,000 Korean children (Kim and Carroll 1975; Sarri et al. 1998; Oh 2005; Kim 2009; Hübinette and Arvanitakis 2012). This migration was unprecedented in nature and scale. Soon other Asian countries started to ‘export’ children. Currently China is the largest supplier of children for adoption. Between 1991 and 2007, American parents adopted almost 60,000 Chinese children, 95% of them girls (Cheng 2007).

These adoptive practices are widely accepted and references were never made to earlier adoption practices, including the *mui tsai* system, which European authorities so strongly protested against, in 1930s.

Spontaneous Migrants In the period of guest worker migration, only a small part of the guest workers was officially recruited. Many more guest workers came on their own account, often helped by friends, family and acquaintances. Some of them were helped by what we would now call smugglers (Berger and Mohr 1975). Employers were happy about the arrival of the so-called spontaneous migrants because it saved them the costs of recruiting (Bonjour 2008). The employers furthermore did not have to provide housing for the non-recruited guest workers, while for the recruited guest workers they did (Obeijn and Schrover 2008).

The guest workers who came ‘illegally’ to the Netherlands in 1970s did not face many obstacles in regularizing their status after arrival, provided they found work. In 1971, Dutch authorities found out that there was a lively trade in work contracts for foreign workers (*Rotterdamsch Nieuwsblad* 2 April 1971). Rubber stamps, needed to validate the contracts, were forged as well. Contracts were sold for 800–3000 guilders (400 to 1500 euro’s). Guest workers who bought these contracts could legalize their stay in this way. The people who sold the contracts had ties with recruiters in the countries of origins of the guest workers. Some Dutch people were involved in the trade for ideological reasons: they wanted to help guest workers in the Netherlands to legalize their stay. Debates about the contracts were phrased in terms of crime and sometime assistance or resistance but did not refer to smuggling.

Not all men who arrived illegally in this period of labour shortage got the opportunity to legalize their stay by finding work. In 1963, two busloads of ‘disheveled Turks’—newspapers wrote—crossed the Dutch–German border (Schrover 2010). The 162 Turks ended up in Amsterdam without work and without money. A few days after their arrival they staged a riot when they were forcefully deported by plane. Two months later 160 Portuguese workers, who had also arrived spontaneously as a group, were likewise deported, this time by special train (*Algemeen Handelsblad* 3 April 1965; *Het Vrije Volk* 3 April 1965). The large numbers of Turks and Portuguese arriving at the same time—most other ‘spontaneous’ migrants came alone or with one companion—will have affected the decision to deport them. Their arrival as group suggested a certain measure of organization and could have been seen as smuggling, but it was not at the time.

Not Without My Daughter In mid-1980s Betty Mahmoody’s book *Not Without my Daughter* was published. It was followed in 1990 by a motion picture based on the book. It tells the story of the flight of an American woman from Iran with her daughter. Her Iranian husband wanted her and their daughter to stay in Iran. If she had divorced him, he would have been given custody over their daughter, making the girl’s departure without his consent illegal. The publication of the book was followed by a whole row of similar publications, and a lot of media attention. De Hart (2001) analyzed these stories, in which persistent Western women fought desperately for the reunification with their children, which lived in Islamic countries. She showed how these maternal melodramas make frequent use of Orientalist stereotypes to justify the activities of the women, and to legitimize Western superiority over an inherent backward Muslim world. Betty Mahmoody and her daughter were smuggled out of Iran, helped by people who very well knew the smuggling routes. Her story and others like them about the heroic rescue of children, deny the fact the children were brought to the country of birth of their fathers legally and smuggled out illegally. Smuggling in these stories was, however, part of the heroism, not a crime (Fass 1997; Banet-Weiser 2003).

Prostitutes and Sex Slaves After a few decades with very little attention to trafficking the subject returned in full force and a new scare erupted. The new scare related to women coming to the Western world. In 1982, a Philippine woman called Nena came to the Netherlands thinking that she would work as a receptionist in a hotel, but she was forced to work as a prostitute (Padilla 2007). In 1985 Nena and Alma, another woman from the Philippines, pressed charges against their Dutch pimp, but not much happened after that. In 1988, political attention for her case increased because a television crew had tracked down the pimp in the Philippines. He was arrested and brought to the Netherlands and sentenced to two and a half years in prison (*NRC* 10, 11, 15 February 1988). The speculations about the number of foreign women working in prostitution (5000 some papers wrote), the need for measures and the risk that leniency would lead to the arrival of many more women, dominated the articles.

In the Nena campaign again powerful tropes like sex slaves and slavery were again frequently used. The number of women in a position similar to Nena was

grossly overestimated. Newspapers not only referred to Nena as a victim but also as a whore (*NRC* 15 September 1987, *De Volkskrant* 2 February 1988, *NRC* 10, 15 February, 14 July 1988, *De Volkskrant* 26, 27 November 1987, 28 January, 2 February, 2 June, 14 July 1988). One paper presented her as a victim and also as a hero-activist in the fight against trafficking (*Leeuwarder Courant* 5, 15 September, 12 July 1988). It was suggested that she and others in her position had already worked as prostitutes in the Philippines (*Leeuwarder Courant* 3 October 1987) implying they were not as innocent as they were made out to be. The debate clearly echoes that of first decades of the twentieth century. Newspapers described other women in a similar position as ‘sweet’ and ‘graceful’. In a response to the commotion in the Netherlands, the Philippine government decided that women were no longer allowed to leave the country (*Leeuwarder Courant* 15 February 1988). The decision was not put into effect.

An hour long documentary—*Cannot Run Away* (1988)—was made about the life of Nena and Alma and according to the documentary, about the 50,000 other women from the Philippines working in prostitution in the Netherlands, Germany and Japan. The film, which was nominated for an award, was advocated as the horrible story of two Philippine women, who worked involuntarily in a Frisian sex-farm, where they were held prisoner. The film was regarded as playing an important role in making the public aware of the international problem of trafficking.² The film was rather similar to those produced in the first half of the twentieth century.

Dutch newspapers in 1985 expanded the Nena story by referring to another prostitution case (*Nijmegens Dagblad* 11 May 1985). Over the preceding few years, 500 women (referred to as girls in the newspapers) had been brought from the Philippines to the Netherlands, according to newspapers. They had been recruited via advertisements in Manila newspapers. The ‘girls’ were asked to audition as dancers. Each time only a few were selected. Groups of five dancers were formed, the groups and the girls were given so-called exotic names, and the girls went through a period of training as dancers. Upon their arrival in the Netherlands, their passports were taken away from them and they were put to work as prostitutes.

After about 1990 the number of publications on trafficking increased dramatically and the subject was discussed at length in Dutch parliament. The issue was expanded by relating it to smuggling from other countries. In 1985, questions were asked in parliament about smuggle of Tamils to the Netherlands (LH 1984–1985 n18940, no. 1, 3) and in 1988 about the smuggling of people from Surinam (LH 1987–1988 supplement 695). The concepts of smuggling and trafficking were stretched in 1988 when questions were asked about the fake recognition of children: in the Dutch Antilles it was found that men and women registered children as their own, when they were probably not. In debates terms like smuggling and trafficking (plus the chances that the children might end up in prostitution in the Netherlands) were mentioned frequently (LH 1987–1988 20436, no. 3, 1). The word trafficking was also used for Dutch couples who illegally adopted a child in a third world country and registered it as their own without going through an adoption procedure

² www.Idfa.nl (last seen 20 October 2011).

(LH 1988–1989 22 June 1989 88.6588). Smuggling and trafficking were further related to money laundering, drug trade and terrorism (LH 1988–1989 31 January 1989 45.2700). As in the beginning of the twentieth century, a discussion arose whether women could consent to being trafficked or to work in prostitution (LH 1988–1989 21027 no. 4, 3).

In 1995, the issue was expanded further by the introduction of the word *loverboy*. *Loverboys* were handsome young boys, often of Moroccan descent, according to newspapers, who seduced girls by posing as their boyfriends (Bovenkerk et al. 2006). The loverboy was simply a pimp and portrayed similar to the Jewish pimps of the white slavery scare. The introduction of the term was used to emphasize the newness of the problem. Between 1995 and November 2011 Dutch national and leading regional newspapers published 9959 articles about loverboys. The loverboys were discussed in parliament and in government committees 447 times since 1995. The discovery of the loverboy led to (semi-) governmental investigations, theatre plays and educational projects to raise awareness among potential victims. Mothers and their daughters, from 11 years of age onwards, were invited to attend the awareness drives. Although researchers proved that loverboy stories were largely a myth, newspapers continued to write about them (Burger and Koetsenruijter 2008).

The loverboy stories show similarities to the white slavery scare stories. Almost all stories start with the personal story about gullible girl from a provincial town. The articles stress how young the girls are; the youngest are only 11. The issue was expanded by linking it to issues such as international trafficking, child pornography, domestic violence and honour killings. Loverboy stories were in essence not about migration, but reference to the culprits as Moroccan and expansion via linkage made the stories very much part of debates about failed multiculturalism.

The issue was expanded even further and was made more dramatic and sensational when in 1999 newspapers started to write about very young Nigerian girls—some aged 12 or 13—who were forced to work as prostitutes in the Netherlands (Van Dijk 2001). The girls came on their own as asylum seekers and escaped from the detention centres shortly after their arrival. Their arrival and escape seemed to be planned before their departure from Nigeria. The papers wrote that the girls had been trapped into prostitution via voodoo rituals, performed in Nigeria and in the Netherlands. The Nigerian men—who organized the prostitution and the voodoo ceremonies—were presented as an extreme threat. The girls were described as backward, retarded, illiterate and stern believers in voodoo. After a lot of commotion in the press, researchers showed that the voodoo story was a myth. This was no reason for newspapers and activists to stop believing in it (*ANP* 7 March 2011). In 2008, the Dutch Ministry of Justice formed a Swift Action Team, which left for Nigeria to screen girls and women, who were about to board planes to the Netherlands and to stop them from becoming victims of trafficking and voodoo, or from leaving Nigeria (*NRC* 21 November 2008). In the autumn of 2010, two Dutch lawyers travelled to Nigeria to talk to the mothers of ‘little victims’ (*Limburgs Dagblad* 26 October 2010). No victims of voodoo had been found in the Netherlands, but

that was because they were afraid to come forward, according to newspapers (*De Gooi- en Eemlander* 21 September 2010).

Recent reports and articles stereotypically start with the example of a girl—called Natasha—from a village in Eastern Europe who is forced to work as prostitute in a Western country (Hughes 2001). They are presented as naive girls, who thought they would work as dancers and waitresses (*NRC* 19 March 1991). The name Natasha has not completely pushed out the fictive name Maria: if the women are from Latin America or Africa, the name Maria is still favoured (*NRC* 11 January 1992; *De Pers* 7 May 2009).

Since 1990, Dutch national newspapers published 2894 articles about trafficking (of women) and leading regional newspapers did so 3289 times. About three-quarter of the 6000 articles were about the publication of books about this subject, public lectures, television documentaries, government reports and theatre plays. This is very similar to the newspaper reports on white slavery of about 1900. About 1500 articles were the result of organizations fighting trafficking seeking publicity, with one organization (*Stichting tegen Vrouwenhandel* STV) taking a leading role. Articles stereotypically reproduce information without offering proof. In 1995, one of the regional police corps announced its intention to investigate trafficking. No indications had been found that the region actually had a trafficking problem, but if it happened in other regions, it was bound to happen also in their region, the chief of police was quoted in a newspaper (*Eindhovens Dagblad* 24 January 1996). There was speculation about numbers: the number of registered cases had increased from 341 in 2000 to 993 in 2010 (*Reformatisch Dagblad* 20 October 2011). This number was presented as proof that the problem became more important, not that it had gained more attention. Papers suggested that the actual number was—of course—larger because much happened in the dark. The phrase ‘tip of the iceberg’ was used 83 times. Trafficking was described in terms of slavery and related to organized crime, illegal migration, illegal adoption, forced abortions, money laundering and drugs (*Eindhovens Dagblad* 18 April 1995; *Trouw* 2 January 1993; *De Volkskrant* 2 November 2011). One newspaper ran the headline that caged girls had been found, hugging teddy bears (*De Telegraaf* 2 September 2011). There were debates about the question if prostitution could ever be consensual (and not forced) like there was during the white slavery scare.

The West Indies While there was a lot of interest for prostitution and trafficking in the Netherlands, there was hardly any Dutch attention for this on the Dutch Antilles. *Campo Alegre* on Curacao (part of the Netherlands Antilles) is the largest open-air brothel in the world (Kleijn and Schrover 2013). It is a state brothel, which opened in 1949. The opening of *Campo Alegre* led to severe international criticism. As had been mentioned above, the Netherlands had signed all treaties against trafficking since 1902, but it did not sign the convention of 1950, because of *Campo Alegre*. In 1947, the Netherlands had wanted to sign the treaty. It did not because the UN wanted to change treaties closed in 1921, 1923 and 1933: ‘for the purpose of the present Convention the word “State” shall include all the Colonies and trust territories of a State signatory or acceding to the Convention and all territories

for which such a State is internationally responsible'. It forbade all kinds of state involvement with a brothel, in the mother countries and the colony. Since *Campo Alegre* was a state brothel, it was impossible for the Dutch to sign.

Campo Alegre still exists today (also known as *Le Mirage*). Since 1949, 25,000 women have worked in the brothel. In the past, they came from Cuba and Venezuela; currently they come from the Dominican Republic and Colombia. They ask for a permit to work in a hotel. The selection of prostitutes is done by a female administrator attached to the Vice and Morals Police department. The *American Trafficking in Persons* report from 2011 explicitly mentions Curacao as a transit route for trafficking in women, men and children (ANP 23 June 2011). For decades now *Campo Alegre* is mentioned as a brothel via which women end up in prostitution in the Netherlands or elsewhere in Europe. Newspapers call it a transit house and a smuggling route (*Trouw* 20 September 2008). In 2009, the US State Department gave the Netherlands the highest Tier ranking for its attempts to stamp out trafficking on the their continental territory. The Netherlands Antilles however were put on the Tier II Watch List. It is an indication that the US State Department is worried about what is happening on the islands and feels Dutch authorities are failing. In 2005, the disappearance of Natalee Holloway—an American student who was on Aruba on a high school graduation trip—increased debates about prostitution and trafficking on the islands. Her disappearance had nothing to do with either, but the media did speculate for a while that she must have fallen prey to traffickers. In the US organizations called for a tourist boycott of the Netherlands Antilles as holiday islands for US students on graduation trips and spring breaks. US authorities used the threat of a tourist boycott to pressure Dutch authorities into action regarding prostitution and trafficking. Dutch authorities gave money to study the problem, gave public lectures to raise awareness, created a trafficking hotline and set up a Facebook page. These were all highly visible steps, but Dutch authorities did also change the legal status of the islands so that they would no longer fall under the anti-trafficking laws to which Dutch authorities had agreed. It made all the rest window dressing (Smith-Cannoy and Smith 2012; Kleijn and Schrover 2013).

Conclusion

Trafficking in women was metaphorically connected to slavery in the nineteenth century. The original goal of the groups that started the campaigns against white slavery was not to stop trafficking of women across international borders. The main goal was to fight prostitution and overall indecency. Campaigners found that the international transfer of women was a topic that was appealing to a larger public, and as a result to politicians. Newspapers, pamphlets, novels and movies eagerly bought into this type of story. The attention to the subject was fired by the higher visibility of the mobility of young women because they sought and found employment via newspaper advertisements. In 1920s, the definition of trafficking started to converge with that of slavery. Slavery was defined very broadly, as trafficking had been

before. These very broad definitions served two purposes. First, it meant that the alleged problem was inflated: it touched many people, although it was impossible to estimate how many people precisely, because of the fleeting definition. Second, the very broad definition and the linking of other issues to it such as organ harvesting, genital cutting and honour killings meant that the problem could never be solved. It could remain on the agenda endlessly. The information presented above shows that precisely that was the gain and the aim of the broad definitions. Trafficking, smuggling and slavery provide leverage for addressing and tackling other subjects, such as justifying restrictions on mobility and control. Not all forms of assisted travel were labelled smuggling or trafficking, even not when large sums of money changed hands and laws were explicitly and openly evaded.

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Chapter 4

The Arms Traffic in World History

Jonathan Grant

Introduction

Starting in the sixteenth century, European traders began trafficking arms into African, American, and to a lesser extent, Asian markets. Practically from the beginning of the trafficking in firearms there have also been attempts to control the arms trade through forms of export controls for ideological and political reasons. The global story of the arms traffic intertwines with the story of disarmament and arms control. This chapter traces the developing story of arms trafficking from the advent of the gunpowder age through the end of the Cold War. In broad terms it surveys the following eras: (1) origins in the early modern period ca. 1500–ca 1800 (2) dramatic expansion due to mass production in the era of industrial imperialism ca. 1860–1918 (3) various projects of control and limitation of arms trafficking and failure during the interwar era 1919–1939, and (4) the huge expansion of the arms business during the Cold war era 1945–1989. Placed in a world historical context, the contemporary situation represents an acceleration and quantitative expansion of much older patterns.

The focus here is on firearms and ammunition rather than larger items or weapons systems such as artillery, tanks, aircraft, or warships. Surveying the history of arms trafficking poses a number of difficulties. First, since much trafficking is either covert or illegal, it is extremely difficult to pin down exact figures or deliveries. Second, as firearms, or light weapons, leave government service and enter private trade it becomes ever harder to keep track of them, and they may change hands several times. Third, firearms age well in the sense that even older models retain their lethality. For example, the many combat rifles from the First World War could still be found circulating in Afghanistan in the 1980s. The advent of industrial mass production has yielded vast quantities, and supply and demand have both increased

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over time. On the supply side new makers have come on the market through the diffusion of technology and licensing agreements, and this has caused the volume of firearms available continually to increase. Even without licensing agreements, producers have shown remarkable ability to reverse engineer firearms technology. Such has been the case with the Enfield.303 and the AK47 in Pakistan. On the demand side new customers have emerged as new states have proliferated. Fundamentally, the ease of transport and concealment of firearms has facilitated smuggling operations on land, sea and air, and after they enter nongovernmental networks they are virtually unrecoverable (Smith 1996).

The pace of technological change in firearms technology has manifested in a series of waves. The first wave of firearms technology diffusion emanated from the gunpowder revolution in the early fifteenth century, and by the mid-seventeenth century it had largely run its course. During that period the centers of firearms production had become established in England and the Low Countries. The wave was followed by some incremental advances in firearms technology which led from the matchlock to the flintlock musket as the state-of-the-art firearm by the early nineteenth century (Krause 1992).

While there was diffusion of the firearms technology generally, and a number of locales developed production capabilities as gunpowder states, West European centers emerged as the main sources of the arms traffic across Europe and around the world. Among these western centers, the Portuguese acted as the chief diffusers of firearms to Asia and Africa in the sixteenth century thanks to their global trade networks. Among those supplied by the Portuguese were Persia, Ethiopia, and India (Krause 1992). Despite Papal bans on the sale of weapons to non-Christians first issued in 1179 and repeated numerous times thereafter, the Portuguese initiated the arms traffic into the African Gold Coast in the sixteenth century (Alpern 1995).

During the seventeenth century the Dutch were probably the leading arms exporters. By the end of the 1500s, Amsterdam stood at the heart of Dutch international arms trafficking. Purchasers of Dutch weapons came from neighboring European states such as France, England and also customers further afield including from Sweden, Russia, Poland, Portugal, Venice, and Morocco. Buyers were especially keen to buy Dutch matchlock muskets, carbines, and pistols. For example, Sweden bought over 200 Dutch muskets in 1592 and together with Denmark bought several thousand more in 1622. France proved the only major power to buy Dutch arms and war supplies as a regular customer. In the period 1635 and 1645, during the height of the 30 years' war, French purchases of war materials represented something on the order of one fifth of the Dutch trade. French imports of guns and powder amounted to 5.8% by value of all French imports from the Netherlands. The Hague was supposed to have ultimate say over the issuance of export licenses. Nevertheless, in addition to these official sales, the illegal export of arms without the approval of the States General undoubtedly occurred. Although hard figures are virtually impossible to obtain, it posed no difficulty for illicit gun-runners to move their wares via the Rhine or, probably more substantially, trans-ship the firearms by sea while giving false destinations to Dutch authorities. For example, a steady stream of ammunition flowed to the Barbary corsairs although the official destinations indicated

La Rochelle. Taking legal and illegal arms exports together, perhaps an estimated 150,000 Dutch light and heavy muskets were exported legally and another 50,000 illegally in the period 1600–1650 (Vogel 1996).

In the period 1650–1700 a rising flow of new trade flintlock muskets together with older matchlocks released from European armies poured into Africa as part of the burgeoning Atlantic slave trade. In the case of West Africa, the year 1658 can be considered as a turning point when the large-scale import of Dutch guns began in the Gold Coast (White 1971). Dutch sales of matchlock muskets on the Gold Coast of West Africa had started in the 1590s. By the 1680s Dutch guns had become an important European trade good on the Slave Coast and rapidly spread out to Benin by the early eighteenth century and the eastern Niger Delta by 1750. As a measure of the scale of operations, in 1700 Dutch establishments on the Gold Coast ordered 6000 carbines. Additionally, the English Royal African Company sent 32,954 arms to West Africa between 1701 and 1704. In 1730 the Gold Coast and Slave Coast together imported 180,000 firearms (Alpern 1995).

The English private commercial interests joined the African arms traffic business in a substantial way only by the turn of the eighteenth century. Private English arms exports to West Africa commenced in the late 1690s. Prior to that time English gun-making had been centered in London, but the Birmingham factory completed its first order for “slave-trade guns” in 1698 (White 1971). In large part the increase of European firearms to the region was linked to increased European demand for African slaves as African traders found themselves in a position to demand more guns in exchange for slaves. The second half of the eighteenth century witnessed a surge of English arms exports. Of the estimated 283,000–394,000 firearms annually imported into West Africa between 1750 and 1807, English private traders accounted for about 45% of the trade. One firm in Birmingham by itself was manufacturing 25,000–30,000 guns a year for the West African market in 1754 (Richards 1980).

Like the African case, the arms traffic in North America had close ties to a local trade commodity to exchange for firearms. Instead of African slaves, the European arms trade with Native Americans was directly connected to the fur trade. The Dutch, English, and French merchants all traded arms to the indigenous tribes even though numerous decrees had been issued declaring the trade of firearms to Native Americans illegal. For example, the Dutch issued such decrees in 1639 and 1641. Yet, these acts proved ineffective as Dutch sources estimated that some 400 trade guns were in Indian hands by 1644. Meanwhile, incidents of inter-tribal conflicts over furs to trade for guns led to violence between Huron, Algonquin, and Mohawks during the mid-seventeenth century (Puype 1996).

The period 1860–1918 witnessed a profound expansion in the volume of arms trafficking. Undoubtedly, industrialization brought about quick and dramatic changes in the second wave of firearms technology, which played a driving role in the creation of the world firearms market between 1856 and the 1878. With the American development of firearms production based on interchangeable parts and machine tool precision, European states followed suit. During the 1860s the manufacture of breech-loading rifles using steel barrels advanced and superseded muzzle-loaded smoothbores possessing iron barrels. Initially, governments sought

to convert old smoothbores into breech-loaders. For example, Britain converted old Enfield muzzle-loaders into breech-loading Sniders using the system invented by the American Jacob Snider. Other states, desiring cheaper conversion, tried to transform old materials. Interim solutions involved adding breechblock mechanisms to transform muzzle-loaders into breech-loaders. In addition, metallic cartridges replaced conical bullets. Eventually, the conversion models went by the wayside and governments adopted true breech-loaders. For example, in 1871 Britain officially adopted the Martini Henry breech-loader and the Enfield factory began its production. American rifle suppliers experienced a dramatic rise and fall between the end of American Civil War (1865) and 1879. In the process, American-made arms spread to Europe, East Asia, Latin America, and the Middle East. Overall, the Ottoman Empire became the single biggest customer for American weapons. Faced with tremendous overcapacity and a rapidly evaporating domestic market for military arms, American firms eagerly sought foreign sales after 1865. In the period 1865–1870, American suppliers, including the US government, exported approximately one and a half million rifles. Among the top five American small arms firms (Remington, Colt, Winchester, Smith and Wesson, and Providence Tool Company) Remington was the largest and had by itself exported more than 500,000 arms. However, Providence Tool surged ahead with even greater sales to the Ottoman Empire in the 1870s. Where American rifle firms had recently floundered, German and Austrian firms prepared to take the field. The German rifle manufacturer Mauser turned into a world-class exporter, and East European customers proved critical for the firm. The Mauser factory at Oberndorf faced dim prospects for future work in 1879. Having tried to sell rifles to Romania, Wilhelm Mauser left Bucharest for Belgrade. Only a large order of more than 100,000 rifles from the Serbian government saved the company from collapse in 1880. The main Austrian rifle producer, Österreichische Waffenfabriks-Aktiengesellschaft in Steyr, emerged on the European scene as an exporter already in the 1870s (Grant 2007).

As industrialization picked up speed in Europe, mass production and technological advancements in weaponry generated obsolete cast offs and war surplus weapons on an increasing scale. The foundations of this second-hand arms trade originated in Europe and rested on unloading older models from state arsenals and their resale through private arms dealers or state officials. In the global context, the main players in the extra-European arms traffic were the French and Belgians, and the Italians to a lesser extent in the case of East Africa. Overwhelmingly, the weapons sold included older Remington and Gras rifles rather than the state of the art weapons manufactured by Mauser and Steyr. The prominence of Liège as a chief supplier of firearms to Africa also reflected the changes in the period. By the late nineteenth century Liège had taken the African gun trade away from Birmingham, and private production in the Belgian city accounted for some 67% of the African arms traffic by 1907. By that date the entire Birmingham trade to Africa since the eighteenth century had amounted to perhaps 20 million guns, whereas Liège had reached 3 million guns traded in the African market just since the last quarter of the nineteenth century. For example, in 1884 Liège alone produced 205,903 trade muskets (White 1971).

Thanks to the imperial scramble for Africa in the last quarter of the nineteenth century, East Africa rose as the chief region for imported firearms through trafficking. By the early 1880s, the Italians and the French each actively worked to supply Ethiopia with arms. The Italian government officials wanted to gain political influence over King Menilek of Ethiopia, whereas the French interest grew from private arms traders. The French traders succeeded in launching their foray into the Ethiopian arms traffic through Obok, and by the end of 1882, Italian and French guns were flowing from Aseb to Obok, and rifles were arriving at Obok from Marseilles. French traders delivered obsolete French and Belgian weapons, and often sold them with a markup between 400 and 500%. Not to be outdone, the Italians committed to deliver roughly 4000 rifles immediately and 50,000 Remingtons with 10 million cartridges over the next decade (Pankhurst 1968).

Beginning in the second half of the 1890s Belgian and French firms figured very prominently in the arms traffic. Italian intelligence confirmed the purchase of arms and ammunition in Belgium on a vast scale for transmission to Africa (Ethiopia and Sudan), Asia (Armenia), and the Far East (China). The principal centers of the trade were Liège and Antwerp. At Liège more than 10,000 workmen engaged in the manufacture and repair of arms, of whom about 3000 worked at the large private factory of Herstal, which was supported by the Belgian government. In 1895, Menilek had sent a mission to Paris with the sole purpose of forwarding arms and ammunition via Djibouti. The fruits of this mission manifested in a major shipment of 40,000 arms and 5 million rounds of ammunition from Liège to Ethiopia conveyed by the Dutch steamer *Doelwijk*. The French principals who had arranged the cargo had borrowed the money in Europe to procure the materials and charter the ship. British intelligence in Brussels discovered that another shipment of 7000 rifles found its way from Liège to Antwerp to Marseilles to Obok courtesy of an Armenian arms dealer who had procured the arms in Belgium. By 1898 two groups of purchasers in France and Belgium supplied the arms and ammunition to Ethiopia., and no less than 300,000 guns and carbines had been exported from Belgium. A single French firm at St. Étienne had supplied 350,000 carbines for Ethiopia, of which 150,000 arrived in March 1900. These were Gras Mousqueton carbines recently discarded by the French artillery service. French intermediaries continued to play the leading role even as the Ethiopian arms trade gained a new player when the Japanese entered the scene in 1910. In defeating the Russians in the Russo-Japanese War 1904–1905, the Japanese had reaped a bonanza of captured Russian rifles. The Japanese government eagerly contracted with French agents to sell the surplus Russian arms. By early December these rifles were on the way to the Red Sea and Djibouti. In 1911 the Japanese shipped approximately 20,000 Russian rifles along with 20 million rounds of ammunition from Yokohama for Djibouti (Grant 2007).

Because French traffickers dominated the trade, the Italian and British governments engaged in drawn out diplomatic negotiations with the French to adopt more efficacious measures to restrain the illicit traffic carried on through Djibouti. In 1906 the Italian Minister in Addis Ababa had tried to get Menilek to prevent the illicit traffic in arms in Somaliland. Since the Ethiopian Emperor declared that he was unable to do this, the Italians sought French help to ensure proof that arms

introduced into Djibouti were truly consigned only to Menilek, and not to Ethiopian chiefs and subjects generally. As the French allowed Ethiopians in French Somaliland to purchase firearms if they presented a written order from Menilek, however dubious, the official arms traffic control procedure was often abused or loosely enforced, and the French showed no inclination to tighten up on the traffic. In French Somaliland itself, three firms conducted most of the arms imports, and one of them, the Parisian firm Société Française des Munitions, had bought 1 million Gras rifles from the French Government. The Belgian Government also proved reluctant to discuss the arms traffic restrictions due to the negative effects on the Liège arms industry (Grant 2007).

While the arms route into East Africa via Djibouti carried the most volume of traffic, another route flowed from the Persian Gulf into South and Central Asia beginning in the second half of the nineteenth century. This route operated on various sections of the Persian Gulf littoral including Muscat, Bahrain, Kuwait, and the Arabian Peninsula. In particular, Muscat and Oman had served as central emporia for the arms traffic. The arms flowed freely into Muscat and from there throughout Persia and inland to Baluchistan and north to Afghanistan. As had been the case with the East African traffic, French merchants from Marseilles along with Belgians imported arms into Muscat. Even with prohibitions against the arms trade decreed in Bahrain, Kuwait, and Qajar Persia, the region witnessed a large and increasing illicit traffic in arms. British colonial authorities in India estimated that 94,000 tribesmen on the Northwest Frontier had acquired breech-loading rifles by means of the illegal traffic. Once consignments cleared the coast of Persia, it proved virtually impossible to catch the camel caravans that conveyed the arms to the interior. Local Persian officials were incapable of containing the traffic because the Afghans participating in the arms smuggling were almost always better armed than any opposition the Persians could manage (British National Archives 1912). In 1908 an estimated 30,000 rifles and 3 million rounds arrived in Afghanistan via Muscat. Undercover agents from British India discovered as many as 250,000 rifles in store at Muscat. Afghans purchasing weapons from Muscat could sell them in the Kabul market within 9 weeks of landing the guns at Makran. In 1909 an additional 40,000 rifles from Muscat made it to Afghanistan. In Muscat itself, two French arms firms conducted the bulk of the business (Burrell 1986).

The issue of colonial control served as the most important factor behind nascent attempts to restrict arms trafficking in the last decades of the nineteenth century. Certainly the English had established some legal mechanisms to prohibit the export of war materials earlier. In 1660 under the Tonnage and Poundage Act the King could prohibit the transport of gunpowder, arms and ammunition out of the realm. The Customs Act of July 5, 1825, listed arms and ammunition as goods that could be prohibited from export by proclamation or Order in Council. The British first set up a licensing system for arms trafficking during the Crimean War. To prevent the delivery of weapons to enemy Russia, the licensing scheme was implemented through a series of instructions to British customs officials that allowed them to prevent the export of prohibited items to Russia or specific areas in Europe and the Mediterranean from which they could potentially have been trans-shipped to

Russia. Otherwise, customs officers were not authorized to prevent the export of arms (Atwater 1939).

However, the first attempts to coordinate restrictions on arms flows internationally grew out of imperialist rivalries among Britain, Italy, and France in East Africa. By 1884, British officials had grown concerned about expanding French interests in the Red Sea. Fearing the French, the British moved to come to terms with the Italians. In view of the anticipated extension of Italian influence over the western shore of the Red Sea, Britain took the opportunity for cooperation with the Italian government to restrict the import of arms through ports that might come under their control. The Italians concurred with the British in seeing a necessity of restricting commerce of arms in the Red Sea, but Italy called attention to the extension of French influence resulting from the large importation of arms through Obok. Italian concerns arose that the proposed restriction might inadvertently give French merchants a monopoly in the arms trade (Grant 2007).

Among the three powers that had made an agreement to limit the arms traffic into Ethiopia, only the British seriously enforced the measures. By 1888 the Italians desired to enter into agreement with Britain and France to restrict importation of arms into their respective possessions on the Red Sea and Somali coasts. In fact all three powers signed a convention stipulating that arms should only be imported on license. However, the Italians and French had markedly different understandings of what this convention meant and how it should be applied. Because the Italians conducted their arms traffic through Italian government envoys instead of private traders, they considered themselves in full compliance, and did not see the agreement as in any way impeding their business. Britain wanted France to restrict not only the importation of arms into the Somali coast, but also their transit through French and British territories. The French believed that Menilek was exempted from the prohibition on imported firearms because he was a recognized legitimate head of state. By February 1889, the French were threatening to withdraw from their agreement with Britain. In the French view, the only immediate result of the understanding to prohibit the importation of arms on the Somali coast had been to benefit the Italians, whom they claimed were carrying on a brisk trade with Harrar and the interior. Among the three powers that had made the agreement to limit the arms traffic into Ethiopia, only the British seriously enforced the measures. Consequently, the British in Zeila found themselves sitting on the sidelines while the Italians and French conducted a brisk trade in arms and ammunition (Grant 2007).

The first major international agreement to limit arms trafficking came out of the 1890 Brussels Convention. However, suppression of the slave trade in Africa, not arms control, was the primary goal of the convention. Controlling the flow of weapons into the continent served as a tool to tamp down the human trafficking, but limiting the arms trade in general was not the purpose of the Brussels Act. The Convention noted the dangerous role that firearms played in contributing to violence among indigenous peoples, but the focus remained on preserving order through stricter colonial control Stone (2000). The French Government always maintained that it was powerless to prevent the shipping at Djibouti of arms on vessels destined for ports outside the prohibited zone as defined in Article VIII of the Brussels Act.

Local French officials had no interest in taking any action that would seriously impede the business of the arms merchants out of consideration that the commercial prosperity of their colony in Djibouti depended on the arms traffic. French officials insisted that the arms were consigned to King Menilek, to whom the transit of arms and ammunition was authorized as a recognized state ruler under the provisions of Article X of the Brussels Act.

Increasingly, British officials became alarmed at the spillover effect of the Ethiopian arms trade on their coastal possessions. As the arms trade between Djibouti and the Ethiopian interior increased dramatically after 1889, British concern grew that the acquisition by Ethiopia of large quantities of arms constituted a serious menace to the security of their protectorate over the Somali Coast. The only really effective remedy lay in closing the market. Unless the French Government cooperated with the British, no matter what British measures, the trade would continue. Britain tried vigorously to persuade the French without success. It had become clear that the necessary condition for any effective control of the arms traffic entailed the cooperation of the powers, Italy, France, and England. Finally, Italy, France, and Britain signed an agreement on 13 December 1906 covering the Red Sea littoral, Gulf of Aden, Indian Ocean, and Ethiopia. Under the terms, arms destined for the Ethiopian Government required documentation indicating the name, specifying the number of arms, and the destination. The signing coincided with the signing of the Tripartite Agreement by which Italy, France, and Britain divided Ethiopia into three spheres of influence (Grant 2007).

French adherence to the formal agreement brought no change on the ground in East Africa. In Djibouti, the participation of French colonial officials in the gun-running continued unabated and unabashedly. In fact, the French Consul at Dire Dawa, personally directed some of the arms caravans. The French Consul combined business with his official duties through an arrangement with Menilek to supply him with 30,000 rifles at a very cheap rate, on condition that Menilek granted the Consul a pass for 60,000. The extra 30,000 rifles could then be sold for the personal profit of the Consul. Cases of ammunition directed to the colonial administration of Djibouti were forwarded by the French Consul to Dire Dawa and Harrar, where he sold them himself. Back in Djibouti, the French Governor credited the profits from these transactions on the books of the French colonial government, thereby effectively using the arms traffic as a means to balance the books for French colonial administration for the colony of Djibouti. Indeed, the French Governor at Djibouti now acted as the principal dealer in arms (Grant 2007).

Meanwhile, British policy on the arms trade found itself caught between opposing interests. In 1908, the London Chamber of Commerce advocated for a British share in the arms trade. The merchants complained that Belgium sold more guns than Britain, and they protested the injustice that British merchants and manufacturers should at least be free from restrictions which do not affect Belgium. At the same time, British officials on the ground in British Somaliland complained bitterly about the troubles caused by imported arms, and the huge price they had to pay because of the illicit arms trade. Ethiopia was awash in arms to such an extent that the

saturation had led to ammunition being sold in the open market and bullets served as coinage (10–12 cartridges going to the dollar) (Grant 2007).

On the international level, the scramble for Africa prevented a united front of France, Britain, and Italy from coalescing to inhibit the arms trade to Ethiopia. Various understandings and negotiations from bilateral, to tripartite, to the Brussels Act failed to stem the flow. Italy, the primary supplier in the period 1881–1896, tried unsuccessfully to use the arms trade as a tool to create a client state in the form of a protectorate. The Italians succeeded only in providing Menilek with the most weapons with which to resist Italian territorial ambitions. The British most consistently opposed the arms trade. The French officially entered the picture reluctantly 1888–1896. At times, France too prohibited the importation of arms for Ethiopia when the French government needed to establish territorial agreements with Britain 1886–1887 or when the outcome of the Italo-Ethiopian war was not yet certain. After 1896, the trade had become essentially a French private business. The French colonial administrators in Djibouti personally participated and profited from the arms traffic, and they used customs receipts from the arms trade to help pay for chronically underfunded colonial administration in French Djibouti.

As had been the case in the pre-1914 era, the main British motive for controlling the arms traffic after 1919 lay in concerns about colonial security. Specifically, British authorities sought to prevent the large stocks of world war surplus weapons from getting into the hands of colonial peoples. The prospect of colonials acquiring weapons or subversive communist revolutionary groups easily arming themselves caused grave concern. The British licensing system imposed during the First World War remained in effect, but it was turned over to the Board of Trade. On 24 March 1921, the remaining wartime prohibitions on arms exports were revoked and the British government issued a new order that specifically prohibited the export of most arms and ammunition without a license from the Board of Trade. The 1921 order thus set up for the first time a permanent peacetime control in the UK over the export of war materials. Under British law, with a general license one could ship anywhere except to former enemy countries, Russia, China, and Africa. The arms traffic into Ethiopia again received special attention in the post-1919 era. Under the Ethiopian Arms Traffic Treaty of 21 August 1931, the UK prohibited export to Ethiopia of arms, ammunition, and implements of war except under license. As part of the new licensing regime, most licenses to export war materials were approved. Indeed, between 1931 and 1937 British licenses granted for the export of war materials averaged over 400 annually, but licenses refused only totaled 27 over the whole period. The real decision whether or not to issue an export license was made by the British Foreign Office with advice from the armed forces, while the Board of Trade carried out the decision. Under the British system, those ministries had full discretion to grant the license or deny it based on their interpretation of national policy. This discretion made the British system quite different from the American system where licenses for the export of war materials could only be denied when such a shipment would violate American law or a treaty which the US government had ratified (Atwater 1939).

The most significant act by the US Government to monitor the arms traffic in the interwar era was the Neutrality Act of 31 August 1935. Under the terms of this Act, the State Department provided a monthly summary of licenses issued for arms and war materials exported, and the National Munitions Control Board submitted annually to Congress a detailed report of all licenses issued. Between 1935 and 1937 some 6000 licenses for arms, ammunition, and war materials were issued to the sum of \$ 43.4 million. Although the biggest category of war exports concerned aircraft, firearms, and ammunition accounted for roughly \$ 4.3 million or approximately one tenth of all war exports (Green 1937).

The League of Nations took up the cause of controlling the arms traffic as part of its larger mission of general disarmament. The notion that states should limit arms exports for the general sake of peace and the avoidance of war emerged out of the public disgust with the private arms trade following the First World War. However, as David Stone has demonstrated, these efforts foundered. The European colonial powers recognized the danger of the arms trade to the stability and control of their empires, and thus found a common interest in strictly regulating the arms traffic. However, the smaller states rejected this course of action on the grounds that their sovereignty would be reduced and their security eroded by the *de facto* control of the arms trade by the few Great Powers. Despite the failure to achieve an effective international control over the arms trade through an officially accepted Arms Traffic Convention, the interwar period did see some principles of arms control established for later including the licensing of arms exports, publicity, and publication of export figures. Thus, by the end of the 1930s Belgium, Sweden, and France had joined Britain and the USA in establishing the peacetime licensing of arms exports as normative (Stone 2000).

The attempts to control arms exports gained their greatest momentum during the two decades following the First World War. In particular, the arms embargo on warlord China 1919–1929 was the most sustained effort of this kind. Initiated by the USA and then joined by Britain and France, the purpose of the Chinese arms embargo was to end the internal fighting and prevent any further disintegration of the country. However, many other countries did not sign on and private firms from those countries not adhering to the embargo pursued a brisk business in warlord China. Nevertheless, the China arms embargo did mark the first international embargo against a single country (Xu 2001).

The domestic unrest and conflict that would convulse China began in earnest following the death of Chinese President Yuan Shikai in 1916. Civil war broke out by the summer of 1917. In the northern portion of the country strongmen leading competing factions struggled for control of the Chinese capital in Beijing. Among these rivals, the Anhui clique won control of the city in 1918. Meanwhile, in the south a new military government established itself at Guangzhou in direct defiance of the government in the north. By 1920, the situation in the north became more precarious as forces from Zhili led by Wu Peifu and troops from Fengtian led by Zhang Zuolin overthrew the Anhui clique. The Zhili and Fengtian forces turned on one another in 1922. These two warlord factions fought again in 1924. Around the same time, in the south Sun Yat-sen had to flee to Shanghai in the summer of 1922 from

whence he developed a Nationalist-Communist coalition and turned to the Soviet Union for aid. As a result, the first Soviet arms shipment to China took place in October 1924, and consisted of 8000 rifles and machine guns and 4 million rounds of ammunition. The next year an additional 28,000 rifles, 905 machine guns, together with airplanes and artillery arrived in China from the Soviet Union (Zhang 1994).

Although warlord China did not serve as the most important arms market in terms of size (China ranked fifteenth globally as an arms importer, behind the Netherlands (tenth), Argentina (ninth), Canada (eighth), Ireland (fifth), and India (first)), the demands of 1300 warlords waging 140 provincial and inter-provincial wars between 1912 and 1928 did generate lucrative opportunities for a variety of arms traffickers. Official arms traders could be found working within the various foreign legations in Beijing, but the majority of the arms dealers worked as independent contractors lacking formal connections with a foreign government or a private armaments maker. Included in the ranks of these private middlemen were South Asians, Russians, Japanese, overseas Chinese, and entrepreneurs in Canada and USA who smuggled arms from North America (Chan 1982).

Even after adhering to the Arms Embargo Agreement in May 1919, the Italian government and private Italian dealers pursued a roaring business with the warlords. Colonel Varalda, the commandant of the Italian Legation guards in Beijing, arranged arms shipments to the warlords of Shaanxi, Hunan, and Manchuria. The weapons were packed in cases marked “Japanese toys” when shipped from Kobe to China. These shipments amounted to 148 railcars conveying 4011 t of war materials. Only 60 t remained in Beijing while the bulk of the shipments proceeded to Shanhaiguan and Tianjin. The Tianjin consignment alone consisted of 20,000 revolvers and 1 million rounds of ammunition. In 1924, the remaining supply of arms in Shanhaiguan was purchased by the Chinese central government (Chan 1982). In perhaps the single most expensive Italian delivery the warlord Zhang Qingyao purchased \$ 1 million worth of items (with \$ 312,000 down to Italian intermediaries) for 10,000 Italian rifles, 1500 Mauser pistols, 4 Mitrailleuruses, and 1.2 million rifle cartridges (Chan 1982). In 1928, the Italian government urged the private Czech firm Skoda with the assistance of Czechoslovak government to consider forging a Czech-Italian combine to expedite their trade. Trieste was to be the receiving port of war munitions. Czech compliance with this Italian offer would have involved all Czech arms manufacturers. However, the defeat of their warlord clients and subsequent reunification of China forestalled this Italian venture (Chan 1982).

As had been the case of Djibouti and Ethiopia, French colonial administrators also participated in the arms trafficking into warlord China from their base in French Indo-China. The French could easily sell to warlords in Yunnan because of the proximity to Indochina. Yunnanese warlord Tang Jiyao in 1920 bought 7000 rifles from French merchants in Tongking. In March 1923, the French government arranged a shipment from Marseilles of 20,000 rifles and 2 million cartridges in exchange for the French government obtaining exclusive rights to tin mines at Gejiu. Thus, Tang Jiyao purchased arms and ammunition at Yunnan worth \$ 300,000 through the Union Commerciale Indochinoise of Hanoi. These weapons flowed along the same route as opium between Hanoi and Kunming. The French Governor-general

of Indochina, Alexandre Varenne, was a known arms dealer, and thanks to French official intervention in June 1926 Chinese warlords managed to acquire 5000 Mauser rifles and 5 million rounds at the cost of \$ 110 per rifle. Varenne also arranged the sale of 7000 rifles and 7 million rounds of ammunition to Long Yun in the summer of 1927 for \$ 350,000. These materials were made by Skoda, but for his services Varenne's share was \$ 115,000, i.e., he negotiated the price at \$ 50 per rifle and retained \$ 15 per rifle as his share of the profit (Chan 1982).

German participation in the arms traffic with warlord China consisted of active and passive roles. Weimar Germany was prohibited from manufacturing or exporting arms at home under the provisions of the Versailles Treaty. Consequently, passive German involvement in the arms traffic to China consisted of allowing weapons from Czechoslovakia to be loaded in German harbors onto non-German ships. According to Article 321 of the Versailles Treaty Germany had to grant free transit to foreign goods across German territory. Furthermore, Article 363 of the Treaty stipulated that "in ports of Hamburg and Stettin, Germany shall lease to the Czechoslovak state, for the period of 99 years, areas which shall be placed under the general regime of free zones, and shall be used for the direct transit of goods coming from, or going to, that state" (Chan 1982, pp. 56). Active German involvement derived from the sale of arms and ammunition coming from outside Germany by German firms operating in China. For example, the German merchant Ludwig Bing delivered 81,000 rifles (46,000 Japanese models, 35,000 Russian models) with 40 rounds of ammunition per rifle embarked from Hamburg. Bing was also the middleman for sale of 28 million German cartridges to the Fengtian army. German firms with a guarantee from the German Consul, F. Siebert, sold out of Shandong. Siebert personally made approximately \$ 200,000 annually on commissions from arms sales (Chan 1982). As an example of German shipping conveying non-German materials to China, in the summer of 1927 the German steamer *SS Amrun* departed from Riga, Latvia for Qingdao with 5000 cases containing 6000 rifles, rifle belts, bayonets, and 6 million cartridges. The rifles were old Lee Enfields that had been sold by the Latvian government to the British firm Fleming and Company (Chan 1982). Between 1924 and 1928 arms sales by Germans or from Germany represented the single biggest blow against the blockade. Based on Chinese Maritime Customs records, almost 43% of all imports consisted of German arms and ammunition. The vast majority of these weapons were purchased by the Fengtian and Zhili warlord groups (Zhang 1994).

Private and state arms traffickers from Czechoslovakia took part in the supplying Chinese warlords, and often the Czechs collaborated with German and Norwegian partners. In 1924 Nowotny and Company, a private concern out of Prague, sent arms and ammunition to its agent in Tianjin for delivery to the warlord Zhang Zuolin. In October 1925, the Brno Arms factory (Zbrojovka Brno), an enterprise in which the Czechoslovak government owned a commanding share, delivered 81,000 rifles and 40 million rounds to China. In this instance the Czechoslovak Ministry of National Defense played a leading role in handling the negotiations. Warlord Zhang Zongchang purchased another 50,000 rifles from Brno in the fall of 1927 from Brno. The Norwegian port of Oslo served as a collection port for arms transfers

from Czechoslovakia. The Czech vessel *SS Praga* sailed from Hamburg to Oslo and ultimately to Qingdao with 40,000 rifles and 20 million rounds. The Czechs also looked to Greece and Italy for transportation arrangements. In October 1924, a supply agent in Beijing placed a large order of arms and ammunition with Skoda to be exported through Salonika by Greek agency Agyropoulos. Besides being lengthy, using this route involved crossing the land borders of Austria, Hungary, and Yugoslavia. The Skoda Company and the Brno factory regularly secured insurance coverage for their shipments with British firms, and Lloyds Underwriters of London insured many western armaments transactions to warlord China despite the adherence of the British government to the Arms Embargo (Chan 1982).

The government of Czechoslovakia considered the sales of weapons to China as a positive factor, and consequently the government enabled the China trade in a variety of ways. Most notably, on multiple occasions the Czechoslovak Ministry of National Defense lent arms from state reserves to the Brno factory for that company's supplies to China whenever that company could not meet its delivery schedule to China. The Czechoslovak government also came to the aid of the Nowotny Company when British authorities in Singapore confiscated an arms shipment because of lack of proper transit permits to cross British territory. The successful intervention by the Czechoslovak Foreign Ministry arranged the release of the Nowotny shipment. Lastly, the Czechoslovak government also provided a guarantee for a loan to allow the Chinese delegation to purchase weapons. After the end of the China arms embargo and during the Sino-Japanese Conflict 1937–1938 the Brno factory's Chinese arms business reached its height. In the period 1937–1938 Brno sold to China 88,200 rifles (value 60 million Czech crowns), 17,013 light machine guns (135 million Czech crowns), 850 heavy machine guns (31 million Czech crowns), and 62 million rounds of ammunition (45.6 million Czech crowns) (Skrivan 2011).

In the decade following the end of the arms embargo in China, the Spanish Civil War (1936–1939) between the Nationalists (under General Franco) and the Republicans evolved into the last attempted European arms embargo of the interwar era. The British government feared that the Spanish Civil War might escalate into a broader European conflict, and so they warned the French government that aiding the Spanish Republicans would only provoke Nazi Germany and Fascist Italy to supply the Spanish Nationalists. As a point of their assessments, the British and French governments believed that the Nationalists and Republicans were evenly matched, and therefore curtailing potential foreign arms supplies to either side would prove most prudent and effective course of action. Although the French government had received a formal request from the Republicans for arms including machine-guns and Lebel rifles, the French government suspended further arms sales to the Republic on 8 August 1936 and closed the Spanish border to all prohibited traffic. A few days later, on 12 August 1936, the British government announced an arms embargo without waiting for any other powers to respond. This effectively denied arms to the recognized government of Spain from the western democracies. Meanwhile, on the Nationalist side, a private supporter, Jose Luis de Oriol, organized a ship from Belgium which delivered 6000 rifles, 150 heavy machine-guns, 300 light machine-guns, 5 million rounds of ammunition, and 10,000 hand grenades

to Nationalist forces in 1936 (Beevor 2006). Also, Franco negotiated directly with the Nazi government through the medium of an ostensibly private company called Hispano-Marroqui de Transportes (HISMA). This trading company was established in Seville by a Nazi party official, Johannes Bernhardt, and it partnered with the German firm ROWAK established at the same time in Berlin. The two companies were superficially private enterprises, but in fact each was funded by its respective government, Nationalist Spain, and Nazi Germany. The terms of trade allowed for the German war materials to be exchanged for Spanish raw materials such as iron-ore and pyrites (Harvey 1978). The first German delivery to Nationalist Spain arrived 1 August 1936 (Beevor 2006).

Republican forces, having been officially cut off by the British and French governments, looked to the Soviet Union and Mexico. In September 1936, the first Soviet shipment of armaments bound for the Republicans embarked from the Crimea and arrived in Cartagena on 4 October. About 1 week later a second Soviet shipment followed. Concurrently, the Mexican government provided Republicans with 20,000 Mauser rifles and 20 million rounds of ammunition. Unlike the Nationalist side, the Republicans controlled the Spanish gold reserves, which at the time ranked as the fourth largest gold reserves in the world. The Republicans made their arms payments in gold or converted the gold into hard currency to make payments. On 24 July 1937 the first Republican dispatch of gold went to Paris to pay for private armaments purchases in France. The Republican ambassador in Paris, Alvaro de Albornoz, signed a contract with a French company giving it exclusive rights for the purchase in France and other countries of all products. This company was largely owned by banks, newspapers, and industrialists, such as Schnieder-Creusot, which supported Franco. Republican purchasers also encountered hostility from French government ministers and senior officials who extorted huge bribes ranging from \$ 25,000 to 275,000 for their required signatures on export licenses and other documents. Sometimes these French officials hindered the arms shipments even after accepting the bribes. In all, a total of 174 t of gold was transferred to France (27.4% of Spanish reserves). On 13 September 1937 the remaining Spanish gold and silver was transferred to Moscow to be used to pay for Soviet supplies. According to Soviet account estimates, the USSR provided \$ 661 million worth of military goods to Republican Spain in 1938 (Beevor 2006).

The lure of Spanish gold attracted all sorts of odd political bedfellows to the Spanish arms market. Perhaps the most dissonant case involved Hermann Göring, head of the German Luftwaffe. Even as Nazi Germany officially backed the Nationalists and German pilots were flying missions on behalf of the Nationalist cause, the Republicans purchased arms from Nazi Germany through the personal agency of Göring. In this instance, Göring, who was free lancing the sales for personal profit, arranged a secret arms deal to the Republic that included 19,000 rifles, 101 machine-guns, and 28 million cartridges shipped from Hamburg. Göring also had connections to the Greek arms dealer Prodromos Bodosakis-Athanasiades. Bodosakis was the chief shareholder and executive of Poudrieries et Cartoucheries Helleniques, the main gunpowder and firearms factory in Greece. The Greek factory was in business with the German armaments firm Rheinmetall-Borsig, an enterprise

in which Göring had personal financial interests. Bodosakis' pecuniary motives led him to supply both the Nationalists and the Republicans, and he arranged shipments such that the best and latest weapons went to Franco while the oldest and least serviceable arms were delivered to the Republicans. When Bodosakis received Spanish requests for arms, he passed them on to Rheinmetall. The Greek government then provided end-user certificates stating that these arms were for the Greek army. When the shipment reached Greece from Germany, Bodosakis then transferred the cargo to another vessel supposedly bound for Mexico. However, the vessel would actually go to Spain. In 1937 and 1938 the Republic's purchases of weapons from Nazi Germany reached their peak. As a key participant in this arms trafficking, Bodosakis' company was taking shipments from Rheinmetall worth up to 40 million Reichmarks (£ 3.2 million) at a time. These consignments were almost all for Republicans, and generated payments to Goring and members of the Greek government. Bodosakis even worked with the Soviets. In November 1937, he signed a contract with the Soviets to provide the Republicans with ammunition worth £ 2.1 million (Beevor 2006).

During the Cold War era (1945–1989) arms trafficking again received a huge boost thanks to the vast quantities of war surplus equipment located in depots around the world following World War II. Previously well-established trafficking routes around the Persian Gulf and East Africa continued to operate in the post-1945 era, and new routes in Southeast Asia and Central America developed as conduits for small arms and machine guns as part of the East–West tensions and rivalries. In terms of technical changes, World War II had stimulated tremendous advancements in light automatic weapons. Most famous of these is the AK47, the Soviet automatic machine-gun which was engineered during the war but would come to dominate the light weapons traffic globally in the Cold War and post-Cold War eras.

The Cold War rivalry between the Communist world and the West generated formidable difficulties that impeded any measures to regulate the international traffic in arms. As an internal draft document by the British government noted in 1965, “In general the supply of arms and military equipment is one of the most powerful weapons in international diplomacy. Both the United States and the Soviet Union give a high proportion of their foreign aid in this form. It is not to be expected that any country will easily agree to limitations on their freedom to supply arms” (British National Archives 1965a). Soviet participation would be requisite for any effective regulation of the arms traffic, but the supply of arms at substantial discount and on long credit had proved a cheap and effective tool for spreading Soviet influence. British analysts also noted that even if the Soviets were willing to cooperate, they might fear the possibility that if they exercised restraint, then Communist China would supplant them. Furthermore, it would not be easy to persuade other western and neutral arms producing countries such as Switzerland and India to cooperate, while governments in Egypt and Algeria had themselves already learned to copy the major powers by providing arms to other countries as a means to promote their own political influence (British National Archives 1965a).

The arms business through Muscat and Oman continued in the post-1945 period just as it had in the pre-1914 era. Because of the increased arms smuggling into

Oman, British authorities proposed authorizing naval frigates to search the dhows on the high seas north and east of Bahrain and Qatar. The dhows in question originated from the Persian Gulf states and Saudi Arabia (British National Archives 1958). The British found little cooperation from the Shah of Iran or the King of Saudi Arabia. When asked, the Shah gave no response, and the Saudi government suspended naval patrols within claimed limits of the zone 3–12 miles off Saudi shores. Suspension of the naval patrols severely reduced the Royal Navy's ability to contain the illicit traffic in arms (British National Archives 1965).

Meanwhile, from the other side of the Arabian Peninsula arms continued to flow from Yemen, Aden, and Djibouti into Somalia and Ethiopia. French authorities in Djibouti had plied their trade without interruption throughout the interwar years. The effectively unrestricted sales of arms and ammunition to Somalis by those in the French colonial administration in Djibouti had raised British hackles just as much as in the preceding years with the same lack of results. Even the Ethiopian Arms Traffic Treaty of 1931 had not made a dent in the business (British National Archives 1934). During the 1950s firearms were readily available for purchase in the Aden Protectorate and Yemen, from whence they shipped easily to Somaliland. The arms smuggling was usually carried out on a tribal basis with some tribes getting the weapons from Djibouti and others using Somali owned houses in Aden as the storage sites pending shipment in dhows across the waters to Somalia (British National Archives 1958a).

The development of the Southeast Asian mainland as a significant area of arms trafficking occurred only after World War II. On the supply side, huge stocks of war surplus weapons fed the traffic, while anti-colonialism and Cold War tensions fueled the demand side. As part of their desire to reassert colonial control over Indo-China, the French expressed serious desire to restrict the arms traffic for the first time. At the insistence of the French delegation to the London Conference of Foreign Ministers in 1950, the ministers declared their intention to do everything possible to prevent the illicit arms traffic in Southeast Asia. At that moment the main exporters of arms to the region were the Philippines and Italy. The major sources of supply included the ammunition dumps in the Philippines left over from World War II, arms already in Southeast Asia left behind after the war, and a group of Italian arms dealers (Gigante/Spera/S.A.N.E.) working to export arms to Burma. As had been the case in the interwar period, the main goals were to prevent resistance movements and private armies from gaining access to firearms. Already, illicit arms were flowing from the Philippines through Thailand into the hands of Vietnamese communists (Vietminh) by land and sea, although British intelligence noted that Macao played a more important role than Thailand as a distribution center for arms to the Vietminh. A second route flowed from Italy to Burma and Indonesia, and Jakarta was already teaming with weapons (British National Archives 1950a).

War surplus weapons fostered another wave of arms traffic involving Southeast Asia. In 1975 Communist Vietnam became heir to huge numbers of arms available following the Communist victory and American withdrawal from the war in Southeast Asia. Roughly 2 million small arms and 150,000 t of ammunition fell into Vietnamese hands. Ironically, many of these abandoned American weapons

found their way back to the Americas in the 1980s as the Vietnamese traded them to the Cuban government in exchange for foodstuffs. The Cubans then trafficked the weapons into Central America to support the spread of revolution by supplying the Sandanistas in Nicaragua and the FMLN in El Salvador (Smith 1996). Vietnamese trading of American war surplus from the Vietnam War led to the largest illicit arms shipment ever intercepted in transit from the USA to Mexico. In March 1997, US federal agents discovered containers of leftover American automatic rifles and rifle parts which had been shipped from Ho Chi Minh City (Vietnam) to Singapore, then to Bremerhaven (Germany), and thence through the Panama Canal to Long Beach, California for delivery in Mexico (Wood and Peleman 2000).

In Latin America, criminal enterprises served as the chief demand factor for the arms traffic rather than political Cold War motives. Colombian police were already aware of small arms smuggling from Panama in the 1950s. Similarly, Guatemala received weapons from Mexico through Belize (British National Archives 1957). In Nicaragua, General Somoza was a steady customer for clandestine arms from the USA. In this case, American guns and ammunition would be shipped to Nicaragua via Canada then through the Caribbean and the flown in on commercial aircraft flying from Jamaica (British National Archives 1950).

The period between 1960 and 1999 witnessed a doubling of the number of countries that produced small arms while the number of manufacturers increased by a factor of six (Abel 2000). World production of small arms greatly accelerated starting in the 1970s and by the 1980s the system of export licensing based on end-user certificates had become completely ineffective. As Naylor describes it, “the end-user certificate ceased to be a technique of control so much as a tool for the personal enrichment of corrupt officials in the purchasing country, and a means by which selling countries could establish an alibi whenever news of a sale to some embargoed or illegal destination leaked out” (Naylor 2001). The collapse of communism in the Eastern Bloc and Soviet Union contributed mightily to the expanding traffic in arms as a major increase in the number of producing companies occurred in Eastern Europe. For example, in the 1980s, there had been seven states and 12 firms manufacturing small arms in Eastern Europe. By 1999 those numbers had increased to 15 states and 66 firms (Abel 2001).

Since 1945, conflicts in Africa have caused on the order of 6.5 million deaths, and most of these casualties were due to light weapons, especially automatic weapons. Following the collapse of the Soviet Union in 1991 vast numbers of light weapons were released from controls and entered the international arms market. Estimates of the total value of legal exports of light weapons globally reach \$ 5 billion while the value of the illicit trade may range from \$ 2 billion to \$ 10 billion. Africa is so saturated with weapons that an AK47 can be purchased for \$ 10. Within Africa, weapons typically move from areas of easing tensions to regions of increasing tensions. For example, following the cessation of hostilities in Mozambique and Namibia weapons quickly began to flow through trade routes to other states in Southern Africa (Van der Graaf 1997).

Since the 1990s, West Africa experienced some of the most devastating armed conflicts in the world. Conflicts in Cote d’Ivoire, Guinea-Bissau, and Guinea have

increased in violence through a combination of massive unemployment among young people and the ready availability of light weapons. The United Nations Development Program (UNDP) has estimated some 8 million illicit small arms and light weapons are already present in West Africa, and Nigerian sources worry that 1 million such arms may be in Nigeria alone (Vines 2005). Liberia has used a series of questionable end-user certificates to acquire military equipment from former communist countries in 2000–2001, including Kyrgyzstan, Moldova, Slovakia, and a Russian company that shipped 5 million cartridges from the Ukraine. Liberia also employed two fake end-user certificates from Nigeria to obtain 200 t of weapons from Zastava in Serbia in 2002 (Vines 2005).

The case of Nigeria illustrates the general course of developments for the region. Even during the late nineteenth century under British and French colonial rule there was constant turmoil over the flow of weapons in West Africa from Senegal to the southern border of Nigeria (Cooke 1974). During the brutal Nigerian civil war 1967–1970, also known as the Biafra War, arms poured into the country. Following the conclusion of that conflict, Nigeria was floating in weapons, but no comprehensive arms collection program was pursued. The later illicit arm traffic has found fertile soil in growing crime, endemic corruption and ethno-religious conflicts. Under the Nigerian Firearms Act roughly 12,000 people were arrested in relation to arms trafficking or illegal possession of weapons between 1990 and 1999, however, fewer than 50 were successfully prosecuted. According to the Nigerian Customs Service, the Nigerian government intercepted small arms and ammunition worth more than US\$ 34.1 million during the first half of 2002. Much of this material was intercepted at the land border crossing into Benin, and many weapons were destined for criminal groups (Vines 2005).

Besides the abundance of supplies from past and present conflicts, West Africa's arms traffic problem is compounded by expanding domestic artisan production from Senegal, Guinea, Ghana, and Nigeria. According to Alex Vines, "Ghana has developed a sophisticated blacksmithing tradition with a growing gun manufacture sector. These blacksmiths produce pistols, single-barrel shotguns, pump-action shotguns, traditional Dane guns (smooth-bore flintlock guns) and possibly imitation AK-47s. Togo and Benin also have similar industries on a smaller scale. Less elaborate production is also known in Senegal and Guinea. Except in Guinea and Nigeria there is no local ammunition production for these firearms, so the industry depends on imported ammunition, much of which is manufactured in Europe. This shows that the blacksmiths are manufacturing to specifications determined by ammunition availability. Blacksmithing is a secretive profession in much of West Africa, and difficult to penetrate. The Geneva-based Small Arms Survey estimates that Ghanaian blacksmiths may produce as many as 200,000 firearms each year" (Vines 2005). These artisanal weapons travel over trade routes that were established even before independence to facilitate cross-border smuggling of minerals and cash crops. The effect is that the arms-trafficking is now wrapped into the fabric of the informal regional economy of West Africa.

In conclusion, this overview of the preceding five centuries of firearms trafficking around the world shows that the gun markets are deeply embedded in the

international landscape. It would be a gross misunderstanding to view the current problems of gun-running and weapons trafficking as recent developments or as primarily resulting from the international consequences of Cold War rivalries. The various recent UN arms embargoes have largely failed to limit access to weapons. Since 1990, arms embargoes have been imposed to end civil wars in the former Yugoslavia (1991 and 1998), Somalia (1992), Liberia (1992 and 2001), Rwanda (1994), and Sierra Leone (1997). The embargo in Somalia has been in place for many years now, yet warlords and private militias remain well equipped with AK47s and other weapons (Tierney 2005). Each successive historical period has brought forth bigger waves of the supply and demand for firearms, which have overwhelmed the attempts to monitor and control the trade through export licensing schemes and international agreements.

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Chapter 5

The Criminalization of Drugs. Drugs Before they Were Criminalized

Carl Trocki

By the early twentieth century, global drug trades and consumption of drugs, particularly the opiates, had been significantly restricted as a result of international cooperation among the drug-producing and trading states. The only exception was China, where unsettled conditions allowed the continuation and expansion of opium production and consumption. Little of this, however, was exported until the late 1930s when links between Nationalist Chinese gangsters and the American mafia led to the beginning of a link between China and the USA.

When the Communist Party took control of the Chinese state in 1950, opium was effectively outlawed, but this trade was continued by GMD elements which took refuge in northern Burma supported by the CIA. Cold War policies saw the rise of the opium trade in the Golden Triangle in Southeast Asia and later in the Golden Crescent from the 1960s to the 1990s. In the USA, the rise of a drug-culture and the subsequent “War on Drugs” fuelled the expansion of the heroin market in the USA. Thus, international policies to combat communism and the drug trades have not only proven counter-productive, but have actually, driven the growth of the illegal trade.

Introduction

The criminalization of drugs—that is, the prohibition of their production, their use, and the traffic in them—seems to be largely a phenomenon of the late nineteenth and early twentieth centuries. With the exception of China, where opium use was prohibited as early as 1725, and a few Southeast Asian states, opium and virtually all other mind-altering substances were legally available in most parts of the world. This was true for most of human history. Drugs such as opium and cannabis were widely used throughout Asia from at least the late Bronze Age. From a possible origin in the Lake cultures of Southern Switzerland to the classical age of Greece,

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opium was known and used as a medicine and a euphoriant. Galen and Pliny wrote about it and the European physicians of the Renaissance such as Paracelsus used it as a pain-killer (Merlin 1983; Trocki 1999).

Until the mid-nineteenth century, this was certainly true for the west. In the USA and Western Europe, opiates of various forms were not only cheap but abundant and readily available throughout the growing cities of the region. As Virginia Berridge and Griffith Edwards have shown, it was only in the late nineteenth century that certain social forces in Britain and the USA were mobilized to restrict the availability and to attempt to control the usage of opiates (Berridge and Edwards 1987).

The question of how opiates and other drugs came to become illegal is not the focus of this chapter. But some understanding of the process is useful in understanding the construction of the current discourse around drugs and their place in transnational crime. The prohibition of drugs must be seen in the context of an emerging interest in and awareness of public health issues in these countries and an increasing sense of professionalism among medical practitioners. These movements combined with a growing sense of the need for a higher level of psychological discipline among the working classes of the newly industrializing economies of the west. In both instances, opposition to drug use and trafficking were agreeable to the dominant middle-class morality.

We might also borrow some of the insights of Benedict Anderson and Edward Mosse regarding the emergence of nationalism and ideas of physical and mental “purity” which were associated with the rise of the idea of European bourgeois “respectability” during these years (Mosse 1985; Anderson 1998). In this context, drugs, particularly opium, came to be negatively associated with African Americans and Asian immigrants. It was thus not surprising that the first anti-drug laws in the USA and Britain came to focus on Chinese and on the smoking of opium, rather than the ingesting of the drug. Later, prohibitions on cannabis would target Blacks and Hispanics. There was an element of racial prejudice associated with drug legislation from the very beginning.

Also, some understanding of the role in which these drugs functioned prior to their prohibition will help to illustrate the manner in which they were driven underground. It will also help to show why certain groups such as Chinese secret societies and the American Mafia fell heir to the newly illegal industries created by prohibition regimes. Here it is important to draw attention to the fact that these illegal industries—for in fact they were “industries”—emerged together with the rise of global capitalist enterprise. Illegal drug trafficking thus began its life as a “business” and had all the general characteristics of most other large-scale economic enterprises of the age.

If we look at opium, which was probably the first of the large-scale drug trades to become illegal, there was a considerable history of essentially legal trade in the substance prior to the banning of the drug. Opium had been traded, both as a medicinal as well as an intoxicant, throughout Eurasia, prior to the nineteenth century. It was mainly produced in India, where its use was widespread. There was also a considerable demand for the drug in Southeast Asia and China. There were small centers of

production in Persia and Turkey. The traffic in opium had been going on since the fourteenth century, if not earlier (Zhang 2005).

When Europeans arrived in Asian waters in the sixteenth century, it was already a commonly traded commodity throughout the waters of monsoon Asia. Use of the drug apparently saw an increase in places like Java, Fujian, and Taiwan when Asians began to mix it with tobacco and smoke it. Sometime around the end of the seventeenth century, the Chinese had developed a means of smoking the drug without tobacco. It was shortly after this that the Qing court found it necessary to ban the drug in China (Trocki 1999). Chinese usage of the drug, mainly among the upper classes, continued to increase, and European traders, particularly the British, found it profitable to continue in the clandestine trade.

British trade in the drug increased significantly following the Battle of Plassey (1757) after which the British East India Company (EIC) obtained the “dewani” or the power to collect taxes in what was then “Bengal.” At first Company servants, and finally the Company itself, in 1784, declared a monopoly on the production of opium—which had long been a major cash crop in the region. Peasants, who needed silver to pay their land rents, found themselves compelled by circumstance, if not physically coerced, to produce the drug.

We might say that it sprang from the ground fully formed as a transnational business enterprise aimed at producing wealth for the EIC “shareholders” back in London. It employed large numbers of workers who produced standardized products under industrial discipline. Their products were aggregated under hierarchical management structures; shipped through modern transportation channels and were distributed to a mass market. Not only was it consumed in China, but also throughout Southeast Asia, where increasing numbers of Chinese coolies adopted the habit. Naturally, the greater portion of the surplus value produced was appropriated by the managers and controllers of the enterprise. The fierce competition between these management groups ultimately led to the elimination of competition and the formation of large cartels or monopolies that gained global reach and ultimately began to exert their own pressures on the political systems.

This should come as no surprise since opium, the queen of drugs, was already being produced under industrial conditions in the early nineteenth century. It was moreover, run as a monopoly of the British colonial government of India. It was traded to China where it was smuggled into the country since early seventeenth century. In this sense, it could be said that the opium trade was already a transnational criminal activity. Then, after two “opium wars” between Britain and China, China was forced to legalize the trade in 1860 and it remained so until 1908. It is also important to understand that throughout the eighteenth and nineteenth centuries opium and other drugs were legally available in all of the European colonial possessions in Asia. This was also true for states such as Siam, Persia, and the Ottoman Empire. In addition to being legal, they were often supplied under some form of government monopoly. As a result, opium and cannabis use became widespread among the peasants and working classes of colonial Asia, Siam, and the Middle East. In most of these states, it also came to constitute a major source of tax revenue (Trocki 1999).

The Banning of Drugs

The movement to ban the drug trade took place on two fronts. In the west, as noted above, it was part of the “purity” movement that was initially promoted by a number of religious groups such as the Quakers, the Methodists, and groups involved in the anti-alcohol movement in the US, such as the Women’s Christian Temperance Union (WCTU), the Anti-Saloon League, and others. Prohibition of drugs and alcohol was also an issue promoted by nationalists, public health advocates and industrialists. By the end of the nineteenth century, opium and most other drugs were either completely prohibited in most western countries, or else access to them was severely restricted. No longer was it possible for ordinary citizens to buy patent medicines laced with opium from the local pharmacist or the travelling medicine seller.

There was also an international movement, initially promoted by the Society for the Suppression of the Opium Trade (SSOT) which was primarily active in Britain. By the late nineteenth century, their supporters had gained a majority in the British House of Commons. This shift was supported by a strong anti-drug faction within the US Congress. Their main objective was to eliminate the imperial drug trade which had been a primary source of income for the British and other European empires. The Americans led by way by banning opium use in the Philippines shortly after they acquired it as their first Asian colonial possession. The anti-drug movement took place mainly on the diplomatic front and was ultimately carried out through a series of international conferences.

After the British agreed to cooperate with the Chinese government in the suppression of the opium trade to China in 1906, there followed a series of conventions and conferences dealing with the trade in drugs beginning in Shanghai in 1909 and continuing through the 1920s. Though initially little progress was made in stopping the international traffic in drugs, by the late 1920s, following the establishment of the League of Nations and with the inexorable pressure of a number of anti-drug trends, such as the prohibition of alcohol in the USA, a consensus of opinion among the leading nations of the world came into being by 1923. It was not perfect, but it signaled a movement toward the reduction, if not the suspension of the “legal” drug trade. The regime of restriction which initially focused on opium, quickly came include most other drugs as they came to the attention of state lawmakers and anti-drug interests.

The major producing and exporting countries (British India, Persia and Turkey) refused to end the production of opium and continued to export it to those countries whose governments allowed its import. The British argued that ceasing the supply would not end the demand and that consumers would simply find other sources. In their view, this would only succeed in decreasing the revenues of India (Mills 2003, p. 160). In addition to continued production, countries with colonial possessions in Asia allowed local consumption to continue under government-controlled monopolies. Although these governments made some effort to reduce consumption by increasing prices, the monopolies continued in effect until 1943 when the areas in question were under Japanese occupation.

Despite the end of government monopolies, drug consumption continued in many Southeast Asian countries in the unsettled conditions of the post-World War II era. Moreover, even though the Chinese government had made credible efforts to ban opium between 1907 and 1911, the collapse of the Qing government and the rise of warlord regimes after 1916, saw these projects fail. By 1920, China was once again flooded with opium largely of its own production. Opium cultivation continued to sustain many of the warlord regimes as well as the Nationalist government itself after 1927. Opium cultivation and consumption continued in China until after the end of the civil war and the rise of the communist government. It was from these beginnings, in post-war Southeast Asia and post-revolutionary China, that the international opium trade that we know today sprang to life.

The Beginnings of the Transnational Drug Trade

By the 1930s, much of the illegal opium trade of Asia was in general decline. From a high of 42,000 tons in 1906, global opium production had dropped to about 8000 t by 1934. In Asia, the trade seems to have fallen into the hands of Chinese gangs, generally known as Triads from their rituals celebrating the union of heaven, earth and man. Throughout Southeast Asia, but particularly in British Malaya, the Netherlands East Indies, French Indochina and Siam, the triads were generally active and controlled most areas of crime, particularly where the Chinese were concerned. Where there were government monopolies, there were still illegal drugs. The triads also controlled illegal gambling and prostitution, and were generally involved in extortion and labor crimping. Generally speaking, they were not much involved in transnational crime. Most of their activity was local and they focused on providing illegal services to domestic markets. Their only international connections were to China or India from which they obtained their supplies of opium. Prior to the war, they also obtained morphine from Japanese pharmaceutical companies.

Within China itself, the opium trade had fallen into the hands of the well-known gangster, Du Yuesheng (also Tu Yueh-sheng, or Big-eared Tu) (Booth 1996, p. 166). Du had formed an alliance with Chiang Kai-shek when the latter moved into Shanghai in 1927 and turned against the left-wing of the Guomindang (GMD) or Nationalist Party. Du and the Green Gang, which he led, assisted Chiang in massacring the communists, the left-wing labor unionists in Shanghai, and others who opposed Chiang. Du was appointed as the head of the opium suppression bureau and opium was once again illegal, but omnipresent in China. The Nationalist government gained \$ 40 million in opium revenue in 1928. By 1933, the Nationalist government was taking in \$ 30 million a month from opium (Marshall 1976, pp. 20–22).

Du's Da Kongsì (The Big Company) and the Japanese set up factories in Tianjin to produce morphine. Since China was now producing seven-eighths of the world's supply of opium, China was able to begin exporting the drug to the USA and Europe. American Mafia leaders such as Arnold Rubenstein, Meyer Lansky, Charles "Lucky" Luciano, Louis "Lepke" Buchalter and Jasha Katsenberg established links

with the Chinese underworld both in Shanghai and California and, with the end of Prohibition, moved into the narcotics traffic. With these connections established, the infrastructure for an illegal, transnational drug trade was in place (Marshall 1976, pp. 29–30).

If Chiang needed allies like Du to control Shanghai, he also needed support from the warlords who controlled provincial armies in China's interior. He made alliances with the warlords who controlled Sichuan and Yunnan, which constituted the major opium-producing areas in China at the time. Despite his professed opposition to opium, it is clear that Chiang's GMD was largely financed by opium sales.

The collaboration of Chiang's regime with the warlords and the secret societies set two trains of events in motion, both of which firmly established the drug trade in Asia. The links with the Green Gang brought Chinese secret societies throughout Asia into the trade in Chinese opium. There were such groups in Hong Kong, Taiwan, Singapore, Malaya, French Indochina, and wherever there were Chinese settled in Southeast Asia. These triads had become key structures in the criminal undergrounds of the colonial world.

During the days of the revenue farming systems they had often worked for the tax farmers. Once the farming system was abolished and government monopolies were established, they smuggled opium and morphine into the colonies largely for the same Chinese coolies who had been opium consumers in the past. In the post-war years, particularly the 1950s and 1960s, they continued to supply local markets and began to seek export markets in the West. Du Yuesheng, who had previously worked in the French Concession in Shanghai also established links with the Corsican gangs through his connections in Indochina and was thus able to begin feeding his opiates into the French market. Although his Corsican allies later double-crossed him, the link between China, Indochina, and France had been established. According to Martin Booth:

Over 50% of Big-eared Tu's heroin was exported to France through official channels. The police force in the French concession [of Shanghai] was administered from Vietnam, then French Indo-China. The captain of the police, Étienne Fiori, was a Corsican and a representative of the Union Corse, the Corsican equivalent of the Sicilian Mafia. With French Consul-General Koechlin, he was beholden to Big-eared Tu, who paid both the diplomat and the police captain hefty bribes in addition to providing them with concubines. On Tu's behalf, Fiori assisted in setting up his distribution route to France. Heroin, manufactured by Tu in Shanghai, was shipped to Paris via Hanoi, Saigon, and Marseilles. Tu paid a substantial part of his profits to key civil servants and politicians in France to ensure the French government kept its inquisitive nose out of Shanghai (Booth 1996, p. 167).

The other aspect of Chiang's alliance involved the fate of the warlords in China's southwest. With the victory of the Chinese Communist Party (CCP) in 1950, after the civil war, Chiang and the GMD government fled to Taiwan where they established a base with US protection. In the far southwest, where the warlord armies were cut off from the retreat to Taiwan, the Peoples' Liberation Army drove them into upper Burma and the Shan Plateau. The unsettled conditions that obtained in Burma at the time gave the warlords the opportunity to support themselves in the same manner that had served them so well in China. They forced local tribesmen to cultivate opium and smuggled it out via Thailand.

The Burmese government, facing rebellion throughout the country, was unable to stop the GMD warlords under General Li Mi from sustaining themselves on opium. Moreover, in the global circumstances of the Cold War, the Burmese found that the Americans were happy to covertly aid the GMD as part of their efforts to subvert the newly established communist government in China. While the CIA looked the other way, the Chinese warlords were able to establish connections with the Thai Border Patrol and the Teochew Chinese secret societies in Bangkok to move the opium out of the Shan hills to heroin labs in Hong Kong. These events were the foundation of the Golden Triangle—an isolated region in the distant borderlands of three relatively divided countries. It was an ideal location for an opium production regime that could effectively thumb its nose at the rest of the world.

Although the Golden Triangle did not emerge as the primary opium production area until the 1970s, the constituent elements for that eventuality were in place by the early 1950s. In the meantime, transnational drug trafficking actually declined in importance in the post-war years except in a few places. Global opium production declined from 8000 t in 1934 to only 1000 t in 1970 (Booth 1996, p. 295). Ironically, 1970 was the beginning of the US President Richard Nixon's "War on Drugs." In the years since then, global production has climbed back to the levels of the 1930s.

The Resurgence of the Transnational Drug Trade

The second half of the twentieth century saw a significant shift in the global drug trade. Prior to World War II, drug consumption had been a relatively minor problem in the West and in developed countries. The post-war era saw drug consumption and concern with drug consumption increase in the USA and western European countries. Asia remained the major source of opium, while consumption in Asia persisted in places like Hong Kong, Thailand, and Indochina. The more affluent markets of the west, however, drew increasing amounts of east and Southeast Asian opium into their ambit. At first, Asian opium moved along the pathways established by Du Yueshang in the 1930s. That is, it moved from Indochina or Siam to Hong Kong with the collaboration of French officials and Chinese gangs and thence to France and to the rest of Europe and the USA. Here, the Corsican gangs and the American Mafia made up the downstream ends of the trade.

During this period, however, Asia production remained at relatively low levels and much of the opium that found its way to the heroin factories of Marseilles came from Turkey. The Turkish government continued to allow Anatolian peasants to cultivate the drug while claiming that it all went to the production of legal morphine and other opiates. In fact, many peasants withheld their opium from the official market and sold it illegally to the Corsicans. The Corsicans, shielded by the CIA, which used them to destroy the communist party in Marseilles, moved the heroin to the US in collaboration with the American Mafia. By the late 1960s, this now infamous "French Connection" supplied over 90% of the American market.

In the early 1970s, however, all of this ended. The Turkish government agreed to ban opium production and a series of successful raids by French and American police forces were able to dismantle the French connection. They made a number of large seizures of 200 or 300 kgs, of heroin and destroyed six heroin labs located in the suburbs of Marseilles.

These activities, however, did not mark the end of the illegal trade in opiates. Two factors conspired to breathe new vitality into the American drug scene. The first was the shift in attitudes about drugs among young people. The rise of the hippie movement and the popularity of drugs such as cannabis, LSD, mescaline, amphetamines and others saw the rise of a new drug culture in the country. The counter culture of young people championed drug use and celebrated it in its music, its films and its literature. This counter-culture was an affront to President Nixon's "silent majority" and he sought support from conservative Americans by attacking what he identified as the drug culture.

The impact of Nixon's war on drugs was paradoxical. Rather than reducing drug use, it created a shortage of these hallucinogens and other "soft drugs." By the early 1970s, many members of the new counter-culture found it easier to obtain heroin than the drugs they had been previously using. The shift was notable in American popular culture with the film "The Panic in Needle Park" directed by Jerry Shatzberg in 1971. Australian scholar, John Jiggins, noted a similar phenomenon in Australia in 1973. There was a crackdown on cannabis use in Australia following the overthrow of the Gough Whitlam government in 1973. This increased the price of cannabis and caused a steep rise in heroin use (Jiggins 2004).

The Rise of the Golden Triangle

The other factor in the rise of the heroin trade in the developed world was the rise of the Golden Triangle as the primary producer of opium and heroin in the world. As already noted, links between the Shan Plateau of upper Burma and the drug labs of Hong Kong had already been established in the early 1950s. CIA support for the GMD remnant forces in Burma had allowed them to prolong their existence through the production and export of heroin. Links with the Thai border police and the Teochew secret society gangs of Bangkok brought the drugs to Hong Kong where it could be processed into heroin in the labs controlled by the local triads. From there it found its way to the USA via California.

The collapse of the French connection came at a time when the war in Vietnam was in a critical stage and the CIA was seeking to shore up opposition to communist movements among the various hill tribes. Alfred McCoy has shown how the CIA became involved with the drug trade of the Golden Triangle during this period. In particular, he points to the alliance between the CIA and Hmong leader, Vang Pao which dated from the early 1960s. During the French war against the Viet Minh (1946–1954) Vang Pao had supported French operations against the Viet Minh and supported himself by selling opium from the Plain of Jars to the French Corsican gangs. McCoy details the CIA's move to take over the French links to Vang Pao

and their support of the Corsican drug trade (McCoy 1991, pp. 315–320). By 1971, however, Pathet Lao and North Vietnamese forces overran Vang Pao's positions in the Plain of Jars and the Corsicans and the CIA lost control of the airstrips that gave them access to the area's opium harvest.

In north-western Laos, at about the same time, Lao general, Ouane Rattikone forged an alliance with the leader of the Shan National Army, U Ba Thien. The latter, a Shan nationalist who hoped to create an independent state in the Shan Hills of Burma had been working with William Young, a CIA operative to support their operations against the Chinese communists. Ouane offered the Shan modern weapons and other supplies in exchange for opium deliveries from the Shan areas. McCoy suggests that Young's denial that he played a role in creating this alliance was somewhat disingenuous. U Ba Thien's Shan forces were key to protecting the CIA listening posts in upper Burma and they needed modern weapons to replace their World War I vintage rifles. Since the CIA was unable to provide direct military aid to U Ba Thien, Young was willing to look the other way while the Shans exchanged their opium for Ouane Rattikone's automatic weapons (McCoy 1991, p. 345).

This alliance was crucial in helping General Ouane establish himself as the major opium trader in Laos and in making the Golden Triangle the key supplier of opium to the US market. Throughout the 1960s, power shifted between various warlords in the Shan states. Ultimately, the GMD was undercut by the now infamous Khun Sa, and he was able to maintain a shaky hold on the opium production of the Golden Triangle while the CIA continued to support his Lao, Thai, Hmong and Vietnamese partners in their end of the traffic, which then moved through Bangkok, Hong Kong and Saigon to western markets.

The key issue here is the fact that as McCoy has quite clearly shown, the Cold War priorities of the CIA and the American government in general, clearly came first. If their policies also led to the expansion of the heroin trade, then that was an acceptable loss. In fact, McCoy, Chouvy and other observers have noted that this policy choice became a pattern. In future conflicts, American covert forces continually preferred to seek partnerships with drug lords, Mafioso, Triad gangsters, and other such individuals and groups, in order to combat what they perceived as the threat of communism.

Whether supporting the Sicilian Mafia to combat Italian communists in the 1940s; or to support opium-growing GMD warlords in the 1950s; or their Shan, Lao, Hmong, Thai, and Vietnamese successors in the 1960s and 1970s; or the Afghan warlords—also opium growers and Islamic radicals—in the 1980s and 1990s; the pattern is depressingly repetitive. The US government systematically and with full (but deniable) awareness, fostered the growth of the global drug trade throughout the post-war era. In fact, when Nixon declared his so-called War on Drugs in 1970, the global heroin trade was at a significant low point. Since then, it has systematically grown to levels approaching 8000 t of opium annually.

In the 1980s, American drug tastes turned to cocaine. Continued instability in Latin America, partly incited by American support for anti-communist dictatorships, provided an opening for cocaine production in Colombia, Bolivia and Peru. The movement of cannabis and cocaine from Latin America fuelled the foun-

dation of powerful criminal cartels in the region and further undermined any kind of legitimate state. Scientific advances greatly expanded the market for cocaine-based drugs with the invention crystalline forms of the drug. The advent of cheap, and fast-acting “crack” cocaine moved into the African American neighborhoods of the USA during the mid-1980s and early 1990s.

We could argue that the heroin and cocaine trades might have expanded at any rate. There does not seem to be any direct correlation between the expansion of the drug markets in the USA and CIA or other US government actions abroad, other than the expansion of supply coupled with political instability. It may be seen as an unfortunate coincidence. Alternatively, we might argue that the drug culture in the USA and the west seems to have originated for reasons other than the simple supply of a certain drug. The problem with this explanation is that initially at least (in the 1960s), drugs consumed in the USA tended to be hallucinogens such as cannabis, LSD, mescaline and other such substances rather than harder and more addictive drugs such as heroin and cocaine. In fact, heroin consumption in the US and Australia, only began to rise after police and other anti-drug forces began to curtail the supply of the hallucinogens and cannabis.

Even though heroin production in the Golden Triangle has dropped considerably in the past decade, the region’s drug lords have not gone out of business. Crop substitution programs by area governments have had some impact. When I visited the region a few years ago, many of the former poppy fields of northern Thailand had become tea plantations. On the other hand, drug production has shifted to the manufacture of amphetamines, ecstasy, “yaa bah,” and other such substances. Small factories churn out millions of pills which are easy to conceal and transport, and which have a ready market in both the immediate region as well as abroad. These require no vast fields, no tribesmen, no pack mules and the other components of heroin production. In the meantime, Afghanistan, Pakistan, and Iran have become the new centers of the heroin trade. As Chouvy has shown, the Golden Crescent has now replaced the Golden Triangle.

This transfer of the opium industry to Golden Crescent has taken place in two phases. Initially, during the Soviet involvement in Afghanistan, Americans moved to subvert the communist government in Kabul by throwing support to the tribal warlords and by enlisting the aid of Pakistan, particularly of the Pakistani military intelligence wing, the Inter-services Intelligence agency (ISI). These activities, celebrated to some extent in the Hollywood movie, “Charlie Wilson’s War,” were financed by the heroin traffic. Heroin supported the warlords, gave birth to the Taliban and Al-Qaeda and fattened the wallets of the Pakistani generals. It also gave rise to the string of “madrasahs” to train young men as terrorists.

B. Raman, an Indian policy analyst with the South Asian Research Bureau has described the events as follows:

The Afghan war of the 1980s saw the enhancement of the covert action capabilities of the ISI by the CIA. A number of officers from the ISI’s Covert Action Division received training in the USA and many covert action experts of the CIA were attached to the ISI to guide it in its operations against the Soviet troops by using the Afghan Mujahideen, Islamic fundamentalists of Pakistan and Arab volunteers. Osama bin Laden, Mir Aimal Kansi, who

assassinated two CIA officers outside their office in Langley, USA, in 1993, Ramzi Yousef and his accomplices involved in the New York World Trade Centre explosion in February, 1993, the leaders of the Muslim separatist movement in the Southern Philippines and even many of the narcotics smugglers of Pakistan were the products of the ISI-CIA collaboration in Afghanistan.

The encouragement of opium cultivation and heroin production and smuggling was also an offshoot of this cooperation. The CIA, through the ISI, promoted the smuggling of heroin into Afghanistan in order to make the Soviet troops heroin addicts. Once the Soviet troops were withdrawn in 1988, these heroin smugglers started smuggling the drugs to the West, with the complicity of the ISI. The heroin dollars have largely contributed to preventing the Pakistani economy from collapsing and enabling the ISI to divert the jihadi hordes from Afghanistan to J & K [Jammu & Kashmir] after 1989 and keeping them well motivated and well-equipped (Raman 2001).

Perhaps this strategy may have been successful in defeating the Russians in the 1980s, but as we have seen, the world has had to pay a bitter price for that victory.

Conclusions

It seems paradoxical, perhaps even hypocritical that the USA should present itself as one of the leading voices in the global campaign to suppress the drug trade while at the same time, as a result of its covert actions, prove itself to be one of the major mechanisms for promoting and assisting that traffic. The USA has involved itself in a series of clandestine conflicts over the past 60 years. Some have been fought to oppose communism; some to oppose terrorism. In almost every one of these, from Burma, to Nicaragua, to Vietnam, to Afghanistan, opium, or some other drug trade, has provided the covert financing for these operations.

At the same time, members of Congress, entrepreneurial bureaucrats and a string of presidents have made their careers on the war against drugs. To a cynical observer, it seems that these are two sides of a policy to expand the empire and at the same time to expand the power of the state domestically. Clearly, none of these policies would work if drug use (and the trade and production) were not treated as criminal activities. Since the 1940s, US drug policy has been adamantly structured around the principle that drug use is a criminal “problem,” rather than a medical matter. It all goes back to the founder of American drug policy, Harry Anslinger, the popularizer of “reefer madness” and other great frauds on the American public.

As a “criminal” activity, the drug trade is profitable. If it were not illegal, it would not be profitable. Drugs based on cannabis, cocaine, and most of all opium, can be produced and marketed for a tiny fraction of the costs that are currently incurred. Those people who wish to consume drugs, whether truly addicted or simply bored, or for whatever reason, will find a way to obtain them. There will always be a drug market and there will thus always be those who will risk supplying it. If it is illegal, it only means the profits will be greater. The profits will be there to finance illegal wars, to support other criminal activities, to corrupt public officials and to undermine the integrity of the financial systems. At the same time, the prisons will

continue to be full of people whose only crime was using a drug. Stopping the drug trade has proven to be a major financial resource for police forces, customs officers, prisons, and drug bureaucrats throughout the world. Fortunately for them, it is a never-ending and never-winnable war, despite four decades of the “war on drugs” the traffic has increased from about 1000 t in 1970 to about 8000 t today. Vast sums of money and vast amounts of effort spent on interdiction of drugs only catches about 10% of the total flow. Those are very good odds for the criminal.

In the nineteenth century, the Chinese empire collapsed, partly because of the opium trade. However, it collapsed not because millions of its people were demoralized and debilitated because of drug use. Rather the drug trade undermined the financial system and corrupted the state and provided finances for alternative political orders to replace it, financing rebels, warlords and secret societies. Most of all, it financed the British Empire and gave it the power to undermine the Chinese economy and the Chinese state. Today, a similar process is undermining the American political and financial system. Drug prohibition, like the prohibition of alcohol in the 1920s and 1930s has breathed life into organized crime. It has corrupted police and political officials. It has provided an avenue for agents of the state to subvert the Constitution. The consequences of American, and global drug policy could be far more disastrous to the country than we might imagine.

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Chapter 6

A History of Transnational Trafficking in Stolen and Looted Art and Antiquities

Noah Charney

Introduction

While in the recent past art crime conformed to the popular cliché of individual thieves of gentlemanly aspirations stealing art as often for ideological as financial reasons, since the Second World War, art theft and illicit traffic in antiquities has become largely the realm of organized crime groups, is frequently transnational in its scope, and has been ranked the third highest-grossing criminal trade worldwide, behind only the drug and arms trades.¹ With tens of thousands of artworks reported stolen worldwide each year (a good 20,000 per year in Italy alone), and a good deal more looted or stolen but never discovered or reported, it is important to take seriously a crime type that tends to draw the interest of the general public, due to its frequent appearance in entertainments, from fiction to film, but which has not been taken as seriously as its severity warrants.² There is reliable documentation of

¹ Information from US Department of Justice, the US National Central Bureau of Interpol: http://www.justice.gov/usncb/programs/cultural_property_program.php. These come from the UK National Threat Assessment, conducted by SOCA. The statistics were provided by Scotland Yard, but are classified. The report was submitted in 2006 or 2007 and it remained in the Threat Assessment for several years. The terrorist links to the Middle East come from the Interpol Tracking Task Force in Iraq and were reported at the annual Interpol stolen works of art meeting in Lyon in either 2008 or 2009, after prior meetings were held in Lyon, Amman, and Washington. The Head of IP Baghdad claimed to have proof of the link between Islamic Fundamentalist terrorist groups and art crime (primarily antiquities looting), but this was not shown explicitly to my contacts. However all of the major players, from Interpol to the US Department of Justice, believed the reports and still broadcast the claims of it, so there is no reason to doubt it—but the details are likely still classified.

² The Carabinieri self-publishes annual yearbook, in Italian, for internal distribution and for the media, from which this information was culled, along with numerous interviews with Colonel Giovanni Pastore and Colonel Luigi Cortellessa, the former and current Vice-Commandant of the art squad.

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looted antiquities funding terrorist groups,³ as when Mohammed Atta of Al-Qaeda tried to sell looted antiquities in 1999, in order to fund the 9/11 attacks.⁴ The documentary film *Blood Antiques* demonstrated, through undercover work, how the Taliban has largely taken over looting of antiquities in Afghanistan, how objects are smuggled to Europe, and even how unscrupulous art dealers coach sellers as to how best to pass off a freshly-looted antiquity as a legitimate object that could be sold for six or seven figures.⁵

Popular misconceptions about art crime date back to celebrated thefts of the pre-war era, such as the 1876 theft of Gainsborough's *Duchess of Devonshire*, the 1911 theft of *Mona Lisa*, the 1934 theft of the "Righteous Judges" panel from *The Ghent Altarpiece*, and so on. But after the Second World War, organized crime took over the majority of art thefts and the looting of antiquities, and the situation became more severe. The individual, idealistic thefts just mentioned did not cause a ripple effect in funding other types of criminal activity, whereas thefts that benefit organized crime groups, from small local gangs to large international syndicates, fuel all manner of other criminal activities in which those groups engage, meaning that it is not just the art that is at stake.⁶

In this chapter, we will discuss the history of transnational trafficking of stolen and looted art and antiquities, with a focus on enhancing theoretical notions based on case studies which illustrate how this type of crime has been structured, has spread, and has developed over history.

Definitions

Theft and traffic in stolen art and antiquities may be divided between looting in war or in conflict zones and peace-time looting, from either extant collections or unexcavated archaeological sites. Before examining case studies which have been carefully chosen because they exemplify a trend or concept integral to the history of art theft, it is useful to define some basic terms.

There have been plenty of art crime that were perpetrated by or on behalf of major international criminal syndicates like Cosa Nostra (the 1969 Caravaggio *Nativity*), the Corsican Mafia (Riviera thefts of Picasso and Cezanne in the 1960s), the IRA (numerous thefts in Ireland, including three of the four burglaries of Russborough House), the Khmer Rouge in Cambodia, the Russian Mafia (both thefts of Munch's *The Scream*), and so on. But this is just one category of "organized crime." It is entirely safe to say that the majority of art thefts and traffic in looted antiquities is undertaken by organized crime groups, because the criminological definition of

³ Bogdanos (2011).

⁴ See "Kunst als Terrorfinanzierung" in *Der Spiegel*, issue 29, 2005: <http://www.spiegel.de/spiegel/print/d-41106138.html>.

⁵ See *Blood Antiques*, documentary film produced by Journeyman Pictures (2009).

⁶ See Charney (2009b).

“organized crime” is far broader than these famous mafias alone. Organized crime may be defined as any “ongoing criminal enterprise groups whose ultimate purpose is economic gain through illegitimate means.”⁷ The basic definition that I have found used by police and criminologists the world over is: any group of three or more individuals who work together in criminal enterprises aimed at collective, long-term economic goals. With such a broad definition, it is easy to see how most crimes since the Second World War would fall into this category, leaving out only street criminals, crimes of opportunity, independent thieves stealing for ideological reasons, insider thieves (except when working with a larger group), most forgery and deception crimes (which tend to be perpetrated by individuals or pairs, without connection to larger criminal groups or other criminal activities), or those whose goal is maximizing immediate cash profit.

For the purposes of the study of art crime, “art” should also be defined. Art, for this purpose, may be defined as any object deemed cultural heritage, the value of which is primarily non-intrinsic, and which is augmented by rarity, authenticity, and cultural history. This excludes jewelry, for example, the value of which is primarily intrinsic (gold and gems), unless the jewelry was involved in a historical event or owned by an important person (the British crown jewels, for example, or a necklace owned by Marie Antoinette).

Art crime is almost inevitably transnational, as stolen goods are taken from the source country into a market country. For art stolen from extant collections, this is a practical consideration—there is less likelihood that potential buyers will be aware that an object is stolen outside the country from which it was taken. Looted antiquities tend to be taken from relatively impoverished source countries (Afghanistan or Peru, for example) and must be brought to market countries where, as with legitimate art, they will find the largest market. These market countries are most often the USA and the UK, specifically London, which is the world’s largest art market. But other locations such as Amsterdam, Geneva, and Tokyo are also major centers for the legitimate art trade and, because they are market centers, the illegitimate trade as well.

There is also a history of smuggling stolen art from a source country into a nation with a more amenable statute of limitations on criminal prosecution for possession of stolen goods. Until recently, Switzerland had the lowest statute of limitations in Europe, 5 years,⁸ which meant that stolen art, particularly from Italy, would be smuggled into Switzerland, where it would sit in storage until the statute of limitations had passed, at which point it could be shopped without risk of criminal proceedings.⁹ In 2005 Switzerland changed their laws to extend the statute of limitations, at which point Germany had the lowest statute of limitations in Europe.

⁷ Seigel (2009, p. 390).

⁸ http://www.marcweber.ch/publications_files/Marc%20Weber_New%20Swiss%20Law%20on%20Cultural%20Property.pdf.

⁹ The infamous Giacomo Medici case is a prominent example, wherein Medici smuggled looted antiquities to the Geneva free port to await sale abroad. This case is detailed in Watson and Todeschini (2004).

Although insufficient data exists to back up this hypothesis, one would imagine that criminals would shift from smuggling goods into Switzerland to bringing them to Germany. Japan still has the lowest statute of limitations for possession of stolen goods in the world, only 2 years, making it an ideal place to bring stolen art to “wait out” this period before shopping the objects.

I. Looting in War

Because conflict zones represent unusual legal and security circumstances, in which laws, expectations, and behavior patterns of civilians and soldiers alike change in often unexpected ways, it is useful to examine conflict zone or war looting as distinct from similar actions in times of peace, when existing laws are more likely to be followed and enforced.

Art has been looted in war since prehistory. Whether the goal of the looting is the seizure of objects for their monetary value, to express the domination of the victor over the vanquished, or to provide trophies of war for the conquerors to display back home, war has caused the greatest movements of art in history. Napoleon, Hitler, and Göring wear joint crowns as emperors among art thieves, but we will examine the phenomenon of war looting beginning in 212 BC. We will see, how later, armies rationalized their practice of looting art by noting that past civilizations, particularly the Romans, did so, and how looted art was seen both symbolically and practically: as a trophy and a funding source.

Sack of Siracusa (212 BC)

In 212 BC the Roman Republican army under Marcellus sacked the Greek city of Siracusa, in Sicily. Of this, Livy wrote:

Marcellus removed to Rome the beautiful statues and paintings which Syracuse (Siracusa) possessed in such abundance. These were, one must admit, legitimate spoils, acquired by right of war; nonetheless their removal from Rome was the origin of our admiration of Greek art and started the universal and reckless spoliation of all buildings sacred and profane which prevails today.¹⁰

Enamored by the art they saw there, this sack launched a Roman craze for collecting Hellenistic vases and sculpture, and resulted in the conscious alteration of military strategy in order to secure more looted art. This was continued in times of peace, for instance in the famous legal case which Cicero tried against the tyrannical governor of Sicily, Gaius Verres, begun 5 August 70 BC in Rome (see below).

¹⁰ Livy “Ab Urbe Condita,” 24.40.3, available in (Livy 2002).

Military-Sanctioned Looting from, and by, Ancient Rome

General Lucius Cornelius Sulla stole the columns of the great Temple of Zeus in Athens when the city fell in 86 BC and brought them back in triumph, like fallen war heroes, to Rome, to reuse them in the Temple to Jupiter on the Capitoline Hill.¹¹ The general and later emperor Titus looted the Temple of Herod in Jerusalem at the end of the Jewish War (70 AD). Carved in relief on the Arch of Titus and Vespasian in the Roman Forum is a depiction of the Roman soldiers carrying off the treasures of the temple, including the horn that Joshua blew to fell the walls of Jericho and the giant silver menorah that burned in the temple on Hannukah.¹²

Titus would establish a museum in Rome to display the trophies carried back from this war and others—an outdoor sculpture gallery near the Porta Octaviana. It contained sculptures by the greatest Greek masters, including Phidias, Lysippus, and Praxiteles, all of which had been taken as trophies of war.

That very museum would be looted during one of the many Sacks of Rome (particularly those in 410 and 455 AD).¹³ For Rome itself became the victim of pillaging on numerous occasions, and in each case art was a primary target of the ravishers of the city: the Gauls sacked Rome after the Battle of Allia in 387 BC; Alaric, king of the Visigoths, did so in 410 AD; a mere 45 years later, so did Genseric, king of the Vandals, in 455 AD; Totila, king of the Ostrogoths sacked Rome when he was at war with the Byzantines in 546; the Arabs looted the old Saint Peter's Basilica in 846; the Normans tried their luck under Robert Guiscard in 1084; and finally the city was sacked by the army of Holy Roman Emperor Charles V in 1527.

The plundering during the Roman era is important not only in itself but because subsequent military looting was sanctioned by the very fact that the Romans did it. If it was acceptable to ancient Rome, seen by later empires as exemplary and the pinnacle of civilization, then it might be rationalized as acceptable for others attempting to recreate the glory of the Roman Empire. From ancient plunder through the 30 years' war, the ERR, the Nazi art theft division, and their Allied nemeses, the Monuments Men of the Second World War, to the Iraq War and the looting of the Baghdad Museum, war looting is very much an active concern.

Sack of Constantinople (1204)

War, even when prompted by religious motivations, proved an opportunity for capturing art. While one would be hard-pressed to find a campaign of conquest that did not involve stealing art or monuments, perhaps the grossest account is that of the Fourth Crusade (1202–1204).

¹¹ Plutarch (2009), the biography of Sulla is on pages 169–215.

¹² Josephus (1984).

¹³ See Miles (2008).

A combined force of Christians from Western Europe planned to recapture Jerusalem from the Muslim Ayyubid dynasty, via an invasion of Egypt. A largely French and Italian force began negotiations with the Republic of Venice in March 1201, led first by Count Thibaut of Champagne and then by Boniface of Montferrat when Thibaut died in 1201. Pope Innocent III had preached crusade since 1198, but the wars in Germany between the Holy Roman Emperor and papacy, and wars between England and France, meant that it was not until 1199, at a tournament held in Ecry, France that the crusade began to muster energy.

But the story of the Fourth Crusade is largely the story of the wily and treasure-hungry Venetian Republic. Venice agreed to transport 33,500 crusaders from Venice to the Holy Land, and to supply the entire crusade. Not all the crusaders met in Venice, but around 12,000 men from the army were present in 1201, encamped on an island in the lagoon. The Venetians had prepared for an entire year, building 50 war ships and 450 transport vessels for the full-sized army, and yet only 12,000 troops arrived. The cost of transporting and supplying an army three times the size of the one that arrived in Venice had been set at 85,000 silver marks. The crusaders present could only come up with 51,000 silver marks. This meant a dramatic loss for the Venetians, taking into consideration their further promise of 14,000 Venetian men to be employed in manning the crusader fleet and supply line. The blind Doge Dandolo would not let the crusaders leave the island on which they were encamped without paying the agreed-upon fee.

And so a compromise was struck. The Venetians had two military wrongs to be righted, and now they had a massive army at their mercy. In 1182 the Angelos dynasty in largely-Christian Constantinople had expelled the Venetian population, particularly its mercantile interests, to support the Greek majority in the city. This had made Constantinople an enemy of the Venetian Republic. Further the port city of Zara (currently Zadar) on the Dalmatian coast, long under the yolk of Venice, had rebelled in 1181 and formed an alliance against Venice with Hungary and Croatia. The Venetians had been unable to take back the city.

Doge Dandolo agreed to follow through with the program to launch the Fourth Crusade at this lower fee, but only if the crusader army would make these two stops en route to the Holy Land, acting as enforcer for Venice against Zara and Constantinople.

The issue of course was that a crusade was meant to see Christians vanquishing Muslims, while Zara and Constantinople were largely Christian cities. Some crusaders refused to attack fellow Christians, while the Papal legate to the crusade, Cardinal Peter of Capua, thought that it was necessary to capitulate or else the whole crusade would be a loss. Pope Innocent III threatened to excommunicate anyone who did not participate. He also sent a letter in 1202 forbidding the army from committing any atrocities against fellow Christians in the course of the campaign—a difficult balance to strike considering that he was likewise encouraging them to lay siege to their cities. But this letter was concealed from the majority of the army.

The citizens of Zara hung banners decked in crosses on their battlements in an effort to appeal to their fellow Christians besieging them, but the attack went ahead and they were quickly subdued. The city was sacked, stripped of its treasures and

gold, and largely laid waste. When Pope Innocent III heard of this he sent a letter excommunicating the crusaders involved in the sack. But the leaders of the army chose not to divulge the content of the letter, so as not to dishearten and dissolve the army.

The army then turned to Constantinople, and began a siege in July 1203. The leader of Constantinople, Alexios IV, had attempted to join the crusade and thereby avoid an attack on his city as an ally, but the crusader army was divided over whether to accept or to follow through with the Venetian plan that would, it was clear, provide a bounty of loot. Alexios III had fled Constantinople, taking 1000 pounds of gold with him, and reducing the imperial treasury dramatically. Young Alexios IV called for the melting of gold and silver statuary in order to cast more coins to refill the treasury. This was hugely demoralizing for the population and still only raised around 100,000 in silver marks.

Alexios IV had reached out to the crusaders and sought them as an ally, but he was murdered by one of his courtiers, Alexios Doukas, who then took over as Alexios V. The crusader army finally sacked the largely-Christian city of Constantinople on 12–13 April 1204. Over the next 3 days the city was sacked, burned, and looted. The famous library of Constantinople was destroyed, the churches and palaces stripped of gold, silver, relics, and art. The Venetians received the balance they were owed by the crusaders, around 150,000 silver marks of value in art, coins, and jewels. The crusader army kept 50,000 silver marks' worth, and then divided another 100,000 between them and the Venetians. A further 500,000 silver marks was kept and divided among crusader knights. The accumulated artistic treasures of the great Eastern capital of the Roman Empire were scattered by the crusaders, as they returned to their homes in Europe. The irony of the Fourth Crusade is that it never made it to the Holy Land, and proved to be nothing more than a punitive expedition for the Venetian Republic and their mercenary crusader army, and an excuse to steal treasures from their fellow Christians.

Among the artworks and relics taken from Constantinople in 1204 are the famous bronze horses that were displayed in triumph on Basilica San Marco in Venice, as well as Christian relics like the Crown of Thorns and the Holy Lance, which were taken back to Paris for display in the purpose-built chapel/reliquary of Saint-Chapelle.

Thirty Years' War and the Sack of Prague (1618–1648)

Though largely a war fought between Protestants and Catholics in the Holy Roman Empire, the 30 years' war featured an infamous incident of art looting when the phenomenally rich artistic and scientific collections of Rudolf II of Prague were stolen and scattered throughout Europe. While the war led to the inhibition of Habsburg supremacy, the decentralization of the Holy Roman Empire, and a decline in the influence of the Catholic Church, historians have noted that it exemplified Cato the Elder's phrase *bellum se ipsum alet*, "the war will feed itself." The major

governmental powers behind the 30 years' war were nearly bankrupted by disease, famine, and the cost of fighting. This resulted in unpaid troops who took out their hunger and frustration on the land that they passed. Troops began to ravage and loot any territory in their path, using extortion and other means to essentially self-fund the campaign. This problem manifested itself on a large scale, with army divisions resorting to such tactics, but also on a soldier-by-soldier basis. Other examples of this may be found in the Fourth Crusade (see above), the 1527 Sack of Rome by the unpaid mercenary troops of King Charles V, and numerous other instances. Looting in lieu of payment.

When Sweden intervened in the war and overtook Prague in 1648, the marvelous collections of Rudolf II were stolen. Swedish troops sacked Prague Castle on 26 July 1648 and hauled the majority of the collection back to Sweden, where it was absorbed into the collection of Queen Christina. Queen Christina would eventually be exiled from Sweden and while the majority of her collection remained there, she brought a large number of works with her: 70–80 paintings, of which 25 were portraits of her friends and family, which she had bought legitimately, and at least 50 paintings that had been stolen from Prague.

This would prove important to the history of legitimate art collecting, as the best pieces from Queen Christina's catalogue, 123 paintings forming its core, were passed on to the Duke of Orleans after her death. The sale of the Orleans Collection, primarily to settle the gambling debts of Louis Philippe d'Orleans, took place over several years in the 1790s. It represented the second of the great sales of aristocratic collections (the first being the dissolution of the collection of the English king, Charles I, after his execution in 1649), many others of which would follow in a new era when the aristocracy could no longer support themselves in their traditional ways, through feudal service, and had to sell off the trappings of their nobility, art and castles, and titles in order to survive. This directly gave rise to the art trade in the modern sense: not of kings and clergy commissioning large-scale works, but of *nouveau riches* merchants and industrialists now able to afford what the aristocracy no longer can. Scores of paintings that had been looted from Prague a century and a half earlier were sold at this time, including Tintoretto's *Origin of the Milky Way*, bought for 50 guineas in 1800 and now at the National Gallery in London.

Napoleonic Art Looting (1796–1812)

During the French Republican and Napoleonic eras, art looting became standard practice for victorious armies. Napoleon took over the leadership of the French army during the campaign in Italy that had begun disastrously, with under-nourished, unpaid soldiers on the brink of mutiny. Stealing art from the conquered territories became a way of both raising funds to support the war effort, and to raise morale back at home in Paris, where the newly-converted Louvre Museum would become a sort of trophy case for the victorious to display the treasures of the conquered. His policy was first made clear in the armistice signed by the defeated Duke

of Modena on 17 May 1796, which stated: “The Duke of Modena undertakes to hand over 20 pictures. They will be selected by commissioners sent for that purpose from among the pictures in his gallery and realm.”¹⁴ This established a precedent for payment and reparations in the form of art that would continue, both encouraging conquerors and dismaying the conquered, for centuries.

Napoleon established the first official military division dedicated to seizing and shipping captured artworks. Specially-trained personnel would follow behind the army to inventory, pack, and ship art. All confiscations were strictly monitored in the presence of a French army official. The army would be responsible for the art and its shipping back to Paris. This division was called the Commission of Arts and Sciences.

But despite Napoleon’s attempts at restricting looting to official actions, it was not only the armies that benefited. One of Napoleon’s officers in charge of art plunder, the painter Citizen Wicar, took so many prints and drawings for himself that, upon his death, after having sold most of what he stole, he still had 11,000 artworks to bequeath to his hometown of Lille.¹⁵ Napoleon’s art advisor, Dominique Vivant Denon, became the first director of The Louvre Museum, and was the mastermind behind the art theft scheme that made The Louvre the treasure house of the world.

In May 1796, when the Commission came to Modena to take the specified 20 pictures detailed in the armistice, Citizen Wicar was present. He stole a further 50 paintings from the Modena collection for himself and only stopped there because Napoleon arrived on the scene. Not to be outdone, Napoleon ordered his commissioners to stop taking any more art, but then he chose two paintings for his personal collection.

This set a precedent that was followed in the armistices in French victories over Venice, Mantua, Parma, and Milan. Ironically Venice was stripped by Napoleon of the four bronze horses that the Venetians had stolen from Constantinople in 1204. Napoleon’s art thefts led to altered military strategy, for Naples and Turin were left largely un-looted because they chose to sign a treaty immediately with Napoleon before they came under attack, and therefore had more leverage in their relations. They lost the least to plunder of any vanquished Italian cities.

Napoleon extracted the most from the Papal States. Pope Pius VI signed the Treaty of Tolentine in June 1796, yielding to the Napoleonic army. In addition to the payment of 21 million lives (around \$ 60 million today), Article 8 of the treaty stated that the pope was to give Napoleon: “A hundred pictures, busts, vases, or statues to be selected by the commissioners and sent to Rome, including in particular the bronze bust of Junius Brutus and the marble bust of Marcus Brutus, both on the Capitol, also 500 manuscripts at the choice of the said commissions.”¹⁶ Eighty-three sculptures were taken as well, including *Laocoon* and the *Apollo Belvedere*, and paintings taken included Raphael’s *Transfiguration*. As if that were not enough, Napoleon insisted that the pope pay for the shipping to Paris of the art stolen from

¹⁴ Charney (2010, p. 89).

¹⁵ Charney (2010, p. 90).

¹⁶ Charney (2010, p. 91).

him, a bill of another 800,000 livres (or \$ 2.3 million today). Forty paintings were taken from papal lands in Bologna and ten from Ferrara. Looted art from Bologna alone required 86 wagons to transport. Of this, Napoleon enthusiastically wrote: “The Commission of experts has made a fine haul in Ravenna, Rimini, Pesaro, Ancona, Loreto, and Perugia. The whole lot will be forwarded to Paris without delay. There is also the consignment from Rome itself. We have stripped Italy of everything of artistic worth, with the exception of a few objects in Turin and Naples!”¹⁷

This was the first of several wars in which certain renowned masterpieces, such as Jan van Eyck’s *The Ghent Altarpiece*, became prized spoils, with armies and collectors vying with one another to capture these key treasures, as valuable symbolically as they were financially. Much of the desire to possess *The Ghent Altarpiece*, which bears the dubious distinction of being the most frequently stolen artwork in history, was due to the fact that so many other people sought it, either for personal or national collections. The result was cumulative—the desirability of the artwork accrued with each high-profile incident of its capture and return. Denon sought it for The Louvre, and because of the high esteem in which he held the painting, its fame grew, prompting others to desire it for themselves. It would be one of the top targets for the Germans during the First World War, one of only a few cultural objects listed by name and returned by the Treaty of Versailles, and would likewise top the looted art wish-lists of both Adolf Hitler and Hermann Göring.

First World War (1914–1918)

With Napoleonic looting very much in mind, Article 27 of the 1907 Hague Convention sought to keep cultural heritage remote from the machinations of men in war: “In sieges and bombardments all available precautions must be adopted to spare buildings devoted to divine worship, art, education, or social welfare, also historical monuments...”¹⁸. At the outset of the First World War intellectuals, artists, politicians, and journalists worldwide called for an international agreement that would protect art in war. Two preservationist officials, Paul Clemen and Otto van Falke, were assigned supervision of art and monuments during the war, and they tried throughout the conflict, largely against the desires of the officers and leaders, to minimize looting and preserve as much as possible. Clemen spent 1914 drawing up official reports on the condition of monuments entrusted to him. He published a widely-praised article in the December 1914 issue of *International Monthly Review of Science and the Arts* entitled “The Protection of Monuments and Art During War.” This was largely inspired by an incident in the autumn of 1914, when Russian soldiers captured and looted the Ossolinski Museum in Lemberg, taking the treasures to Saint Petersburg. Russians claimed that they were removing the art from a border region in order to protect it, while the Germans called it looting. From that

¹⁷ Charney (2010, p. 92).

¹⁸ Charney (2010, p. 123).

one museum the Russians had stolen 1035 paintings, 28,000 works on paper, 4300 medallions, and 5000 manuscript pages.¹⁹ None of these have ever been returned.

Despite the high-minded talk, there was widespread fear that the German army would steal or destroy art, as they had been involved in the looting and destruction of art in neighboring Louvain in August 1914. To excuse this action, the German art journal *Kunstchronik* stated:

Implicit confidence may be placed in our Army Command, which will never forget its duty to civilization even in the heat of battle. Yet even these duties have their limits. All possible sacrifices must be made for the preservation of precious legacies of the past. But where the whole is at stake, their protection cannot be guaranteed.²⁰

This would prove portentous, because the German army stole works of art throughout the conflict, perhaps most overtly in their repeated attempts to steal *The Ghent Altarpiece* from occupied Belgium, beginning shortly after the destruction of neighboring Louvain. The wing panels of the triptych altarpiece were already in Germany, on display at the Kaiser Frederich Museum after they had been deaccessioned in 1816 and sold by a vicar and the Church Fabric to a Brussels art dealer. The wing panels eventually found their way into the art collection of Frederick Wilhelm, King of Prussia, which became the Kaiser Frederich Museum in Berlin.

The central panels of the altarpiece that remained in Ghent were hidden from the Germans by the Canon of Saint Bavo Cathedral, in which they were housed. Canon Gabriel van den Gheyn smuggled the disassembled altarpiece through the streets of Ghent on the night of 31 August 1914 and hid individual panels between the walls and under the floorboards of several private homes and later behind the confessional of a church. He, the bishop, and the mayor were regularly questioned by Germans, both in official capacity and incognito, sometimes threatening, sometimes cajoling. The Germans argued first that they needed to know the location of the altarpiece in order to protect it, but then later demanded it be handed over as war booty. By 1918, when defeat was inevitable, the Germans threatened to blow up the entire city of Ghent if the altarpiece was not handed over to them. But before Canon van den Gheyn had to make the terrible decision as to whether to hand it over, armistice was signed.²¹

Under the terms of Article 247 of the Treaty of Versailles, Germany was forced to return the wing panels that had been in the Kaiser Friedrich Museum in Berlin. The altarpiece was only one of five works of art mentioned in the Treaty of Versailles—it had suddenly become a key bargaining chip in post-war reparations. The Treaty of Saint-Germain, signed on 2 September 1919, which dissected the Austro-Hungarian Empire, also featured the forced return of artworks as a form of punishment after the First World War. The inclusion of *The Ghent Altarpiece* in the Treaty of Versailles would be directly involved in the next theft sparking revenge for what was perceived as unjust reparation, guiding Hitler in his own art policy during the Second World War.

¹⁹ Charney (2010, p. 120).

²⁰ Charney (2010, p. 122).

²¹ See Charney (2010) for more on this story.

Second World War (1939–1945)

The Second World War altered the map of Europe, and redistributed art on an unprecedented scale. A great deal of good scholarship has been published on the subject of art looting during the Nazi era (one of the few categories of art crime that has received a significant amount of scholarly attention), and the subject is too large to cover in detail. We will therefore summarize the events of the Second World War in relation to art looting.

Theft as part of Nazi art policy preceded the war, and included the infamous “degenerate” art exhibition, and the fire-sale of art seized from German citizens and sold at an auction at the Galerie Fischer in Lucerne and bought by many Americans, whose desire to add to their collections helped finance Nazi armaments.

In 1936 a Kandinsky painting was forcibly deaccessioned from the Folkwang Museum in Essen and sold to a dealer for 9000 marks. This was considered a public act of purification. The National Socialists called for a purification of art, considering what they termed “degenerate” art to be a source of moral corruption. Although less well-known than the war-time looting from Europe, the Nazis stole art from the German people prior to war, ostensibly to remove this potential source of corruption from their nation but in reality to fund the war effort. Art was considered “degenerate” if it did not adhere to strict Nazi standards: essentially the Nazis approved only of naturalistic art by Teutonic or Scandinavian artists or depicting Germanic subject matter. Modern, abstract art, even if produced by Germans, was unacceptable, as was art by non-Aryan artists, like Jews or Communists. On 30 October 1936 the Ministry of Education officially closed the modern wing of the National Gallery in Berlin (the same museum that had displayed the wing panels of *The Ghent Altarpiece*), describing the content of the wing as a “chamber of horrors.”²² The closure was just months after the end of the Berlin Olympic Games, suggesting that the Nazis knew that their art censure would not be well-received by the world at large.

These events were followed quickly by the large-scale forced seizure of art from German citizens. On 30 June 1937 Hitler commanded Adolf Ziegler, president of the Reich’s Department of Plastic Arts, to seize for the purpose of exhibition examples of German degenerate art found within Germany. What resulted with the Exhibition of Depraved Art, shown in Munich, Berlin, Leipzig and Düsseldorf. The 730 works in the show were curated in the least flattering way possible and hung with slogans like “Until today such as these were the instructors of German youth,” meant to frame the works on display as morally repugnant.²³ The show, having determined what was unacceptable in terms of art, was quickly followed by Ziegler’s theft of such art from German citizens. Approximately 12,000 drawings and 5000 paintings and sculptures were taken from 101 public collections alone, and far more from private collection. Hitler inspected the confiscated works in a storeroom in Berlin, consulting a carefully-prepared six-volume catalogue of its contents, which

²² Charney (2010, p. 194).

²³ Charney (2010, p. 195).

listed: 1290 oil paintings, 160 sculptures, 7350 watercolors, drawings, and prints, 3300 other works on paper stored in 230 portfolios, for a total of 12,890 items catalogued as having been taken from Germans by Germans, and surely far more which were not featured in this multi-volume catalogue.

The plan for this art was to sell it to finance the war effort. The Nazis were interested in collecting naturalistic and Old Master works—these “degenerate” works were recognized as having financial value for foreign collectors and would be sold abroad. The largest sale was at the Galerie Fischer in Lucerne, Switzerland. Though the war had not yet begun, few of the foreign collectors, many British or American, who bought art there could not have known that their purchases were of stolen art and their price would fund the Nazi war effort. Any works that had not been sold by 20 March 1939 were burned in an enormous pyre in Berlin: 1004 oil paintings and sculptures and 3825 works on paper.

Prior to the war, Hitler conceived of a plan to capture every important artwork in Europe and gather it in a *kulturhauptstadt*, a sort of “super museum” that he would construct in his native town of Linz, Austria. To fill this collection, a military unit was established called the ERR. On 17 September 1940 Hitler announced the formation of the *Sonderstab Bildende Kunst* (Special Operations Staff for the Arts), the primary task of which was to seize art from Jewish collections in France. This unit was later transformed into the *Einsatzstab Reichsleiter Rosenberg* (Rosenberg Operational Staff, or ERR), run by Alfred Rosenberg. The ERR began on 5 June 1940 when Rosenberg proposed that all libraries and archives in occupied countries be searched for documents of value to Germany. The seizure of documents quickly led to the theft of artworks as the mission of the ERR broadened.

While Hitler planned his “super museum,” head of the Luftwaffe Hermann Göring raced Hitler to steal art that he wanted for his personal collection of over 7000 masterpieces, amassed at his country home, Karinhall. At the war’s end, dozens of secret caches of stolen art were discovered, including the mother load at Alt Ausee, Austria, a salt mine that had been converted into a high-tech storage depot, holding the thousands of masterpieces destined for Linz.²⁴ In the Alt Aussee mine alone, Allied soldiers (led by the Monuments, Fine Arts, and Archives officers, who were charged with protecting and recovering art and monuments in conflict zones) found 6577 oil paintings, 2030 works on paper, 954 prints, 137 statues, 128 pieces of arms and armor, 79 containers full of decorative arts, 78 pieces of furniture, 122 tapestries, and 1500 cases of rare books.

The repatriation of art after the Second World War is a complicated, multi-faceted issue, but it is further compounded by the fact that not only the Nazis were to blame. The Red Army was responsible for enormous looting schemes, stealing largely what the Nazis had stolen from Europe. The Red Army considered the art to be a form of reparation for the casualties suffered by Russia during the war. But it was also a source of income, and it did not stay their hands to consider that they were stealing from art that had itself been stolen from civilian victims. The

²⁴ For the story of art looting in the Second World War, see Charney (2010), Edsel and Witter *Monuments Men* (2010), and Dagnini *The Art Stealers* (2010).

institutional thefts aside, countless opportunistic thefts on the part of individual soldiers and citizens must not be discounted, nor the thankfully infrequent thefts on the part of Allied soldiers.

The Second World War resulted in the complete redistribution of art on a scale only previously seen during the Napoleonic campaigns. The destruction of cultural heritage and human lives is so staggering that even now, decades later, scholars and lawyers are still picking up the pieces. From the perspective of the history of art theft, the war spread the contents of thousands of public and private collections across the globe. Owners were lost, forgotten, or killed. Some prominent recovery lawsuits have found their way to the headlines in recent years, as the proliferation of the Internet has allowed people to see art in foreign collections, and to search, without leaving their offices, for art taken from their family more than half a century ago. And as the postwar period saw the rise of international organized crime, so too did it see a rise in the scale and repercussions of art theft, as organized crime groups began to involve themselves in the illicit traffic of cultural heritage.

Baghdad Museum (2003)

In 2003 the Baghdad Museum of Art was looted, with an estimated 15,000 objects disappearing in a matter of days. The anarchy of the invasion of Baghdad by the USA forces was to blame for the looting spree, but not entirely. There was no contingency plan to which the museum could turn in times of conflict such as this and, after the smoke cleared, both literally and figuratively, it was determined that at least two different types of theft had taken place at the museum. It was initially assumed that the thefts had been a crime of opportunity on a massive scale: frightened, impoverished locals took advantage of the chaotic situation to make off with selected antiquities, on the assumption that they might prove valuable in the future if the need to sell them arose. That did happen. But the investigations of the Marine officer and New York attorney Matthew Bogdanos also uncovered organized looting. Groups of looters had taken some artworks, including large ones that were broken or sawn into smaller, more portable parts that were clearly pre-meditated and required insider knowledge due to their locations. It seems clear that several groups of organized looters had planned what they *would* take if the invasion of Baghdad provided them with an opportunity to loot the museum. Here we have an example of crimes of opportunity, by definition unpremeditated, standing beside premeditated, organized theft.²⁵

It is important to understand that these categories of theft, while useful for study, are not always clear-cut. One theft incident, such as this one, may involve more than one type of thief and motivation. Or a case such as the next one discussed, Vincenzo Peruggia's 1911 theft of the *Mona Lisa*, began as a crime of opportunity (Peruggia had surprising access to the Louvre and the painting), may have then been

²⁵ This case is detailed in Bogdanos (2005).

considered a theft for resale (there is evidence that Peruggia sought but failed to find a buyer), and finally morphed into an ideological theft, when he smuggled the painting to Italy and returned it to the Uffizi Museum.

Our goal here is not to focus on war looting, nor provide an exhaustive list, but merely to underscore that transnational art and antiquities theft has a historical precedent in looting after military campaigns and, as evident in the case against Verres, to which we turn next, also in times of peace in the ancient world. But an analysis of what has happened to art in past wars provides a lucid forecast that can help us to protect art and monuments in future conflicts²⁶.

II. Transnational Peace-Time Art Theft by Individuals and Criminal Groups

This section will present a number of case studies to illustrate the various types of art thefts. We will not go into great detail here, for the sake of brevity, but it is useful to point out specific cases to better understand phenomena of which they are exemplary.²⁷ Two groups will be considered, but the material will be presented in chronological order by a case study. Peace-time art theft can be divided into individual crimes and organized crimes. In the process of examining certain types of art thieves, we will look into the various motives and means of profit which encourage criminals to turn their attention to art crime. Because this book focuses on transnational crime, case studies have only been selected when they have a transnational element to them, and have been presented in chronological order so that we can examine the arc of history.

Theft in the Ancient World: Cicero Against Verres (70 BC)

In addition to various charges of general corruption, wrongful imprisonment and execution, and embezzlement, Cicero focused his accusations on Verres' looting of Sicily's art and monuments.

Ancient monuments given by wealthy monarchs to adore the cities of Sicily...were ravaged and stripped bare, one and all, by this same governor [Verres]. Nor was it only statues and public monuments that he treated in this manner. Among the most sacred and revered Sicilian sanctuaries, there was not a single one which he failed to plunder, not one single god, if only Verres detected a good work of art or a valuable antique, did he leave in the possession of the Sicilians.²⁸

²⁶ For more on this theme, see Nemeth (2009).

²⁷ For more on this subject, and for extended case studies, see my upcoming *The History and Future of Art Crime* (Princeton University Press).

²⁸ Cicero "Against Verres," available in Cicero (1960).

Verres fled before the trial and never returned to Rome.

This was probably the first legal case wherein the rights of people or nation to retain their own cultural property was asserted in a court of law. According to Cicero, Verres should have left these valuables in “the possession of the Sicilians.” At the time, Sicily was a Roman colony, with its cities primarily of Greek origin, with a smattering of other ancient peoples, like the Phoenicians, in the mix. It was certainly a multi-ethnic center. So to whose cultural heritage was Cicero referring? He was associating cultural objects with a geographic location. The possessions belonged to whoever was living around them. And they should remain where they were historically associated to, he implied.

The Emperor Augustus, in his edict of 27 BC, outlawed the removal of art from “sacred localities” on the part of his army and citizenry. While looting was considered acceptable for conquerors, it was looked down upon to steal art from religious institutions, which was of course where most of the art was displayed.²⁹ The implication was that the gods would be displeased—even the gods of different religions. Augustus later showed a sense of humor about art theft, in his Letter to the Ephesians, who had stolen a golden statue of Eros (god of love and sex) from the city of Aphrodisias and erected it as an offering to Artemis, their local patron goddess (who presided over the hunt and the moon, and was a virgin). In his letter requesting that this looted sacred statue be returned, he wrote:

I was informed that out of the loot a golden Eros has been brought to you and set up as an offering to Artemis. You will do well and worthily of yourselves if you restore the offering. In any case Eros [god of love and sex] is not a suitable offering when given to Artemis [a virgin goddess].³⁰

These ancient world anecdotes are important because Rome set a precedent that art could be looted in war (as in the sack of Siracusa), and also set the precedent that it was a crime to steal art (in the legal case against Verres). These crimes were transnational in the sense that the art of one culture was being removed to the benefit of another culture, although the peace-time looting on the part of Verres was from within the Roman Empire. As Cicero noted, art was for the place in which it was traditionally associated, where traditions had grown up around it, and it should not be exported, particularly through forced purchase and theft.³¹

Government Sanctioned Thieves: Venice and the Relics of Saint Mark (828)

The Republic of Venice originally had as its patron saint a Greek soldier called Saint Theodore of Amasea, who may still be seen atop one of the two pillars in front of the Doge’s Palace in Venice, conquering what appears to be a crocodile. But in 828

²⁹ Inscriptions of Kyme, no. 17 from the Edict of Augustus (27 BC).

³⁰ Letter of Augustus to the Ephesians.

³¹ For more on looting in the ancient world, see Margaret M. Miles’ (2008).

AD, the Venetian Republic determined that a new patron saint should be chosen. Though it is not recorded whether the Republic ordered an act of thievery to procure a new patron saint, or whether a rogue group of Venetians took it upon themselves to acquire one with the subsequent blessing of the Republic, a group of fishermen set out to steal the bones of Saint Mark³².

The evangelist Mark (whose symbol, the winged lion, is now the symbol of Venice) had died in Alexandria, Egypt which was, at the time, a Muslim outpost. The Venetian fishermen traveled to Alexandria and stole the bones of the saint from the catacomb in which they were entombed. They had to figure out a way to smuggle the bones out of the port of Alexandria without the notice of the Muslim guards. In order to escape, they buried the bones in a barrel filled with salted pork. Knowing that the pork-averse Muslims would not be inclined to search through the barrel, the Venetians were able to smuggle the bones out of Egypt and to Venice, where they were installed with great pomp in the Basilica San Marco, named after the newly-acquired saint.³³

Historical Roots of Transnational Organized Crime: Adam Worth and Gainsborough's Portrait of Georgiana, Duchess of Devonshire (1876)

Perhaps the earliest example of a large-scale, international organized crime group involved in peace-time art theft is the May 1876 theft of Thomas Gainsborough's *Portrait of Georgiana, Duchess of Devonshire*.

This painting was, at the time, the most expensive work of art ever sold, purchased at auction by Thomas Agnew, a London art dealer, for 10,000 guineas.³⁴ Agnew had already arranged the sale of the painting to Junius Morgan, the wealthy American banker (father of J. P. Morgan), who had recently learned that he was distantly related to the British Spencer family, of which Georgiana was, at the time, the most famous member. Morgan wished to purchase this, the world's most expensive painting, in order to show off his wealth and good taste, but also because the portrait was of one of his newly-discovered ancestors.

Before sending the painting to Morgan, Agnew planned to display the painting for 2 weeks at his gallery on Old Bond Street, benefitting from the remarkable publicity that this purchase stirred up. Indeed, this was the first major art purchase that captured the attention of the newspaper media, and through their fascination with the astronomical prices in the art market, the general public too developed an interest. This newspaper media interest in art would not be restricted to high-profile purchases, but would also manifest itself in an interest in art theft. For the newspapers'

³² M. Da Villa Urbani (2001).

³³ The story of the theft of the bones of Saint Mark is told in numerous histories of Venice and the Basilica San Marco, including Urbani (1995).

³⁴ Information on this case may be found in MacIntyre (2011).

touting of the value of this painting would summon the attentions of the criminal world, in particular Adam Worth.

Worth had grown up a homeless pickpocket in New York and worked his way up the criminal ladder. In 1876 he found himself a millionaire, living in London under an assumed name, the toast of high society, while secretly leading an international organized crime syndicate involved in all manner of crime from bank robbery to diamond heists. He was perhaps oddly moral for a criminal—he refused to permit his associates to carry weapons, because he thought that weapons replaced thinking one’s way out of a jam, and he abhorred violence.

Worth had a younger brother, John, who was criminally inept, constantly getting himself arrested, as he had prior to May of 1876. Worth wanted to bail his brother out of jail, and send him back to the USA, never to involve himself with crime again. But since Worth was living under an assumed name, he did not wish to make clear his relationship with John, nor did he wish to implicate any of his associates. It was then that he read of the sale of the Gainsborough, and its intended display at the Agnew Gallery.

Worth hatched a plan to steal the Gainsborough, and then swap it back to Agnew in exchange for Agnew posting the bail for his brother, John. In this way, he reasoned, he would get his brother out of jail without associating himself or his colleagues. Around midnight on 23 May 1876, Worth walked down Old Bond Street, alongside his bodyguard, a mountain of a man and a stark contrast to the diminutive Worth.³⁵ The Agnew Gallery had no alarm, and was guarded only by one custodian on the ground floor—who was asleep when Worth arrived.

The Gainsborough was on the first floor. Worth’s bodyguard lifted him up to the first floor window ledge, where Worth pried open the window with a crowbar. Inside the gallery, he cut the Gainsborough out of its frame with a razor, rolled it up, and climbed back out the way he had come. It was not until the next morning that the custodian discovered the crime.

The police were baffled, and it seemed Worth’s plan had worked. But then, to his surprise, he learned that the lawyer he had hired to defend his brother John had actually succeeded. John was a free man. Now Worth had the world’s most expensive painting, and no idea what to do with it.

In the end he kept the painting, smuggling it to Brooklyn in a false-bottomed steamer trunk, where it would remain for decades. Worth was eventually arrested in Belgium, imprisoned, and when he was released, he had not a penny to his name—but he still owned the world’s most expensive painting, which awaited him in a closet in Brooklyn. He would ultimately sell the Gainsborough to J. P. Morgan, who fulfilled his father’s wish to own this painting posthumously. Worth retired from crime on the proceeds and died shortly thereafter.

³⁵ Worth was given the nickname “the Napoleon of Crime” for his short stature but great cunning by William Pinkerton of the Pinkerton Agency, who spent much of his career chasing Worth but unable to arrest him. Pinkerton would write the first biography of Worth, and Worth would be the inspiration for Arthur Conan Doyle, who nicknamed Sherlock Holmes’ nemesis, Professor Moriarty, as “the Napoleon of Crime.”

This case is important because it launched the newspaper media's interest in both the price for which art sells at auction, and in reporting art crime itself. The theft, like the purchase, made international headlines. It also illustrates how the media can inspire art theft. Had the purchase of the Gainsborough not been so widely touted, it would likely never have occurred to Worth to steal it in the first place. As this case deals with the newspaper media, we will see that the television media in the early 1960s bore some responsibility for inspiring the string of thefts along the French Riviera on the part of the Corsican Mafia, thanks to their enthusiastic reporting of record art prices. There is a direct correlation between what the television and newspaper media reports in terms of valuable artworks and what criminals try to steal, as we will also see in the Odessa Museum of Eastern and Western Art theft.

Ideological Theft: Vincenzo Peruggia and the Mona Lisa (1911)

Under the mistaken belief that Leonardo's *Mona Lisa* had been stolen from Italy by French Napoleonic forces, the Italian handyman Vincenzo Peruggia, who worked for a Paris firm engaged in building protective cases for paintings at the Louvre, hatched the plan to steal the world's most famous painting in order to repatriate it.

Peruggia used his Louvre worker's uniform and insider knowledge of the under-secured museum to steal the *Mona Lisa* on the morning 21 August 1911. The theft proved a huge embarrassment not only to the museum but for France as a whole, and it sparked a media feeding frenzy, mocking the Louvre for its inability to keep its treasures safe. This was the first international art crime, and perhaps the first property theft, to receive regular international press coverage. The resulting investigation by French authorities was botched and, despite having Peruggia's fingerprint on the discarded frame of the painting, and despite having interrogated him on two occasions, he was not considered a suspect.

Nearly 2 years later, Peruggia showed up in Florence with the *Mona Lisa* hidden in the false bottom of a shipping trunk. He contacted a local art dealer, Alfredo Geri, and informed him that he hoped to give the *Mona Lisa* to the Uffizi Museum. He did not specifically request any money, but implied that he was a poor man and that some compensation would be welcome. He was surprised and exhibited no guilty conscience when he was arrested at his hotel in Florence, after having passed the *Mona Lisa* over to the Uffizi director.

Peruggia claimed throughout his arrest and trial that his only intention was to repatriate the *Mona Lisa*, which he believed had been looted from Italy. This was a reasonable guess, as much of the Louvre's art collection was looted during the Napoleonic era, but the works that accompanied Leonardo during his time in France at the end of his life had been legitimately purchased by King Francois I from Leonardo's followers after the master's death, and thereby entered the French royal collection. Peruggia did hope for some monetary compensation, and was not shy about saying as much, believing that he would be welcomed in Italy as a hero for the risks he took to bring the *Mona Lisa* back to its "native land."

During his trial, which was followed by the world press, he became a romantic figure, an amateur painter who risked everything for patriotism and a love of art. There was some evidence that he considered selling the painting before deciding to smuggle it back to Italy—a list was found in his apartment of prominent art dealers in major cities around the world. Peruggia’s version of the story says that he kept the painting for so long because it cast a sort of spell over him (a not uncommon comment for art thieves to make), fascinated him, and that he could not bear to part with it. At the end of the trial, the judge sentenced Peruggia to 380 days in prison, which was appealed and lowered to 7 months. The *Mona Lisa* was displayed at several museums in Italy to sell-out crowds before it was returned to Paris.

This is the most famous example of ideologically-driven thefts, although one must be wary of assuming that the theft was purely ideological when there may have been an initial financial-gain motivation which was later discarded when it seemed too difficult to attain, Plan B then shifting to the patriotic motivation that the criminal surely knew would win him supporters.³⁶

Post-War Organized Crime: Corsican Mafia and the Riviera Thefts (1960–1976)

The *Unione Corse*, or Corsican Mafia, based in Marseille in the 1960s, was responsible for a series of art thefts along the French Riviera during the 1960s and 1970s, including heists of paintings from the renowned restaurant Le Colombe d’Or, from the home of art dealer Armand Dronant, and culminating in the theft of 118 Picassos from a special exhibit at the Papal Palace in Avignon.³⁷

The Corsican Mafia is the earliest documented major international mafia to develop an interest in stealing art. This interest was almost certainly prompted by the parallel interest on the part of the television media in the extraordinary prices for which art was selling at auction. In 1961 world-record prices were recorded for the sale of Picasso and Cezanne paintings, as well as an auction record, the Sotheby’s sale of Rembrandt’s *Aristotle Contemplating a Bust of Homer* for \$ 2.3 million.³⁸ These were reported in newspapers and on television. To a major international organized crime syndicate, these high-value paintings looked simply like easily-portable, relatively under-protected, expensive objects. Unsurprisingly, the Corsican Mafia began to steal exactly what they had read was of value in news reports: focusing Cezanne and Picasso paintings. The Corsican Mafia brought with them the techniques that had proven successful in past criminal enterprises, namely the threat of violence. Guards at the Papal Palace in Avignon were bound and gagged and threatened with beatings, as members of the mafia made off with their astonishing

³⁶ For a complete analysis of the 1911 theft of the *Mona Lisa* and the other crimes surrounding it, please see Noah Charney (2011). Information here presented comes from that book, which in turn is thoroughly cited.

³⁷ See Chaps. 3 and 15 in McLeave (2003).

³⁸ <http://www.sothebys.com/en/inside/about-us/timeline.html>.

haul of Picassos. But it seems that while the thieves recognized that it would not be all that difficult to steal these famous paintings and drawings, they were not certain as to how they could be sold on. All but one of the 118 Picassos were recovered.

Organized Crime and the First Art Police: Cosa Nostra and Caravaggio's Nativity (1969)

In 1969 Caravaggio's *Nativity* was stolen from the church of San Lorenzo in Palermo, Sicily. This was the first prominent art theft in modern Italian history, and it was quickly acknowledged that the Sicilian Mafia, Cosa Nostra, was behind it. The Caravaggio is still missing and has been listed as the number 1 most-wanted stolen artwork by the FBI.³⁹

It has never been clear what the intended destination for the stolen Caravaggio might have been. The theft came at the end of a decade that saw the sudden interest of larger criminal syndicates, such as the Corsican Mafia, in stealing art, which had in turn been prompted by television media reports on the high prices for which art was selling at auction. Some thought that the Caravaggio was meant as a secret political gift to a friend of Cosa Nostra in the Italian government.

The theft was important in terms of the history of policing, because it led directly to the foundation of the world's first dedicated art police, the Carabinieri TPC (Tutela Patrimonio Culturale), whose title is normally translated as the Division for the Protection of Cultural Heritage. It was founded in 1969 in order to track down the stolen Caravaggio, established by Ridolfo Siviero.

A division of the military police, the Carabinieri TPC is far and away from the largest and most successful art squad in the world, with over 300 full-time agents. They have had considerable success in recovering stolen art (nearer to a 10% recovery rate, whereas most countries boast only 2–6% of stolen works recovered), and have the world's largest stolen art database, nicknamed Leonardo, which contains reports on over 4 million stolen artworks.⁴⁰

Despite their success, they have been unable to recover the Caravaggio. The closest they came was in the 1980s, when a British journalist and now-celebrated author, Peter Watson, agreed to pose undercover as a criminal art dealer, working with the Carabinieri in an effort to recover the Caravaggio. Though it was clear that Cosa Nostra had the Caravaggio, Watson was never offered the painting to buy. He was, however, offered other paintings, including Bronzino's stolen *Deposition* (now on display at the Accademia in Florence). He was able to recover this and other paintings in a sting operation.⁴¹

³⁹ http://www.fbi.gov/about-us/investigate/vc_majorthefts/arttheft.

⁴⁰ This database is privately run and no one outside the Carabinieri TPC, not even other Italian police departments, may access it themselves. Formal requests for searches may be made through the TPC.

⁴¹ This complete story is told in Peter Watson's (1985).

This case exemplifies how larger organized crime syndicates like Cosa Nostra acquire stolen art and also try to sell that art to potential buyers who are “screened” ahead of time to ensure that they are not police in disguise. In this case, the Carabinieri helped build an identity and history for Peter Watson that suggested that he was a legitimate art dealer who was not afraid to buy questionable pieces. Known art dealers and art world personalities contributed to this subterfuge, providing documents, letters, contracts, etc which would give the impression that Watson’s character had a long career as a dealer.

Despite screening Watson, the representatives of Cosa Nostra failed to detect his undercover status. This reinforces the hypothesis that criminals are under the impression that individuals whom we might categorize as “criminal collectors” are out there, and are willing to buy stolen art (otherwise they would have immediately suspected Watson of working with the police), but that such individuals also prove difficult to find, even for criminals with an elaborate international network at their disposal, like Cosa Nostra. If criminal collectors were easy to find, the stolen art would have already been sold, or Watson would have been asked to bid against other potential buyers in the closed black market of stolen art. While this case does not present a transnational story, it is useful in illustrating the nature of post-World War Two art theft.

Tracing Looting Antiquities: the Gospel of Judas Codex (1970s–2001)

Illicit trade in looted antiquities is by far the largest-scale problem in the field of art crime. Experts estimate that as much as 75% of all art crime involves the illicit trade in looted antiquities, with objects often taken directly from the earth or the sea.⁴² Because these objects have never seen before my modern eyes since they were buried, they will never appear on a stolen art database, and are therefore relatively easy to sell on an open market at full value (accompanied by a fake provenance suggesting they were legitimately excavated and exported). This crime type is the most difficult to police, as well, because unexcavated archaeological sites are often in remote areas and just as often unknown to authorities. Approximately 1% of all identified archaeological sites in Egypt have been excavated.⁴³ Tomb raiders far outnumber archaeologists and therefore the objects that they excavate may disappear into the art market and are extremely difficult to identify as looted.

There are innumerable examples from which to choose, when selecting a case study that exemplifies the illicit trade in antiquities. Cases involving Etruscan art from Cerveteri have made headlines recently.⁴⁴ But we will discuss here the story of the Gospel of Judas, a codex on papyrus that was excavated in secret by a tomb raider in Egypt.

⁴² This is a rough estimate that has been suggested by a number of colleagues and which I have published regularly in the past.

⁴³ See Parcak (2009).

⁴⁴ These books include Felch and Frammolino’s *Chasing Aphrodite*, Watson and Tedeschi’s *The Medici Conspiracy* and Silver’s *The Lost Chalice*.

The codex is valuable not only for its age and rarity, but because it contains the only extant copy of the so-called Gospel of Judas, a Gnostic gospel written around the third century AD which purports to tell the story of Christ from the perspective of Judas Iscariot. It presents Judas, historically considered a villain for betraying Christ to the Romans, as the hero, the most important apostle who fulfilled Christ's wish in handing him over to the Romans, because Christ's only purpose on earth was to die and in dying reverse Original Sin. The contents of the Coptic gospel were therefore of huge theological value.

The codex⁴⁵ itself was looted from a cave in Middle Egypt, where it had been found sealed within a terracotta vase. It was sold to a local dealer with contacts in Cairo who went by the name Hanna Asabi. Hanna recognized that the codex was a rare and ancient object of great value, but he had no idea how much it was worth, nor could he read it. He guessed that it might be worth \$ 1 million for no other reason than because that was a number that he associated with high-value art. He tried to find a buyer over 36 years, during which various misadventures befell the codex. At one point it was frozen, ostensibly to kill any insects infesting it but in practice damaging the fragile papyrus. It was stolen from Hanna in 1980 by a Greek dealer called Koutoulakis. When the codex was recovered, several of its pages were still missing and remain unaccounted for. The codex was later smuggled to the USA and kept for years in a safety deposit box on Long Island, which caused further damage in an environment that was not temperature or humidity controlled. It was eventually acquired by the Geneva-based dealer Frieda Tchacos Nussberger in 2000. The codex was then stolen in 2001 by Bruce Ferrini, who sold several individual pages before returning the remainder to Nussberger. A total of 12 pages were missing from the manuscript as it was returned. Nussberger eventually sold the manuscript to the Maecenas Foundation, which made a deal with National Geographic for the publication rights to the codex and its story. The codex itself was gifted to the Coptic Museum in Cairo.

This serpentine case study begins with the looting from an unknown location by an unknown tomb raider of an antiquity which modern man did not know existed. It is therefore exemplary of the difficulties in policing and protecting unexcavated or unidentified archaeological sites. But like so many art crime cases, it is not a linear narrative. The same case study that begins with looting involves multiple instances of smuggling (from Egypt to Switzerland and from Egypt to the USA and back), two instances of theft (by Koutoulakis and then by Ferrini), and of course questions of rightful ownership, both personal and national.

Profit Methods for Organized Crime: Martin Cahill and Russborough House (1986)

On 17 May 1986 Martin Cahill, the infamous leader of an Irish organized crime group, stole 18 artworks from Russborough House, a country mansion in Ireland that has the unfortunate distinction of having been robbed of art on four different

⁴⁵ For the complete story of the codex, see Krosney (2004).

occasions, twice by the terrorist group, the Irish Republican Army.⁴⁶ Evidence suggests that Cahill chose to steal art after a diverse criminal career in other fields because he felt that these high-value artworks would be relatively easy to sell (a view that is largely based on misconceptions perpetuated by film and fiction), and that it would also raise his status among criminals who, since the Victorian Period, have associated art, through legitimate collecting or theft, as a high-class object with which to involve oneself. With a gang of accomplices, Cahill used force to remove the works from Russborough House, and made off with a treasure trove of objects, including Vermeer's *Lady Writing a Letter with her Maid*, Goya's *Portrait of Dona Antonia Zaratte*, and two paintings by Gabriel Metsu, a Vermeer contemporary.

Seven of the paintings were found soon after the theft, abandoned in a ditch. How they got there and why they were discarded has never been clear. But Cahill had a great deal of trouble finding a buyer for the stolen art and therefore came up with other ways in which to benefit from his theft. One of the Gabriel Metsu paintings was sold by Cahill to the Ulster Volunteer Force, a Protestant Loyalist anti-IRA group in Ireland. They in turn tried to sell it in Turkey to raise funds that would go toward terrorist operations against Irish Catholics in Ireland. This sale was stopped by police intervention. The second Metsu painting was also recovered by the police in Turkey in May 1990, that one in a raid on a warehouse where a Scottish member of a criminal gang was trading it with a Turkish criminal gang for a shipment of heroin.

In 1993 one of Cahill's associates, Niall Mulvihill, brought six of the stolen paintings to England. A combined force of Irish police and Scotland Yard detectives found two of those six paintings in a raid in London. In August 1993, the Vermeer and the Goya painting were recovered during a police sting operation. Cahill had smuggled these works across the English Channel into the hands of a crooked Antwerp diamond merchant who had previously been involved with Cahill's gang. Cahill would smuggle stolen gems to Antwerp and sell them to the diamond merchant, who would have them cut and altered so as to be unrecognizable and then would sell them on the open market. These two paintings were to act as collateral for a loan toward a future drug transaction. However, before Cahill had time to pay back the loan and reclaim the paintings (which would have presumably gone on to act as collateral in future deals), the diamond merchant attempted to sell them to someone who he thought was a criminal art collector. In fact this was the renowned undercover art detective, Charlie Hill, working with Scotland Yard.⁴⁷

The Cahill case is particularly a useful example of a phenomenon which police think must happen to a more extensive degree than they are aware—art used as barter or collateral in deals for other illicit goods. While authorities try to follow money trails which link criminals and, it is presumed, lead back to organized crime

⁴⁶ The story of the thefts from Russborough House is told in Hart (2004).

⁴⁷ Martin Cahill's criminal career has been the subject of several good books, including *The General* and *The Irish Game*. The story of Charlie Hill's recovery of the Vermeer and Goya is told in Edward Dolnick's *The Rescue Artist*. This case is also covered in a briefing from the RAND Corporation by Chonail et al. (2011, pp. 23–29).

or terrorist cells, recent decades have seen a trend in which criminals prefer to pay in goods or services rather than cash, making it that much more difficult to trace transactions. Stolen art is a commodity which serves this purpose well. The catch is that one must be able to find a buyer, at least in theory, in order for the art to have any real value. And yet, particularly in the Internet age, an image of any stolen artwork can be emailed around the world in a matter of minutes, making it particularly difficult to trick a buyer into thinking that a stolen work is in fact a legitimate purchase opportunity.

Based on how much undercover police officers' disguised as criminal collectors have been asked to pay for stolen art, one can estimate that the black market value for stolen art is 7–10% of its perceived legitimate auction value.⁴⁸ Of the relatively few police successes in recovering stolen art, many come from sting operations like the one in which the Vermeer and Goya were recovered, in which police pose as the elusive unscrupulous collector that criminals believe is out there, and will buy stolen art. Historically, we know of precious few individuals whom we could call "criminal collectors:" those who either knowingly buy stolen art, or who would commission a thief to steal art for them.⁴⁹ Most who fit the former description are pathological thieves, like Stephane Breitweiser. And yet criminals continue to steal art, and continue to fall for police disguised as collectors.

This suggests two things. First that criminals must believe that collectors who will purchase stolen art do exist. The fact that so few of them (a negligible handful) have been documented through history implies that either: (a) they do exist and authorities have simply not come across them; (b) they have existed in greater numbers in the past but are now hard to find; or (c) they have never existed in noteworthy numbers, and yet the myth of their existence persists, cultivated largely by film, fiction, and the media misconception that "criminal collectors" are behind most art thefts.⁵⁰ However, it is also clear that, whether or not criminal collectors are still out there, they must certainly be very hard to find, as evidenced by the frequency with which art thieves are tricked into offering stolen art to undercover policemen disguised as criminal collectors.

⁴⁸ This has been noted by several art detectives, including Charlie Hill, Richard Ellis, and Vernon Rapley in personal conversations with the author. Note that the difficulty in disposing of stolen art is only related to art taken from extant collections. As previously described, looted antiquities are much easier to sell, and can be sold on the open market with merely a false provenance to suggest that they were legitimately excavated and exported.

⁴⁹ Prominent among them was Pablo Picasso, who commissioned the theft of Iberian statue heads from the Louvre in 1907. Since this was not a transnational case, it is not discussed here, but may be found in Charney (2011).

⁵⁰ The media speculation on criminal collectors dates back to the *Mona Lisa* theft in 1911 and was frequently cited in newspaper and magazine articles about art theft until around 2009, when better news sources began to report on the involvement of organized crime and the drug and arms trades as linked to art crime, and to cast aside the still-widely-believed theories about criminal collectors. This is progress, as the general public will learn from these better-informed media reports.

Insider Thieves: Daniel Spiegelman (1994)

An unassuming worker at the Butler Library at Columbia University stole over \$ 1 million worth of rare books and letters in the spring of 1994, including letters by George Washington and Abraham Lincoln, and a rare volume of Euclid.⁵¹ While working elsewhere in the library, Spiegleman accessed the Rare Book and Manuscript Library on the sixth floor of the library complex by shimmying up a dumb waiter, and dismantling and reassembling a wall to cover his trail, more than a dozen times over 3 months. Among the literally hundreds of rare pages he stole, Spiegelman sliced at least 200 maps out of a seventeenth century Dutch atlas, using a razor.

Spiegelman was caught in 1995 when he tried to sell some of the stolen manuscripts in the Netherlands, where he had taken refuge. He tried to avoid extradition to the USA by claiming that he was involved in the Oklahoma City bombing, knowing that the Dutch would not extradite someone who would be facing the death penalty upon his return home.

In 1998 Spiegelman was sentenced to 5 years in prison and fined \$ 1.3 million. The judge presiding over the case emphasized the damage done to culture and knowledge, which resulted in a harsher sentence than would have been meted out for the financial value of the crime alone: “Mr. Spiegelman, you have deprived a generation of scholars and students of the irreplaceable raw materials by which they seek to discern the lessons of the past and help us to avoid repeating it. That’s what differentiates your offense from a simple theft of money or other easily replaceable property.”⁵² The sentencing was praised by scholars such as Simon Schaama and Robert Darnton, who were quoted in *The New York Times* praising the judge for taking this crime seriously, and in doing so underscoring the value of rare books and manuscripts as not only collectibles, and not only tools for scholars, but as important works of cultural heritage whose protection must be assured.⁵³

Pathological Thieves: Stephane Breitweiser (1995–2005)

Infamous in the history of art thieves for his audacity of method and astounding success rate, not least considering the tragic coda to his story, Stephane Breitweiser is a classic example of a rare but fascinating breed: a compulsive art thief. A Swiss waiter, Breitweiser stole over 100 artworks during a period that runs roughly from 1995 until his arrest in 2005. He stole on his own, and with the occasional assistance of his girlfriend, Anne-Catherine Kleinklaus. His preferred method was so direct, blunt, and obvious that it took museum staff and visitors by surprise. He would buy

⁵¹ The complete story of Daniel Spiegelman is told in McDade (2006).

⁵² <http://www.nytimes.com/1998/04/25/nyregion/sentence-by-judge-reflects-historic-documents-value.html>.

⁵³ For more on rare book and manuscript crimes, see <http://travismcdade.com/blog/>.

a ticket to enter a museum, walk calmly and with self-assurance to a work of art that caught his fancy, remove it from the wall, and walk out of the building carrying it. Through his air of professionalism he convinced the many eyewitnesses to his thefts that he was going about official business. The museum visitors thought that someone moving with such professional determination must surely be an employee of the museum on official business. It was too outrageous a prospect to think that a thief would be so audacious and direct in his approach.

Breitweiser used various methods to steal art, including having his girlfriend act as a distraction or look-out. He never tried to sell a single stolen artwork, instead keeping them to admire, as he was a great art lover. Breitweiser seems to have been a pathological or compulsive thief, addicted to the adrenaline of theft. That he chose to direct his compulsive behavior at stealing art seems to have been a personal preference. Such pathological thieves are few and far between—there have been few recorded in history. But the fact that they steal for love of art, without any evident desire to profit financially, coupled with the fact that they are not involved in organized crime and therefore the thefts are not damaging beyond the victim institution, can make them darlings of the media, portrayed as harmless rascallions. However in this case, the damage was far more severe than it might have been.

When Breitweiser was in police custody, his mother, Mireille Stengel, in a panicked attempt to protect her son, tried to dispose of some of the evidence—and in doing so destroyed irrevocably some of the works her son had stolen. She jammed some down a garbage disposal and threw others into a canal. This action far exceeded the damage done through the thefts, which had been undertaken with the utmost care. In fact, when Breitweiser heard what his mother had done, he tried to kill himself in prison.⁵⁴

Breitweiser stole works from France, Germany, Belgium, the Netherlands, Denmark, Austria, and Switzerland bringing them to his home in Switzerland. His criminal career was truly transnational. The investigation into his crimes was undertaken by a consortium of police (each one of the aforementioned countries participated), and he was convicted in France and Switzerland. In Switzerland he was convicted to 4 years and 8 months in prison, and was further prohibited from entering Swiss territory for a further 15 years. In France he was convicted to 3 years in prison, though he served only 26 months. His mother was sentenced to 18 months in prison, and his girlfriend to 6 months. Breitweiser's conviction included a statement by the judge underscoring his compulsive motivation, a statement supported by a psychiatric report, which further noted his paranoid and schizoid tendencies.⁵⁵ After his arrest, Breitweiser published a personal memoirs, *Confessions d'un Voleur de l'Art*, which

⁵⁴ This case is reported in numerous newspapers, as well as a memoir by the thief: Breitweiser (2006) and a biography, Noce (2005).

⁵⁵ Information on these crimes may be found in Noce (2005); and more recently in the following articles: <http://www.tdg.ch/celebre-voleur-musees-stephane-breitwieser-retour-2011-04-08> and <http://www.leparisien.fr/faits-divers/l-arsene-lupin-des-musees-de-nouveau-arrete-09-04-2011-1400248.php>. Thanks to Marc Barcells for his research assistance on this case.

shows a good deal of rationalization for his crimes, framing himself as a relatively innocuous curiosity in comparison to the more sinister organized art crimes.

In April 2011, after his release from prison, Breitweiser was identified engaged in what was considered hostile surveillance at a museum. The resulting investigation found 29 stolen paintings at his home, and more at the home of his mother.⁵⁶ It seems that Breitweiser's compulsion to steal art was not deterred by his relatively mild prison sentence, and he will soon return to prison.

Antiquities Looting and Terrorism: Mohammed Atta and Al-Qaeda (1999)

One of the masterminds of the 9/11 attacks, Mohammed Atta first attempted to sell antiquities looted from Afghanistan to fund the purchase of an airplane in order to crash it into the World Trade Center. In 1999 Atta flew to Germany and approached a female professor in Göttingen to show her Polaroids of Afghani antiquities. He asked if she could tell him how much they were worth, and if she knew someone who might buy them. He said he wanted to sell them in order to purchase a plane.⁵⁷

This is the most prominent example of the known but little-documented link between terrorism and art crime, specifically the traffic in looted antiquities as a source of funding for terrorist groups. As mentioned earlier, Interpol, Scotland Yard, and the UK National Threat Assessment presented the fruits of an unpublished study emphasizing the connection between the illicit art trade and funding of terrorist groups. Little information has reached the public because it is considered classified by the government agencies investigating sources of terrorist funding, but Al-Qaeda, Taliban, Hezbollah all traffic in looted antiquities.⁵⁸ A Belgian art dealer was offered rubble from the Bamiyan Buddhas, rubble which had been collected by the Taliban after they destroyed the statues in 2001, unable to abide the presence of Buddhist monuments in a fundamentalist Islamic state.

According to the aforementioned interviews and undercover investigations on the part of a documentary team from the Belgian company Journeyman Pictures, the Taliban took over the looting trade in Afghanistan from local farmers, stealing what the farmers had looted to earn ends meet and sequestering archaeological sites to loot themselves on a massive scale.

It was shown how local farmers can earn a year's salary by selling one looted antiquity. A dealer at a flea market in Afghanistan might make a few dollars a day, but the documentary film team was sold to an ancient Greek fountain basin for \$ 300 that had been dug up by a local peasant family in the countryside of Afghanistan. The local Afghans lamented the fact that their own low-scale looting had been taken over entirely by the Taliban, who engage in massive looting of archaeological sites and tombs, using methods as brutal as tearing open tombs with cranes and

⁵⁶ <http://www.lalsace.fr/actualite/2011/04/09/stephane-breitwieser--retourne--en--prison> and http://www.expatica.com/fr/news/french--news/police--suspect--french--art--theft--addict--of--more--crimes_141339.html.

⁵⁷ "Kunst als Terrorfinanzierung" in *Der Spiegel*, November 2005.

⁵⁸ Brems and van den Eynde (2009).

bulldozers, dynamiting entrances, and stripping artifacts away without any care for the archaeological record.

The team interviewed a professional antiquities smuggler, who explained that the preferred smuggling route from Afghanistan is by plane from Kandahar, first by bribing customs officials, and by working out a deal with a middle man in Bangkok, Singapore, or Dubai who will approach Western collectors, dealers, and museums on behalf of the local looting gangs, and keep a percentage. They shop Polaroids first, before shipping the actual goods, often carried in carry-on luggage. The same method used by Mohammed Atta in Germany.

It is important not to skip over the links between art crime and terrorism merely because scholars have not acquired substantial empirical evidence to support the claims on the part of experts involved with governmental investigations that antiquities looting is a major funding source for terrorist groups. It is understandable that this information has not been made available to the general public or to scholars, as it is considered sensitive and remains classified for government use. The lack of empirical data to back up the rumors of the connection may be frustrating to criminologists who are understandably used to dealing in empirical evidence, police files, and statistics. But the crime type is serious enough, and the bonafides of those who underscore the severity of the connection between art crime and terrorism are solid enough, that this aspect of art crime cannot be passed over.⁵⁹

Characteristics of Organized Crime in Art Crime: Stockholm Museum (2000)

There are a number of characteristics of organized crime, particularly larger mafias, when they are involved in property theft of any sort. From these characteristics and case studies we can extrapolate how such groups tend to behave when involved in art theft.

Among the trademarks of organized crime is the threat of violence that is rarely acted upon. The popular impression of mafias is one of gratuitous violence, but in general violence in mafias is targeted at other, rival organized crime groups or in targeted, specific, and rational attacks on individuals who are seen to have betrayed the organization. The reasons for this are that there are strict rules and regulations in place within the hierarchy of organized crime groups, and action taken without a direct order, and therefore outside of those regulations, is frowned upon and severely punished.

Therefore, if an art theft takes place in which violence is threatened but not acted upon, it suggests that an organized crime group is behind the action.

There is also a brazen quality, a confidence that tends to come from a combination of the backing of significant and powerful resources and individuals in a collective criminal enterprise, and from a history of successful criminal actions, which manifests itself when organized crime groups are involved in art theft.

⁵⁹ Most recently, see http://articles.cnn.com/2011-07-07/world/iraq.looting.bogdanos_1_antiquities-trade-iraq-s-national-museum-looting?_s=PM:WORLD.

These characteristics combine in a recent trend in art theft, in what the author has called “blitz thefts,” borrowing the term from American football wherein all defensive players charge straight for the quarterback and attempt to grapple the ball from him. While examples include the Emil Bührle Collection (2008), the Munch Museum theft (2004), the Corsican Mafia’s theft from the Papal Palace at Avignon (1976) and many others, perhaps the best recent example is from the 2000 Stockholm Museum theft.

In December 2000, several car bombs were detonated at various points around the city of Stockholm, Sweden. Fearing a terrorist attack, police swarmed to the bomb sites, which were at opposite ends of the city from the National Gallery of Sweden. At that point, armed, masked thieves burst into the National Gallery, which rests at the end of a promontory into the bay, surrounded by water and accessible only by one road. Threatening with firearms, the thieves grabbed several paintings, including a Renoir and a Rembrandt *Self-Portrait*, and fled the museum, escaping via a motorboat which was idling in the bay behind the museum.

By the time the police realized that the car bombs were merely a distraction, the thieves were gone. The police raced up the road leading to the museum, and suddenly their tires exploded. The thieves had laid out tire spikes on the road, to burst the tires of any pursuing vehicles. The theft reads like the opening to a James Bond movie, and it bears all the markings of art theft by organized crime groups.

The threat of violence, through brandishing of firearms, without acting on that threat has not been undertaken, as far as the author is aware, by a “non-organized” thief or thieves engaged in art theft. The use of what the author has called “blitz” thefts, in which masked, armed thieves burst into a museum, grab art near to the entrance, and run out, allowing the alarm to ring but escaping before it can summon useful assistance, are all characteristics of organized crime in the form of larger-scale international criminal groups, like mafias.

The Rembrandt *Self-Portrait* was recovered several years later, offered to an undercover FBI agent in a hotel in Copenhagen, an agent who had been posing as a criminal collector. His offer of \$ 250,000 in cash lured the criminals to offer him the painting, which suggests that they had no other plan in place to profit from the theft and that they had received no comparable offer. As the exchange took place with the FBI agent, the Danish and Swedish police apprehended the criminals and the painting was recovered⁶⁰.

Small-Scale Organized Crime Groups: Bill Reid Gold Thefts (2008)

On 23rd May 2008 thieves wearing gas masks stole 12 gold objects created by the Haida goldsmith Bill Reid as well as several antique Mexican gold objects from the Museum of Anthropology at University of British Columbia, in Vancouver. Thieves had watched the museum for some time, noting when the security guards changed shifts. In the process they took note of the smoking habits of the only guard on

⁶⁰ This case is detailed in Wittman (2011).

duty at night—he regularly slipped outside for a cigarette, leaving the museum unguarded for the duration of his smoke.

The thieves waited until the guard stepped outside for his cigarette, and rushed into the museum. But they were prepared for the guard's return, should he finish his cigarette break early. They sprayed bear spray across the entrance to the museum, a high-powered form of mace used in emergencies to repel a bear attack, thereby blocking the entrance—had the guard returned he would have been, effectively, maced by the cloud of smoke that remained. Wearing gas masks to protect themselves and hide their identities, the thieves made off with a haul of gold artworks. The thieves also had significant knowledge of electronic security systems: they disabled the recording mechanisms of the surveillance cameras while the cameras were still on.⁶¹

The museum was particularly fearful that the gold objects would be melted down for their raw materials. Most stolen art has a high value through non-intrinsic reasons: that is to say that the value is not the sum of its constituent parts (which in paintings, for example, are often just wood and pigment), but rather how those humble parts are unified by the artist. For works of jewelry or in gold, there is a danger that the thieves will try to cash in only on the value of the raw materials, which are of reasonably high value in this case. While the art itself was valued at \$ 2 million, we have discussed the difficulty and danger for the criminals to attempt to sell stolen, uniquely identifiable art. It is far safer to melt such gold artworks into unidentifiable lumps of raw material and sell those, thereby pocketing \$ 15,000 (the value of the raw gold) without risk of being caught.

In hope of preventing this, the museum offered a reward for information leading to the recovery of the stolen art of \$ 50,000 Canadian, a sum far higher than the value of the raw materials alone. The danger of offering a reward is that it teaches not only these criminals, but others that crime does pay—that they can be rewarded by their victim in the form of cash for the return of the stolen art. For this reason in some countries, it is been illegal to pay a ransom, whether to recover a kidnap victim or a work of art. In 1975, thieves stole 28 paintings from the Museum of Modern Art in Milan.⁶² A reward was offered, and the paintings were returned by a colleague of the criminals, who thereby pocketed the reward. Shortly, thereafter, the same gang of criminals stole 35 paintings, including many of the same works, from the same museum. This time they kept the art, and it has never been recovered. That is the danger of paying a ransom.

In this case, however, the strategy paid off. The offer of a reward tempted the thieves, who were members of a small local criminal gang involved primarily in jewelry theft. Their intention had been to melt the stolen objects, but the reward had stayed their hand long enough for the police to arrest them after an anonymous tip led to their capture in a suburb of Vancouver.⁶³ All but two of the stolen works were recovered, along with other stolen jewelry pieces.⁶⁴

⁶¹ <http://www.cbc.ca/news/canada/british-columbia/story/2008/05/25/bc-ubc-museum-heist.html>.

⁶² <http://arttheftcentral.blogspot.com/2009/02/ransoms-and-stolen-art.html>.

⁶³ <http://www.canada.com/vancouver/news/story.html?id=86909696-cc94-4f17-9927-e1e7004f58fd>.

⁶⁴ <http://www.canada.com/topics/news/national/story.html?id=88f0469a-a72b-47d4-83d8-fa1b-127cea04>.

Media and Art Theft: Odessa “Caravaggio” (2008)

On June 28, the interior minister of Ukraine announced the recovery of a painting by Caravaggio that had been stolen on the night of 31st July 2008 from a museum in Odessa, Ukraine. The thieves had out-smarted an antiquated alarm system by removing a pane of glass from the window, instead of breaking it. Once inside the Museum of Western and Eastern Art, the thieves, members of an organized crime syndicate, had sliced the canvas off of its stretcher, and disappeared into the night, without tripping a single alarm. An original Caravaggio can fetch upwards of \$ 50 million at auction. But though the thieves were almost certainly unaware of this fact, the stolen “Caravaggio” is a fake.

To be precise, the Odessa *Taking of Christ* is a contemporary copy of Caravaggio’s original *Taking of Christ*, which is in the National Gallery of Dublin. The Odessa copy was proclaimed originally by Soviet historians in the 1950s. But a 1993 article by art historian Sergio Benedetti proved what anyone who is familiar with Caravaggio’s work could see from looking at the painting—it was a good, contemporary copy. The figures, particularly that of Christ, are different (and less refined) than Caravaggio’s normal work. The easiest comparison is to juxtapose the Dublin and the Odessa pictures. The Dublin picture is lighter, and yet more brooding, and the figures are sharper. While an original Caravaggio could fetch \$ 50–100 million at auction, a contemporary copy will bring in six figures, perhaps low seven. While that’s nothing to sneeze at, it is highly unlikely that the thieves knew that they were stealing a copy, worth less than 10% of an original Caravaggio.

According to police and criminologists, the Ukraine is rife with organized crime, with the Balkan Mafia particularly active. Their history of stealing art for trade or collateral in deals for drugs and arms suggests that this latest theft is another that can be attributed to them. They almost certainly, however, do not read art history publications like *Burlington Magazine*, which published the article proving that the Odessa *Taking of Christ* was a copy.⁶⁵

The thieves are not the only ones who may have missed the Burlington Magazine article. Most people think that the Odessa painting is an original—especially if they believe most world newspaper articles, which reported that it is an original Caravaggio worth \$ 100 million. It seems that most newspaper reporters did as little research as the thieves. Among other criminals, the thieves can present newspaper clippings “proving” that their stolen Caravaggio is original, and simply ignore those who might point out its inauthenticity.

Though *The Taking of Christ* has now been recovered, the coda to the story of the Odessa “Caravaggio” remains mysterious. Police only reported that the organizer of the crime had been murdered in 2008, leading to speculation on who it might have been.

On 6 December 2008, the Ukrainian Newspaper Weekly Mirror reported:

⁶⁵ <http://www.heraldsotland.com/sport/spl/aberdeen/gallery-tantalisingly-close-to-a-priceless-discovery-1.763792>.

According to information received by WM (Weekly Mirror) from sources close to the Ministry of the Interior, state law-enforcement agencies have recovered the Caravaggio painting “The Taking of Christ, or the Kiss of Judas.” The painting was stolen from the Odessa Museum of Western and Eastern Art in July of last year... According to several sources, the organizer of theft, who has been under investigation for several months, was found dead.

Three days later, on 9th December 2008, another article linked the death of the organizer to the recovery of the painting: “According to unconfirmed information, the organizer of the theft was found murdered several months ago.”⁶⁶ This statement would place the murder of the organizer of the theft soon after the July 31st theft itself.

Or does another murder, one which corresponds to the recovery of the stolen painting, shed more direct light on the organizer of the crime? The question of the identity of the murdered crime organizer remains undisclosed by police. But Nikolai Ponomarenko is a strong possible candidate.

The murder of Ponomarenko, a wealthy Ukrainian art collector, was reported in *The Economic News* on 8th December 2008:

Viktor Razvadovskii, the chief of police for the Kharkov region, has announced that a valuable painting has been found in the home of the murdered art collector Nikolai Ponomarenko, but that this painting “is not a Caravaggio,” the Ukrainian newspaper *Today* reported. The find has been sent off for an examination of its authenticity and value. The subject of the painting, which depicts sheep, has nothing in common with the subject of the stolen masterpiece.

Nevertheless, Ukrainian law enforcement officials report that they are close to solving the Caravaggio affair. According to Vasili Presnyazhnik, prosecutor for the Odessa region, authorities in one region of Ukraine have seized an automobile transporting five original paintings valued at “3 million euros or more.”⁶⁷

On a few matters, the available facts seem to agree. Organized crime was behind the theft of *The Taking of Christ*. Ponomarenko’s murder was linked to stolen art. The organizer of the theft, perhaps Ponomarenko himself, but certainly someone linked to him, was murdered following the theft. Ponomarenko was involved in the illicit art trade, as a buyer if not an organizer.

Russian and Ukrainian Organized Crime experts made several statements to the media regarding art crime in the Ukraine that diverge from the general understanding elsewhere in the world. While it is agreed upon that crimes such as the Odessa theft are most often perpetrated by organized crime groups, the destination of the works stolen in the Ukraine is, according to these authorities, criminal collectors:

In the 90s the antiques mafia worked to export. Now they steal for themselves,” asserts the head of the department of local investigation of the Ministry of Internal Affairs of Ukraine, Vladimira Gusak. “Basically, rare pieces find their way into the private collections of well-to-do Ukrainians.”⁶⁸

⁶⁶ “The Kiss of Christ was Returned to the Odessa Museum” in *Novoe Vremya*, 12/9/08. All translations by Joel Knopf.

⁶⁷ From an 8 December 2008 article in *E'konomicheskie novosti*.

⁶⁸ From “Karadzho ushel po kryshe,” published in *Trud*, 9/02/2008.

In reality, very few individuals who could be categorized as “criminal collectors” have played a role in known art crimes over the past 50 years. The presence of criminal collectors is a popular misconception—they certainly do exist, but the documented examples of the knowing purchase of stolen fine art, and particularly the commission of thefts of fine art, are few, and negligible in comparison with the majority of art crime cases. Identifiable works of fine art stolen from public collections, such as *The Taking of Christ*, are much more likely to be held for ransom, or traded on a closed black market between criminal groups, used for barter or as collateral in deals for other illicit goods, such as drugs and arms. Despite this, unnamed “specialists” suggest that private collectors are responsible for the majority of fine art thefts in Russia and the Ukraine:

Black market “specialists” assert that oligarch-mafia men have paid at least 100 million dollars for the painting and are hiding it from the public gaze in their apartments. Their professional colleagues at the museum suggest that in this case we are dealing with a premeditated, commissioned crime... So, it is most likely that the treasure is sitting in the private collection of some sort of oligarch whom the detectives will never reach.⁶⁹

On 28th June, Anatoly Mogilyov, the interior minister of Ukraine, announced that German and Ukrainian police had recovered the *Taking of Christ* and had arrested members of an organized crime group that specializes in high-value thefts of items that include artworks. The group had intended to sell the “Caravaggio” in Berlin.

It is incredibly rare to find a case in which a private collector commissioned the theft of artwork for their private delectation. Far more often, organized crime gangs steal art on the assumption that they will be able to find a buyer—and the failure to locate the elusive criminal collector results in gangs holding on to art that they have been unable to sell. This example is a case in point—an organized crime group stole the painting but failed to find a buyer and, around 2 years later, they still retained the stolen painting.

The mention of certainty that “oligarch-mafia men have paid at least \$ 100 million for the painting” tells us that the thieves were able to convince at least someone that *The Taking of Christ* is by Caravaggio, when the rest of the art history world knows that it is not. Were there any question of the painting’s value, the thieves needed to only have brandished any of the international newspaper articles that blazed headlines “\$ 100 million Caravaggio Stolen from Odessa,” to provide their proof of its value. World newspapers wouldn’t lie, would they? Probably not, at least not intentionally. But they would allow their enthusiasm for a hot story to impair the diligence of their research, effectively handing Organized Crime \$ 100 million, when the actual value of the stolen painting was likely less than 1% of that figure. Even yesterday’s New York Times article reporting on the recovery of the “Caravaggio” failed to mention that the “Caravaggio” is not, in fact, a Caravaggio.

Journalists, it seems, can be an art thief’s best friend.⁷⁰

⁶⁹ “POTSELUI’ IUDY DLIA...OLIGARKHA,” *Rabochaia gazeta*, No.141, August 06, 2008, p. 4.

⁷⁰ This section on the Odessa theft is based on Charney (2009a).

Street Criminals: Dennis Maluk and Heroin for Paintings (2009)⁷¹

The spring of 2009 saw a rash of art thefts in New Haven, Connecticut. A total of 39 recorded artworks (paintings, drawings, and photographs) were stolen from the greater New Haven area within a period of months.⁷² This included three paintings taken from the Slifka Center at Yale, a Jewish community center, three photographs taken from the New Haven Public Library, three photographs taken from the New Haven Legal Assistance Association, and six works taken from the Yale New Haven Hospital. None of the works were of significant value, but those from the Slifka Center were worth in the high thousands of dollars each.

Examination of CCTV footage from the Slifka Center led local police to the thief: Dennis Maluk, a heroin addict. Maluk was arrested and told police that he had been stealing art in order to trade it for heroin. His dealer, Bruno Nestir, was a local member of a larger regional gang involved in small-scale sales of drugs and illicit firearms. When police raided Nestir's apartment, they found all 39 paintings, two shotguns, two rifles, two revolves (all unlicensed), \$ 947 in cash, and both heroin and marijuana packaged for sale on the street.

Only one of the stolen artworks was hanging on Nestir's wall. The others were stacked neatly on the floor of his apartment. He had taken to selling the frames for cash, and it is not clear what his intention was with the artworks themselves. Maluk said that Nestir would trade him \$ 30–40 worth of heroin for each artwork. Maluk was essentially stealing art to exchange for a day or two's worth of his heroin fix.

Dennis Maluk is a typical example of a street criminal (sometimes called "common thief") who happens to steal art, but who might have been just as content stealing DVD players, laptops, or cars—anything that will get him quick cash or, in this case, his next heroin fix. He stole paintings for no more thought-out reason than that they were relatively under-protected, relatively portable, and that he could get heroin for them. But the case is not quite so clear-cut, as Maluk was swapping the 39 paintings he happened to steal for heroin provided by a member of a local organized crime group, Bruno Nestir. Thus, the street criminal was being used by an organized crime group.

While this case is, in itself, not particularly remarkable and does not involve art of particular importance, it does provide an ideal microcosmic view into what happens with stolen art. In cases such as this, and on a larger scale like the Martin Cahill case we will discuss in a moment, we see the interchange between drugs, arms, and stolen art, which sometimes takes the form of exchange on a closed black market between criminals or criminal groups. Stolen art may be used for barter or act as collateral in deals for other illicit goods for which there is criminal risk involved in cashing in on the good in question, whether it is drugs, arms, or art. This case also illustrates a common theme: most thieves who steal art have no prior experience in art crime, and no knowledge of, or appreciation for art. Art represents an easily-portable, often under-protected, high-value commodity, and nothing more.

⁷¹ This section, the next, and the section on the Bill Reid theft, all in slightly different versions, also appear in Charney (2014).

⁷² Ironically, these thefts took place while the author was a Visiting Lecturer in New Haven at Yale University, teaching a seminar on art crime.

Pre-Emptive Lawsuits Against Reclamation Claims: Yale Art Gallery and Van Gogh's Night Café (2009)

The Internet era has seen a sudden increase in repatriation and reparations legal cases regarding stolen art. This is due to the simple fact of the world of information having become more accessible. Thanks to digitization we now know the location of artworks, particularly in public collections, from Seattle to Sri Lanka. In the past, one would have to travel to a collection to know what is inside it, or to rely on catalogues and books, which might not always show complete collections. A precedent has been set that art stolen during the Second World War in particular should be returned to the ancestors of those from whom it was stolen, as in the Maria Altmann case, in which five Gustav Klimt paintings that had been taken from her family during the Nazi era were restored to Altmann after a legal battle⁷³. A small but growing legal specialization has arisen, a subsection of art law which focuses on art reparations. A settlement was recently struck on behalf of the descendants of Kasimir Malevich, in which five Malevich paintings, appropriated by the Soviet Union when Malevich traveled abroad in 1927, were returned to the Malevich family, while a further 75 under consideration, would remain in the collection of the Stedelijk Museum in the Netherlands, which had acquired these 80 works in 1958.⁷⁴ This trend has also seen preemptive, defensive lawsuits. In 2009 the Yale Art Gallery brought a pre-emptive suit, seeking for a judge to reiterate that the jewel of their collection, *Night Café* by Vincent van Gogh, was the property of the museum.⁷⁵ A rumor had preceded this action that a descendant of the original owner was making noise about reclaiming the painting for his family, which prompted Yale to this defensive action.

We will likely see more such lawsuits in the future, as more of the world's collections are digitized. Not only does this allow people to learn what art is where, but it also facilitates family history research, allowing victims of past art theft to discover the historical circumstance and therefore build a reasonable legal case for reparations or the return of looted art.

In addition to legal cases, the Internet era has made it far more difficult for thieves to sell stolen art. Most valuable fine art is unique and instantly recognizable if it comes from an extant collection (antiquities looted directly from the earth or the sea are, of course, a different story, as we have discussed). Within hours of the discovery of a theft, photographs and descriptions of the stolen goods can be circulated around the world.⁷⁶ This makes it very difficult for a potential buyer of stolen art to claim that he did not know that the work in question was stolen, and it makes it far more difficult for thieves to shop stolen art. This has driven criminals to use stolen art as barter or collateral, as we have discussed, in order to avoid the

⁷³ See Czernin (2006) and http://www.nytimes.com/2011/02/09/arts/design/09altmann.html?_r=1.

⁷⁴ Spiegler (2009).

⁷⁵ <http://artsbeat.blogs.nytimes.com/2009/03/25/yale-sues-asserting-ownership-of-van-goghs-night-cafe/>.

⁷⁶ One of the best sources for press releases about stolen art is the Museum Security Network.

danger of looking for a buyer—for a large percentage of the stolen artworks that are recovered are found, thanks to an undercover operation in which a policeman pretends to be a buyer of stolen art, luring the thieves into offering him the works.⁷⁷

III. Mechanics of Art and Antiquities Theft and Trafficking

Having discussed a number of case studies, let us now briefly analyze the phenomenon of art crime as it evolved through history.

Much of the mechanics of art crime—precisely how and for what exact purpose it is committed—remains mysterious to the general public and police alike. The reasons for this are complex. They require an understanding not only of organized crime, but of the exclusive and often opaque machinations of the international art community. The art trade has always been perceived as shady and unscrupulous, full of closed doors and lips, gentlemanly vows of silence and blind eyes. What other multi-million dollar market so rarely leaves a paper trail of transactions, regularly hides commodities to avoid luxury tax, and relies so heavily on the unscientific assurance of connoisseurs to determine authenticity and value, with fortunes in the balance? Few police understand the art world, and few members of the art community work as police officers.

Police reports as well as logic tell us that it is necessary to have an international network to facilitate the transnational transportation of illicit goods. Exceptions like the Venetian fishermen smuggling Saint Mark's bones in a barrel of salt pork aside, international colleagues, bribed officials, and the capacity to move illicit goods from one country to another require a certain level of "organization" in the course of a crime. Therefore, it is logical that somewhere in the life of an art or antiquities theft, an organized crime component will be involved. This could be like the Dennis Maluk case, in which an individual street criminal stole on his own, but then swapped the stolen art for illicit goods in the hands of a member of an organized crime group. It could be local farmers in Afghanistan who dig up antiquities in their spare time and sell them to the Taliban. But aside from the European Union, with its open borders, there is a risk to smuggling stolen art and antiquities, and that risk is mitigated when professional criminals, who smuggle goods such as drugs or arms regularly, and who have the infrastructure and connections in various nations to facilitate transnational transport.

Most countries have no dedicated art police, an important point to note, as it is evident that the governmental administration of these countries do not consider art crime of sufficient severity to warrant a department of its own, despite numerous publications to the contrary. The reason for this is the relative paucity of sufficiently extensive empirical data and statistics on art crime—the result of a cyclical

⁷⁷ The careers of Charlie Hill and Robert K. Wittman, two policemen who went undercover to recover stolen artworks, provide numerous examples of this. See Dolnick, Edward *The Rescue Artist* and Wittman (2010).

self-destructive pattern. The empirical data is sparse because governments do not dedicate resources to gathering and analyzing data on art crime. They do not dedicate resources because the existing data has not proven its extent and severity to them.⁷⁸

Interpol's Stolen Works of Art department acts as an information-gathering point for world art police, keeping track of reported crimes and stolen objects on a database, and functioning as a point of reference. They publish annual data, as reported to them by constituent countries, but themselves admit that the data from each country is incomplete and reports only a fraction of the total art crime activity. That said, Interpol ranks art crime as the fourth highest-grossing criminal trade, behind only drugs, arms, and human trafficking, a subtle distinction from the US Department of Justice, which ranks it third, ahead of human trafficking.⁷⁹ All such rankings are based on best estimates, and should merely be taken as an indication of the severity of the crime category. That the US Department of Justice also highlights the fact that art crime has become enveloped in the operations of organized crime, and therefore funds more sinister activities, from the drug and arms trade to terrorism, should underscore the need to support police efforts to curb art crime.⁸⁰

Under-Reported and Under-Studied

Art crime has gone understudied due to two primary factors: police filing systems that do not distinguish stolen art from general stolen property, and the limited number of art crimes that come to police attention at all. The problem is continued because of the poor book-keeping on the part of world police, who in general are not instructed to distinguish general stolen property from stolen art when filing police reports. There is a difference between a report on a stolen DVD player and a stolen Rembrandt painting, but most of the world's police would file both reports in the same category. This filing, or lack thereof, takes place at a local level. It requires the recognition that a particular police report falls into the category of art and antiquities crime in order for the local police department to report the crime to the regional authority. Likewise the regional authority must think to report the crime to the national authority, and the national authority must finally, in turn, report this to Interpol's stolen works of art department in order for the data to be filed along with other international reports. If at that first, key stage, the local police report, an art crime case is not singled out and distinguished from general stolen property reports, then it is unlikely that the report will move upstream, much less reach Interpol. There are multiple points at which the art crime file can go unreported, and at each stage precious information can be lost.

There are numerous reasons why an art crime might go undiscovered or unreported. The majority of art crimes involve the illicit looting and trade in antiquities

⁷⁸ This point is addressed extensively in Charney (2009c).

⁷⁹ <http://www.interpol.int/public/WorkOfArt/woafaq.asp>.

⁸⁰ http://www.justice.gov/usncb/programs/cultural_property_program.php.

that are taken directly out of the earth or the sea and have, for all intents and purposes, never existed before for modern mankind. These works will never appear on a stolen art registry, and are often illegally excavated by locals in rural or wilderness locations. If, for example, a person in authority were to come across an empty tomb which had been looted in the wilderness of Peru, or in the forests of Umbria, what could they report? The contents of burials, tombs, and archaeological sites that have not yet been studied by archaeologists will contain unknown, unregistered objects. Apart from the archaeological context that is lost when tombs are excavated by looters, there will be no record of what was buried at the sites to begin with⁸¹. If an authority were to stumble on the scene (which would require a certain amount of luck, given that many of these looted sites are in out-of-the-way areas), all that they could report was an illicit excavation. Whatever textiles, ceramics, jewelry, sculpture, or even human remains that might have been buried there will have been taken, with little or no trace remaining for the authority to report.

Because antiquities looted directly from sites (and not, by contrast, from extant collections) will never appear on any stolen art registry, they are far easier to sell and thereby to profit from⁸². Such objects can be sold on open markets with only a fake provenance, the documented history of an object, to suggest that the object was legally excavated and exported⁸³. From galleries to auction houses to e-Bay, illicit antiquities that were taken from sites rather than extant collections may be sold for full or near-full value. It is common for legitimate antiquities to have little or no documented provenance, and criminals can take advantage of this fact.

By way of example, in the 2009 documentary *Blood Antiques*, undercover filmmakers traveled to Afghanistan and purchased a looted antiquity from a local family of peasant farmers. It was a Hellenistic architectural fragment which they purchased for around \$ 300 in cash, many times the monthly earnings of the family from which they bought it. There they learned from the family that the Taliban had taken over the looting of antiquities, and sent official teams of diggers, often with heavy machinery such as bulldozers which damage the tombs and artifacts that they seek to excavate, to take over any identified archaeological site. The objects taken in these institutionalized looting actions would be sold abroad to fund Taliban activity. Local farmers had been “muscled out” of the tomb-raiding business which was, for them, a vital source of income.

⁸¹ See Fincham (2009).

⁸² Works only appear in stolen art registries if they are proactively reported to the registry. An object taken from an illicit excavation has never entered a collection, nor been filed or photographed (aside from the occasional photograph taken by looters), and therefore there will be no information to pass on to the stolen art registry.

⁸³ This only requires the creation of documents attesting to the fact that the object was excavated and exported before 1970, the date of the UNESCO convention which formalized the heretofore irregular and irregularly enforced national laws on the excavation and export of cultural heritage. A sort of an amnesty was declared for objects exported before that date. For more on the 1970 UNESCO Convention, see http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html.

In the second part of the documentary, the film-makers smuggled the antiquity they had purchased into Belgium. There they hired an actor of Middle Eastern descent to “shop” the antiquity to local Brussels art dealers, while carrying a concealed camera. Several different dealers took the time to explain to the man not only that they would happily sell the antiquity for him, without asking any questions, but also how to make the antiquity appear more legitimate to potential buyers. In another scene an undercover journalist asked a gallery owner about the origins of an Afghani antiquity on display. He was told that it had been in the collection of a European family for generations. He then asked the gallery owner why, if it had been in Europe for generations, did it still have desert sand on it? He pointed to the sand that lined its crevices. The gallery owner could not come up with an answer.

With looted antiquities relatively easy to sell on an open market, and considering that looted antiquities represents by far the biggest factor in art crime (the author estimates that illicit trade in antiquities represents as much as 75% of all art crime), it is easy to see how this category of art crime can be a significant source of income for criminals. Further, Paolo Giorgio Ferri, a leading Italian attorney who prosecuted the infamous antiquities looting ringleader Giacomo Medici, estimates that 90% of all antiquities looting is undertaken by organized crime groups, thereby making the loss of archaeological context one among many problems, as the looted antiquities fund all manner of other activities in which organized crime is involved⁸⁴. Antiquities can cost anywhere from hundreds of dollars all the way up to the low millions, and unlike art stolen from extant collections, which cannot be openly shopped for fear of being recognized as having been stolen, they may be sold for full value.

For art or antiquities stolen from extant collections, there are also factors that can result in thefts going unreported. In Europe, inheritance and luxury taxes have resulted in some instances of families choosing not to declare their ownership of expensive luxury items, like fine art, in order to avoid taxation. Should these items be stolen, the families in question cannot report the theft, for fear of being prosecuted for tax evasion, because they have never officially declared ownership of the object. Likewise collectors and museums alike may prefer not to report a theft, which would be seen as embarrassing and perhaps an invitation to other criminals, their security systems having been exposed as weak. Many of the world’s museums display not their own collections but works of art on loan from private individuals and institutions. If the museum is shown to be insecure, the victim of theft, then the loan objects might be recalled. Finally, objects that are stolen from storage, or collections that are catalogued en masse (such as a rare book which contains valuable

⁸⁴ From a talk given by Paolo Giorgio Ferri at the ARCA Conference in the Study of Art Crime (10 July 2011 in Amelia, Italy). By “organized crime” he meant primarily small-to-mid-sized gangs of coordinated, full-time looters who were assigned locations to loot by one or more criminal administrators who then bought the goods from them, and sold them on, often to leading museums and collectors. The two most renowned and powerful of these looted antiquities dealers in Italy were Giacomo Medici, currently in prison, and Gianfranco Becchina. Ferri did specify that large international mafias are also involved, but more often in Italy at the level of being paid for the right to loot within their territory, rather than actual Mafiosi involved in the looting itself.

prints on some of its pages) may not be aware of a theft for years. Map and manuscript thieves, such as Cesar Gomez Rivero who stole on numerous occasions from the Biblioteca Nacional in Madrid, took individual pages from books—the books themselves were accounted for, but each page was not checked, so it was not until a scholar happened to request the same book and turned to the missing page that the theft was reported at all.⁸⁵

These factors go some way to explaining why police and scholars estimate that most art crime never reaches Interpol's files, and that the data kept by Interpol is, therefore, necessarily incomplete, representing only a fraction of what is likely taking place each year. Despite this, art crime is still ranked the third-highest-grossing criminal trade, underscoring the severity of the crime type.

It is important to question the origins of data, and the information from the US Department of Justice is no different. The report comes from an investigation on which Scotland Yard's Arts and Antiques Squad, under Detective Sergeant Vernon Rapley, collaborated with Interpol, the results of this report being presented in the 2006 annual Interpol Stolen Works of Art conference in Lyon. Since that report, which included not only the ranking of art crime but also emphasized what many police had known for decades, that art crime involves both organized crime and terrorist groups, the majority of the world's police who focus on art crime cases have quoted this information.⁸⁶ The information in the study has, necessarily, come primarily from the accumulation of anecdotal evidence, such as the personal experience of art police, rather than the masses of empirical evidence, data, and reports with which criminologists are most comfortable. Further, because the information came also from the UK National Threat Assessment, conducted by SOCA, and included testimonies from active counter-terrorism reports, the files, which were filed in 2006 or 2007, remain classified.

Few criminologists have chosen to study art crime at all, due primarily to the aforementioned lack of sufficient data, and secondarily to the fact that art crime is inherently interdisciplinary, and requires a willingness to expand outside of one's discipline in order to fully grasp the subject, which requires an understanding of the art trade, art history, history of collecting, art law, security studies, policing and investigation, archaeology, museums, conservation, and criminology. Those scholars who have studied art crime tend to approach it from different fields, such as the author's background in art history, which is itself an interdisciplinary subject that cobbles together numerous anecdotes, documents, and historical fragments in order to piece together the whole picture. A strictly statistics and data-focused criminological study of art crime may be an exercise in frustration, as the parameters of such studies are, unfortunately, necessarily limited.⁸⁷

⁸⁵ <http://www.elmundo.es/elmundo/2007/10/05/cultura/1191538441.html>.

⁸⁶ The author has worked with many of them, including members of the FBI, Scotland Yard, Dutch Politie, Quebec Police, Slovene Policija, Spanish Police, and Italian Carabinieri.

⁸⁷ A further problem is the hesitancy of police to hand over art crime files to criminologists for analysis. Because so few art crime cases are successfully prosecuted, few are deemed "closed" and therefore cases that police departments feel comfortable passing over for scholarly analysis.

Some very good, intelligent criminological analyses, such as A. J. G. Tjihuis' "Who is Stealing all Those Paintings?" in Charney ed. *Art & Crime: Exploring the Dark Side of the Art World* (Praeger 2009), provide strong studies but of limited data sets—in that article, 50 cases in total were examined. While it is not broad enough to comfortably extrapolate from its conclusions to say that they are applicable to all art crime worldwide (when one considers that there are around 30,000 reported thefts per year in Italy alone), it is the sort of point of departure that scholars must accept in order to approach the study of art crime⁸⁸. Likewise the work of Mark Durney in his blog, "Art Theft Central," and in academic papers represents a good start, gathering whatever data is available and applying criminological analyses to it⁸⁹. Such flexible, interdisciplinary approaches are necessary at this relatively early stage in the development of the field of the study of art crime.

Conclusion

The traffic in stolen art and antiquities is a crime type that has a long history of transnational activity. It is ranked the third highest-grossing criminal trade worldwide, and one that, regardless of one's definition of "organized crime" does involve criminal groups of all sizes and is a funding source for terrorist groups. Despite this fact, art crime has been little studied and is generally considered, by both the public and by many under-informed police and government officials, as of little relative importance. Most of the world learns about art theft from fiction and film, assuming that the art theft consists of a handful of headline-grabbing museum heists each year, and nothing more. There is the further assumption that art theft only effects the wealthy and elite, and therefore is not particularly severe. As the Dutch criminal lawyer Petrus van Duyne once said, "There is not enough fear about art crime." By this he meant that the general public does not fear art crime the way they fear the drug and arms trades, and therefore there is no public lobby for authorities to take it more serious. A public concern for art crime would have a trickle-up effect, in that it would encourage police and governments to treat the crime type with the respect that it is due. Though important public institutions like the US Department of Justice make publically available their information, the public and often police opinion of art crime is a holdover from the days before the Second World War, when art theft was indeed generally the realm of individual, often ideological thieves, such as Vincenzo Peruggia. The romance of art theft was perpetuated by novels such as the

⁸⁸ The author's own work on art crime is, similarly, based on case studies. In my upcoming book, *The History and Future of Art Crime*, to be published by Princeton University Press, I use around 60 carefully-selected case studies, each of which provide information about the phenomenon of art crime through history. These were chosen from around 300 case studies that I have analyzed, but my approach, trained as I am in art history and a rather late adherent to criminology, is more that of the historian, taking what fragments of information and fact we can and using them to try to fill in the gaps of knowledge.

⁸⁹ <http://arttheftcentral.blogspot.com/>.

Raffles and Arsene Lupin series, which glamorized “gentleman” thieves who steal art and jewelry. Public perception has not caught up with the reality of art crime, and few outside of the limited circle of art police and the handful of scholars worldwide who focus on the field are aware of the connections between art, organized crime, and terrorism.

The illicit transnational trade in art and antiquities has a long history, which if we are to include war looting and theft from conflict zones, dates back to Biblical times. But as this book does not focus on regime-legitimized looting, as we might term the appropriation of cultural heritage from a conquered or occupied territory by the conqueror/occupier, for our purposes we may begin our study with Adam Worth’s 1876 theft of what was at the time the world’s most expensive painting, Gainsborough’s *Portrait of Georgiana, Duchess of Devonshire*.

We have seen how the looting of art in war is both cyclical and self-referential—later armies, such as those under Napoleon and the Nazis, excused looting by pointing to the fact that the practice began with past civilizations, like the ancient Romans. Art is taken in war for both symbolic reasons, cultural heritage fulfilling the function of battle flags captured by an enemy, symbolizing the power of the victor and the impotence of the defeated, but also as a saleable or tradable commodity to fund the war effort. Opportunistic individual thieves have existed throughout the history of art theft in war, from Citizen Wicar as part of Napoleon’s art theft unit to Hermann Göring in the Second World War. This phenomenon is very much alive, as evidenced by the looting, which was both organized and opportunistic, of the Baghdad Museum in 2003 and in 2010 at the Cairo Museum.

Peace-time theft and looting has also evolved. What began, before the Second World War, as the realm of individual thieves has evolved after that conflict into a widespread transnational plague, with tens of thousands of thefts reported worldwide each year, a number which is certainly a mere fraction of what is actually taking place but which, for reasons discussed, goes undetected, unreported, or improperly filed. When once only the art was at stake, stolen art has become a criminal currency in the network of drugs, arms, and even terrorism. What was once a category of crime against individuals and the world of culture now affects a broad array of crimes and, as such, though popular opinion has not caught up with reality, is far more frightening than it once was.

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Chapter 7

Corporations and Transnational Crime

Wim Huisman, Annika van Baar and Madelijne Gorsira

Introduction

This chapter will discuss two topics that are related, but seen as different and represent distinct research traditions in criminology: corporate transnational crime and corporate complicity to transnational crime. The first topic concerns crimes committed by corporations (or the people acting on their behalf) that have some transnational element. Corporate crime can be defined as “Any act committed by corporations that is punished by the state, regardless of whether it is punished under administrative, civil, or criminal law” (Clinard and Yeager 1980, p. 16). The second topic concerns corporations aiding and abetting the crimes that are committed by criminal groups and which criminologists would qualify as organized crime. Following Fijnaut (Fijnaut et al. 1998), groups are considered as organized crime groups when they are focused primarily on obtaining illegal profits; systematically commit crimes with serious damage for society; and are reasonably capable of shielding their criminal activities from the authorities. Shielding illegal activities from the authorities is made possible by using various strategies such as: corruption, violence, intimidation, storefronts, communication in codes, counter surveillance, media manipulation, the use of experts such as Notaries Public, lawyers, and accountants.

While both concepts refer to illegal actions, the organizational context is different. Corporate crime is committed by employees representing a legitimate company. Organized crime is committed in informal groups of which members collaborate with the sole purpose of committing crimes. However, the distinction between the two concepts is fluid. Especially in a transnational context without a regulatory framework creating clear legal boundaries, the distinction between corporate crime and organized crime is arbitrary. Also, from a historical perspective the distinction between corporate and organized crime is ambiguous. Looking back in history, the

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boundaries between nation states and the legal and illegal are blurred, as well the applicability of modern concepts such as “corporations” and “states.” Using contemporary criminological concepts such as corporate crime and organized crime to frame historical cases could be anachronistic.

Nevertheless, this chapter will study historical origins of business related crime, to get a better understanding of the historical context of modern “corporate crime” and “transnational organized crime,” which are often presented as recent products of globalization. While historians debate about the origins of globalization, it is often situated in the modern era. Especially post World War II, as international trade agreements have promoted the free flow of goods, commercial aviation has dramatically increased freedom of movement and communication technology have fostered cultural globalization, and especially the marketing of Western cultures, as well as its counter movements (Conversi 2010).

The transnational elements of corporate crime could be various. First, the corporation itself could be transnational. Multi-national corporations (in business literature often abbreviated to MNC’s) are transnational in themselves. Therefore, it might be difficult to qualify their actions as either national or transnational. Second, the goods or services provided by the corporation and that are connected to the crimes could have some transnational element. Goods can cross borders. Illegal trafficking of e-waste is a well known example (Gibbs et al. 2010). Services could also be transnational in their effect, such as financial transactions to transfer money to off shore jurisdictions. Third, the victimization of corporate crime could be transnational. The time-space gap in victimizations is typical for many instances of corporate crime: victimization occurs long after or far away from the corporate boardroom at which the decision is made that has led to the victimization (Vande-Walle 2007).

Often, globalization is presented as a cause for (the observed increase of) transnational corporate crime (Passas 1999). However, the historical cases discussed in this chapter show that early accounts of corporate crime were also transnational. This raises the questions whether globalization is new and whether it is the cause of a transnationalization of corporate crime.

This chapter will first address some historical—pre-World War II—accounts of business related crime, to illustrate that it are not a strictly contemporary phenomenon. Second, corporate complicity to transnational organized crime will be discussed, as the latter is a product of the twentieth century, or at least its social construction is. Third, several contemporary forms of corporate transnational crime and corporate complicity to organized crime will be discussed to further illustrate the blurrification of corporate and organized crime: money laundering, corruption, environmental crime, and human rights abuses. By doing so, this chapter will roughly follow a chronological timeline from the seventeenth till the twenty-first century. Although this chapter is on corporations and *transnational* crime, it will mostly draw upon English written literature, and will therefore have a focus on Western industrialized societies. The chapter will end with some conclusions regarding the lessons history teaches about the transnationality of corporate crime and recommendations for future research.

Transnational Corporate Crime Before World War II

As long as there have been business and regulation of business, there has been business related crime. The first known written legislation, the Codex of the Babylonian king Hammurabi of about 1770 BC, already contained provisions on unfair trade practices. For instance, when a merchant's agent did not return with a profit after a trade mission, he had to pay a hefty fine for it was assumed that the agent must have defrauded his principal. If it was proven, however, that the merchant had wrongly accused the agent, the merchant had to pay a six fold amount to the agent (Driver and Miles 2007). Also Roman Law contained provisions about unfair trading practices and punishment. In Europe, Roman law was used to regulate civil society and business transactions well into the middle ages (Feenstra 1984). Only after the middle ages, during the European overseas expansion, business corporations in the modern sense were created to finance and execute this expansion and the trade that came with it.

The East India Companies The trading companies set up in the seventeenth century to conduct trade with and exploit natural resources found in the newly discovered territories in Asia and the America's are often seen as the first transnational corporations. The two most prominent examples are the British *East India Company* and the Dutch *Vereenigde Oost-Indische Compagnie* (VOC). The East India Company was established by Queen Elizabeth I in 1600. The Dutch East Indies company VOC was established by States-General of the Republic of The Netherlands in 1602. Both companies started as speculative companies to import spices from South-East Asia and gradually obtained tremendous wealth and power. The East India Company grew to rule one-fifth of the world's population. In the eighteenth century, the VOC employed over 20,000 people (Gaastra 2003).

The Netherlands States-General awarded the VOC a patent for trade between the Cape of Good Hope and Cape Horn. This patent meant that the company had a monopoly to trade on behalf of the Republic in this region. Also, the company had the right to sign treaties, build fortifications, install local authorities, and wage war on behalf of the Republic. In other words, the VOC obtained the rights that normally belong to sovereign states. Another major innovation was that the capital in shares was not returned to the shareholders after each successful expedition, but it was used to finance following expeditions. In 1602 6.424.588 Dutch Florint in private capital was invested in shares of the VOC. Investors differed from household maids to rich merchants. Shares in the company could be sold. So with founding the VOC, also the securities exchange was born.

When the former prime-minister of the Netherlands pleaded for a return of the "VOC-mentality" of entrepreneurship in Dutch economy in 2006, many critics responded to his call with memorizing the misconduct and crimes committed by the company and its agents. Among the most prominent cases of colonial violence are the killing, dispersal, and abduction of at least 10,000 inhabitants of the Banda Islands in nowadays Indonesia by troops of the VOC in 1621 (Raben 2012). Also, although not being formally illegal at the time, the company was involved in slave

trade (slave trade was, however, mainly conducted by the Dutch West Indies Company, *WIC*).

Furthermore, widespread fraud and corruption have been related to the VOC, especially toward its end. Even after the fourth war with England (1780–1784), when the cash register was empty, the company kept on returning dividend of 12.5% to shareholders, presumably to maintain the impression of creditworthiness. To maintain this policy, the company had to run into debt even more, by issuing bonds and buying short term loans. While in Dutch history, it was generally assumed that the VOC went down because of the widespread corruption, recent research showed that this corruption was the consequence, rather than the cause, of the financial problems of the company. During its downfall, the company accepted higher and higher injections of private capital to finance the return trips of the ships returning from the East. Because of this, these private investors—often being agents of the company itself—became more powerful. For the company administration, it became more and more difficult to control these investors and to safeguard the companies' monopoly on the trade. Increasingly, the company turned a blind eye to the illicit trade on the side—the so-called “*lorrendraaien*”—the company's agents were conducting for their own benefit, breaching the company's monopoly (Nierstrasz 2007). Because of its bankruptcy, the VOC had to be bailed out by the Republic of the Netherlands, and in 1795 the VOC was nationalized.

Just like the VOC, the British East India Company has been connected to atrocities and other forms of misconduct. For instance, after taking full control over Bengal in 1765, the company introduced a British taxing system, securing large tax revenues for the Company's shareholders. Just 5 years later, revenues from the land tax had already tripled, impoverishing the people. These conditions helped to turn one of Bengal's periodic droughts in 1769 into a famine. An estimated 10 million people—or one-third of the population—died. Also, many of its officials and traders privately exploited the situation: grain was seized by force from peasants and sold at inflated prices in the cities (Robins 2002). Like the VOC, the officials of the East India Company personally profited from illicit trade. Because of distance and poor communications, the London board often had little real control over the actions of the private enterprise imperialists. Robert Clive for instance, a British officer who established the military and political supremacy of the East India Company in Bengal, obtained almost a quarter of a million pounds and told a House of Commons enquiry into suspected corruption that he was “astounded” at his own moderation at not taking more (Robins 2002).

The disastrous consequences of company rule led to many uprisings and rebellion in India. While these were put down, they were characterized by extreme savagery on both sides. Such atrocities would nowadays probably constitute as breaches of international criminal law, such as crimes against humanity and perhaps even genocide. In the 1850s, the massacre of East India Company personnel and other Europeans had generated a ferocious bloodlust in British society and because of its apparent inability to stop these, popular sentiments turned against the Company. On 1 November 1858, the East India Company was abolished and direct rule by Queen

and Parliament was introduced. “India was no longer ruled from a City boardroom but from the imperial elegance of Whitehall.” (Robins 2002).

Rubber Trade in the Congo Free State While the trading companies acted as *de facto* governments and lay the foundations for colonization, the formal colonization of large parts of Asia and Africa only began after the nationalization of the trading companies and their territories. In recent times, the colonization itself and many of the practices executed in the name of colonization have been deemed as wrong and even criminal. Although the blame is mainly aimed at European colonial governments, also business entities had a role to play in what nowadays would constitute gross human rights violations and international crimes (Huisman 2010).

An example that has been the topic of criminological study is the Congo Free State (Ward 2005). Recently, the Democratic Republic of Congo was the scene of what is called by some the “first African world war”. For decades, the country has been suffering armed conflict and gross human rights violations. This was fuelled by or even motivated by the control over the countries rich natural resources (such as gold, koltan, and cobalt), for which several multinational companies has been accused of complicity, as will be discussed later in this chapter. In a way, history is repeating itself. From 1885–1908 the country—then known as the Congo Free State—was independent from Belgium but the Belgian King, Leopold II, was its absolute monarch. While the Berlin Act of 1885 obliged him “to watch over the preservation of the native tribes, and to care for the improvement of the conditions of their moral and material well-being, and to help suppressing slavery”, the country mainly served for the enrichment of the King and the commercial enterprises he controlled in the exploitation of the Congo’s natural resources (then mainly ivory and rubber) (Ward 2005, p. 436).

In furthering this goal, massacres, hostage-taking, rape, death by starvation, and extremes of physical cruelty were common occurrences. These were not committed by only colonial officials. Particularly for employees of the companies, terror, and atrocities became standard business practices. Following the remarkably early “criminological” analysis by the journalist and witness Morel (1904), Ward offers a contemporize analyses of this case of state-corporate crime. “It was Morel’s realization, while working as a shipping clerk, that the Free State’s accounts were fraudulent, that alerted him to the criminal nature of its operations.” (Ward 2002, p. 436).

Ward argues that the excesses were committed in circumstances where it is rational for organizations and individual actors to minimize the costs of cruelty, such as the loss of labor force. Ward uses Merton’s anomie (1938) theory and Sutherland’s differential association theory (1949) to explain why economically motivated violence can escalate to seemingly irrational levels. According to Ward, by 1890 King Leopold was willing to resort to any method necessary to cope with the financial crisis facing his colony. Leopold seized the opportunity for profit afforded by the new demand for rubber. The company agents faced a classic situation of “strain”, as described in anomie theory: under the acute pressure to meet their legitimate goal of meeting production targets and unable to achieve this by legitimate means, they were driven to innovate and use illegitimate means to force African workers

to harvest more rubber. Ward quotes a district commissioner: “To gather rubber... one must cut off hands, noses and ears” (Ward 2002, p. 440). Differential association includes diffusion of illegal practices among firms and isolation from definitions unfavorable to such illegal practices. Using differential association theory, Ward argues that each act of violence that the occupational culture condones makes further acts of violence easier to commit and less likely to incur censure.

While no laws or treaties existed to prosecute or sanction King Leopold or the companies, the atrocities did cause moral outrage and public campaigns in Europe. Ward even quotes a remarkably prescient journalist, who argued that “an international assize court” should be established at The Hague to try the King (Ward 2002, p. 437). In a show trial, one rubber company agent was sentenced to 15 years imprisonment for the murder of 122 natives.

Trading with the Enemy In daily speech and criminology, white-collar crime is the term most commonly used for crimes committed in a business context. The term was coined by Edwin Sutherland in 1939, during his presidential address to the American Sociological Society. Ten years later, Sutherland published his book “White-collar crime” with the results of his study of lawbreaking by America’s 70 largest corporations (Sutherland 1949). It is not a coincidence that Sutherland is also the founding father of the differential association theory. Sutherland (1949, p. 234) wrote that the “data at hand suggest that white collar crime has its genesis in the same general process as other criminal behavior, namely, differential association.” Sutherland’s book contained chapters on restraint of trade, discriminatory rebates, infringement of patents, trademarks and copyrights, misrepresentation in advertising, unfair labor practices, financial manipulations, offenses of power and light firms, and war crimes. Sutherland explained that this last offense type contained many of the other offenses when committed during World War I and II. In a recent analysis of the original “war crime” data of Sutherland, Galliher and Guess (2009) distinguish three categories of industry that can be distinguished in Sutherland’s files of corporate war crimes: merchandisers of finished products including food and beverage processors and distributors, manufacturers, and corporations selling raw materials. Many of the cases boil down to war profiteering, for instance by providing inferior products and overcharging products. War effort creates an acute and huge demand while there is no time for public tendering procedures and negotiation. Companies can easily exploit these “no-bid” contracts. These practices also occur in recent wars. Recently, the multibillion dollar company Halliburton, has come under scrutiny for allegedly massive overbilling the US Military for their services in Operation Restoring Freedom in Iraq and for systematically charging for services that were never provided (Rothe 2006).

Sutherland also noted how war attributed to the opportunity to commit antitrust offences, by misusing monopolies to inflate prices because of the increased demand due to the war production. Some US companies even engaged in price fixing with the enemy. For example, when General Electric and Krupp (in Nazi Germany) signed an agreement the price of the raw material *tungsten carbide* jumped from US\$ 48 per pound to US\$ 453 per pound (Galliher and Gues 2009). Controlling

production in this manner was profitable for business on both sides of the military divide. GE paid royalties to the Nazis on every pound produced, thereby helping the German economy, and they informed the Nazis exactly how much the US government was using in its build-up for war. In a court case GE was fined only US\$ 20,000.

Matthews (2006) conducted a case-study of five American corporations that conducted business with Nazi Germany through their German subsidiaries: Ford Motor Company, General Motors, IBM, Kodak and Chase-Manhattan. He found two types of involvement of American companies with Nazi crimes: supplying goods and materials used for the German war effort and contributing to genocide and crimes against humanity. This last type existed in cases where German subsidiaries of the American companies used slave labor or contributed to the Holocaust in a different way. IBM, for example, produced Hollerith machines and cards used for the purpose of identification, expropriation, deportation, and destruction of Jews (Black 2001).¹

After the war, the companies tried to justify the complicity of their German subsidiaries by referring to the threat of being expropriated or by stating the American companies had no effective control over their subsidiaries overseas. Matthews alleged, however, that it was the capitalist emphasis on profit maximization and the business opportunities of trading with the enemy that made these corporations collaborate with the enemy. According to Matthews, the products these firms manufactured were essential to the German war effort. Several American companies even out-produced their German counterparts. One can only imagine the surprise of the US troops landing on the shores of Normandy to find the enemy driving Ford and GM vehicles. (Matthews 2006).

Corporations and Transnational Organized Crime

Although Sutherland introduced the concept of white-collar crime, he was not the first academic to raise attention to the criminal behavior of corporations and their managers. At the beginning of the twentieth century, the Dutch criminologist Willem Bongers (1916) introduced the concept of “crime in the suites” as opposed to “crime in the streets”. Bongers argued that a criminal attitude arises among the bourgeoisie from the avarice fostered when capitalism thrives. This author is considered to have had a crucial influence on the formulation of Sutherland’s theory of white collar crime (Braithwaite 1985, p. 2). Sutherland was also inspired by the sociologist Ross, who promoted the notion of “the criminaloid” a few decades earlier, which referred to the businessman who committed exploitative act out of a uninhibited desire to maximize profit and hiding behind a façade of respectability (Friedrichs 2010, p. 3; Geis 2007, p. 12). According to Ross, the criminaloid is: “The man

¹ Later, in this chapter, corporate complicity to the Holocaust by German transnational companies will be discussed.

who picks pockets with a railway rebate, murders with an adulterant instead of a bludgeon, burglarizes with a “rake-off” instead of a jimmy, cheats with a company prospectus instead of a deck of cards, or scuttles his town instead of his ship, does not feel on his brow the brand of a malefactor.” (Ross 1907, p. 7). Ross’s wrath was provoked by the “aggressive capitalism of the robber barons” that dominated America’s economy in the late 1800s. This even led to his forced departure from Stanford University, as the widow of the railroad robber baron Leland Stanford was upset by his writings. During the same period, the journalistic movement of the so-called muckrakers was aimed at exposing wrongdoing by the powerful and the privileged, reporting on high-level corruption, unethical actions of oil companies and the exploitation of workers (Friedrichs 2010, p. 25)

The above shows that the way business related crime is framed is related to the way it manifests itself in a certain era. As a response to the well-documented rise of organized crime in the USA during the Prohibition in the 1930s and the start of the drug trade in the 1950s, Senate and Presidential Committees acknowledged and framed the problem of organized crime in the USA. A Senate investigating committee set up in 1951 (Kefauver committee) and a President’s commission on Law Enforcement and the Administration of Justice in 1967 portrayed organized crime as an alien conspiracy, a problem of mainly Italian origin, imported in the USA. Further, the criminologist Cressey who advised the latter commission, compared the organization of criminal syndicates with those of corporations: largely formal, hierarchical structures (Cressey 1969).

This framing of the organized crime problem has led to a distinction in conceptualization between “organized crime” and “corporate crime” that, although strongly criticized by some criminologists, is still made today, both in academic criminology as well as in criminal justice policy. One of the reasons that this distinction is being criticized is because the criminal activities and their organization overlap (Block and Chambliss 1981). Traditional activities of organized crime are vices and racketeering. *Vices* refers to providing illegal services or goods for which there is a public demand, such as drugs, prostitution and gambling. *Racketeering* refers to illegal operations in, or control of, legitimate economic sectors, for instance by extortion or corruption. As racketeering occurs on legal markets and criminal organizations often operate from the legal façade of companies in these markets, distinctions between organized and corporate crime are often hard to make. Most traditional organized crime groups (Cosa Nostra, Yakuza, Russian *Mafia* etc) have some level of control over or operate as legitimate corporations, mostly parasitical but often symbiotic. Early twentieth century members of American Cosa Nostra used trading companies as a cover for their criminal activities, while also importing olive oil, citrus fruits, and wine from Sicily (Dickie 2004). 2008 revisions in the Japanese Organized Crime Countermeasure Laws even made it clear that designated organized crimes groups function like a Japanese company, and therefore the people at the top have employer liability (Adelstein 2012). Russian organized crime groups acquired control over many sectors of the economy after the introduction of the free market economy in Russia and they strive for the combination of legal and illegal forms of business (Shelley 2004, p. 572; Gilinskiy and Kostjukovsky 2004, p. 200).

Especially on a transnational level, the distinction between organized crime and corporate crime disappears for both activities. In the field of vices, scholars have continued studying various local markets of illegal products and services, ranging from drugs and prostitution to gambling, numbers, and loan sharking (e.g., Reuter 1983). However, production countries and consumer markets are often not the same. Therefore, much organized crime can also be labeled as “transit crime” as it involves cross-border trafficking and smuggling of drugs, weapons, and victims of sex trafficking (Kleemans 2014). Studies of transit crime show that many regular businesses are involved in the logistics of transit crime, such as transport companies, expedition companies, travel agents, etc. Furthermore, as will be discussed in the next section, the banks and other actors in the financial industry are involved in transnational money laundering schemes.

A transnational perspective also blurs the distinction between legal and illegal markets, and so between vices and racketeering. When criminals operate in a country where gambling and prostitution is illegal, these activities may be labeled as vices. In other countries, such activities may be legal, yet criminal organizations might deploy racketeering practices, for instance by loan sharking and pimping. When in transnational supply chains goods are legal in one country and illegal in another, entrepreneurs might present themselves as legitimate businessmen or operate under the veil of legitimate companies. A good example is Victor Bout, whose transport companies even served the United Nations in peacekeeping operations, but who was seen by criminal justice agencies as one of the world’s major illegal arms dealers (Farah and Braun 2008).

Processes of criminalization and decriminalization can change legal markets into illegal ones and vice versa. Therefore, adopting a historical perspective leads to a further blurification of the distinction between organized and corporate crime, as laws on prohibition have changed overtime. Criminalization of previously legitimate business activities creates corporate crime when these businesses continue these activities, as such has often occurred with environmental pollution (DiMento 1986). On the other hand, such criminalization might force legitimate companies out of the market and provide opportunities for criminal networks to take over the businesses, as has happened with the liquor industry in the USA during Prohibition. Also, before the criminalization of narcotics, regular pharmaceutical companies were producing drugs, such as the *Nederlandsche Cocainefabriek* in Amsterdam that produced 20% of the world’s supply in cocaine in the 1920s and that was taken over by AkzoNobel in 1970 (Bosman 2012).

Decriminalization might provide organized criminals with the opportunity to become legitimate entrepreneurs. However, getting licensed does not necessarily mean these entrepreneurs clean up their business, as is illustrated by the legalization and regulation of the prostitution sector in the Netherlands. The Dutch government hoped that making sex work a “normal” profession and licensing brothel operators would drive out organized crime. However, recent evaluation studies show that much of the sex traffickers in the Dutch prostitution market have changed colors from vices to racketeering and that the licensed brothels serve as a legalized outlet for victims of transnational sex trafficking (Huisman and Kleemans 2014).

Money Laundering

A clear example of a transnational criminal activity in which legal corporations facilitate criminal organizations is money laundering. Money laundering refers to concealing the illegal source by which money is made, often by suggesting a legitimate source of income (Reuter and Truman 2004). From studying the principal offences by which such money is made, such as drug trafficking and human smuggling, one might view this money laundering as part of organized crime. However, from studying the involvement of companies in the laundering of criminal proceeds, this might be viewed as a form of corporate crime. In most countries, money laundering is a criminal offence (Reuter and Truman 2004). Additionally however, due to international agreements many countries have created reporting duties for irregular or suspicious financial transactions for the financial industry and other economic sectors, making noncompliance with these provision regulatory offences.

According to popular belief, the term money laundering comes from the laundrettes the Chicago organized crime boss Al Capone was using in the 1930s to justify his earnings of criminal activities such as bootlegging and drug trade. As a metaphor it refers to “dirty money”, being proceeds of crime, that needs to be “laundered” to “clean money”, with a apparent legitimate origin. The term only came to use since the Watergate scandal and money laundering was only seen as a serious problem of organized crime since the 1980s. This was not only because of the realization of the enormous amounts of money that were made by—especially—international drug trafficking that needed to be laundered, but also because of various scandals of international banks that were found to play a crucial role in transnational money laundering schemes.

The most notorious case is that of the *Bank of Credit and Commerce International* (BCCI). This bank was founded in 1972 by the Pakistani financier Agha Hasan Abedi, it was headquartered in Luxembourg but had branches in 78 countries and it was the world’s 7th largest private bank in assets. Due to concerns about poor internal regulation and monitoring, several financial regulators and criminal investigations services started investigations into the banks operations. They found that that besides funding disreputable clients such as dictators, terrorists, paramilitaries, and secret service agencies, the bank was involved in massive money laundering of criminal proceeds, among which for the Colombian Medellin drug cartel (Passas 1996; Punch 1996). In 1991, a Luxembourg court ordered the liquidation of the bank and financial regulators in five countries shut down the offices of BCCI. Abedi, along with other executives, was indicted in the USA, but he died in Pakistan in 1995 before standing trial.

Another landmark case of a reputable bank that was found laundering money for organized crime, was *Banco Ambrosiano*. This case is particularly known because the chairman of the bank, Roberto Calvi, was found murdered, hanging from Blackfriars bridge in London. Allegedly, Calvi and his bank were laundering money for Italian mafia in a scheme in which also an influenced Masonic lodge and the Vatican bank were involved and that is still covered in mystery (Punch 1996). Besides these

two well documented cases, several other banks have been found to be involved in laundering the proceeds of transnational organized crime (Reuter and Truman 2004).

As a response to the increasing international concern about the problem of transnational money laundering, in 1989 the Financial Action Task Force (FATF) was formed as an intergovernmental body to combat transnational money laundering. The FATF generates legislative and regulatory reforms, in the form of recommendations to be implemented by the member's states. The initial recommendations all concerned preventing money laundering in the context transnational organized crime and created the duty for banks to report suspicious financial transactions to the national financial intelligence units. Later, the coverage of these duties was expanded to other economic sectors that deal with large sums of cash money, such as antiquities trade and legal professions. Effects of displacement from the financial sector to these sectors were alleged.

Furthermore, a net widening effect can be observed regarding the concept of money laundering and the reporting duties of companies (Van der Schoot 2006). After the terrorist attacks of 9/11, not only were resources of criminal intelligence and investigation agencies dramatically shifted from fighting organized crime to fighting terrorism, but the FATF recommendations were also expanded again to include terrorist finance. As a result, recent cases in which banks are being blamed and sanctioned for "money laundering" actually constitute processing financial transactions with countries suspected of supporting terrorism. A big British bank, Standard Chartered, agreed to pay \$ 340 million after the SEC investigated the banks transactions with Iran. The US Treasury Department has reached a \$ 619 million settlement with the Dutch ING Bank for similar violations. This is the largest fine a bank has paid to settle accusations of sanctions violations. Credit Suisse, Lloyds and Barclays have also recently paid fines in the hundreds of millions of dollars to settle the US accusations that they facilitated prohibited financial transactions. Although technically these cases constitute violations of the US sanctions regulations against countries suspected of financing terrorist groups, these cases were framed as "money laundering" in the media.

Finally, "dirty" money might not only originate from organized crime or terrorism, but also from "conventional" corporate crimes such as price fixing, accounting fraud, and bribery. Handling the proceeds of these crimes is also being labeled as "money laundering". While this might be conceptually right, this contributes to a further net widening of the meaning of money laundering, in which all transactions with proceeds of crimes constitute money laundering.

Environmental Crime

Like money laundering, environmental crime is a fairly recent crime phenomenon partly created by legislation. Environmental pollution is not new at all. It has always been a detrimental effect of industrial production. Serious and wide-spread pollu-

tion and the destruction of natural resources started with industrial revolution in the nineteenth century. For instance, chemicals used by tanneries and textile factories created so much water pollution that serious health problems and degradation have existed at those areas for many decades later (Huisman 2001). With the absence of legislation prohibiting this, such pollution could not be considered a crime, although the recent “green criminology” movement takes environmental harm as a criterion for defining this harm as “crime” (Lynch and Stretesky 2014). In that sense, all major pollution resulting from industrialization might be considered as crime.

If we take a legal definition of crime, environmental crime is the result of the introduction of environmental regulation that aims to restrain and prevent such pollution. Such regulation is, therefore, mainly aimed at corporations. While also being administrative or civil law offences, the violation of environmental regulation is criminalized in most countries. European legislation forces member states to criminalize the violation of environmental regulation. Attempts to criminalize “ecocide” in international criminal law have failed so far (Higgins et al. 2013).

With the introduction of environmental legislation in the twentieth century, cases of environmental crime have started to emerge. In most Western countries cases of serious environmental crime occurred in the second half of the twentieth century, when victims started to unite and claim compensation, NGOs raised awareness and criminal justice agencies started to prosecute environmental crime. A landmark case of corporate pollution in the USA is the Love Canal case. In the 1940s the Hooker Chemical company started to dump highly toxic waste into this canal near Niagara Falls. Later, houses and a school were built on the site. School children and residents were exposed to the noxious fumes and surfacing chemicals, allegedly resulting in disproportionately high numbers of miscarriages, birth defects, psychological disorders, and cancer (Mokhiber 1989). A European case that led to the first large scale criminal investigation and prosecution of environmental crime in the Netherlands was that of *Tanker Cleaning Rotterdam* (TCR). Located in one of the biggest ports of the world, TCR had the monopoly to process all the chemical waste ships had to get rid of in the port. However, instead of processing this waste properly, the company was found to dump much of the chemical into the open water front (Van de Bunt and Huisman 2007). Italy has its own share of cases of dumping chemical waste by companies which have often ties with mafia-groups (Paoli 2004, p. 286–287). While in these cases obviously serious environmental damage was done, the legal reality is much more ambiguous. Because legislation was still unclear (and still partly is) about what the substantive norms are and when a company is liable for breaking them, the lawsuits concerning these cases often focus on the question whether actually crimes had been committed.

Environmental crime encompasses a broad range of illegal behaviors. The first main category is the pollution of the air, seas, and land. Examples are dumping waste or blending it with other goods, and importing and using illicit pesticides. The second main category concerns illegal acts causing direct harm to flora and fauna, for instance illegal deforestation and the poaching of and trading in protected wildlife (Spapens and Huisman 2015). The past decades have seen the development of an elaborate international legal framework to fight transnational environmental

crime, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the International Convention for the Prevention of Pollution from Ships (MARPOL), and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. Also, the European Union drafted regulations for the prevention of environmental harm and pollution, such as the European Waste Shipment Regulation (EWSR).

The impact of environmental crime and environmental harm has become more transnational in recent decades. Two main factors explain this development. The first is that the Western industrialized states have implemented more stringent regulations since the 1970s, causing environmental harmful practices to shift to other parts of the world without such legislation or without implementation and enforcement. Perhaps it is no surprise that of the most serious industrial disaster happened at a subsidiary of a US chemical corporation in Bhopal, India. In December 1984, a massive gas leak killed thousands in and around a Union Carbide chemical plant. Tens of thousands have died since, and many more have had their lives and livelihoods devastated. While after almost 30 years, local Indian plant managers have been convicted for criminal negligence, the US-based company and its then chairman remain absconders from Indian justice (Pearce and Tombs 2012). Also as a result of environmental regulation in the West, industrial as well as domestic waste, often hazardous, is now trafficked to less affluent regions, to be dumped or recycled in ways that harm both people and habitats. Actually, regulation on the disposal of waste has created tradable commodity. In that sense, environmental criminal law has created a criminal market.

The second explanation for the internationalization of environmental crime is the increasing level of social and economic globalization and mobility. This has led to a growing demand for wildlife products in Asia, for example for ivory and rhinoceros horn, and for exotic pets such as tropical birds and reptiles in Western countries. Together, these two developments have created what Passas called “criminogenic asymmetries” (Passas 1999). These are “structural disjunctions, mismatches and inequalities in the spheres of politics, culture, the economy and the law”. These are criminogenic in that they offer illegal opportunities, create motives to use these opportunities and make it possible for offenders to get away with it. For instance, globalization created the possibilities to transport toxic waste to Third World countries where it could be disposed of at a fraction of the costs and without the threat of law enforcement. Illicit opportunities are produced by the fragmentation of enterprises and transactions over more than one country. Price asymmetries create the incentive to move hazardous business activities to other countries. In addition, regulatory asymmetries create the opportunity to cut costs on environmental management and labor conditions while law enforcement asymmetries weaken social controls. Even more, globalization has fostered “competitive deregulation”. Competition on global markets has driven corporations to a “race to the bottom” to find low cost services provided through poor environmental standards, low wages, and poor working conditions. As a consequence, large transnational corporations are relocating their production to countries offering more favorable terms. Developing countries which need regulation protecting their natural resources, the health and safety of its work-

ing population, and the integrity of its financial system; instead try to attract foreign corporations by regulating less tightly than other countries.

So while “green criminologists” would qualify all serious harm to the environment as crime, legal criminalizations have been introduced to prevent environmental pollution. But while there is no sound empirical proof of the effectiveness of such criminalization (as with all forms of corporate crime: Simpson 2006), environmental legislation has created black markets for the illegal transnational trafficking of waste.

Corruption

In contrast to environmental crime and money laundering, corruption has been present throughout history, as was also illustrated in the section on the East India Trading companies (Bardhan 1997). Nowadays, corruption is seen not only as a national but also an international problem in scope, substance, and consequences (Argadoña 2005). Again, globalization could be seen as a driving force: not only because of the opportunity for MNC’s to bribe corrupt politicians and officials in countries less strong on the Rule of Law, but also because it leads to an increased importance of a fair “level-playing-field” for MNC’s and the integrity of international markets. As a result, also the fight against corruption has become global (Posadas 2000). The last two decades, international corruption legislation became increasingly stringent, criminalizing not just bribery of foreign officials, but also corruption that takes place between corporations.

The international fight against corruption has been pushed forward by the international nongovernmental organization Transparency International, which defines corruption as “the abuse of entrusted power for private gain”. While this broad definition has been criticized and may include many acts, bribery is seen as the clearest example of corruption that is criminalized in most countries. Bribery is based on the interaction between at least two parties. The “corruptor” offers, gives or promises a gift, the “corruptee” asks, accepts or expects the bribe (Huberts and Nelen 2005). In the criminological literature, the former is called active bribery, the latter passive bribery (Huisman and VandeWalle 2010). Corporations can commit both passive and active bribery. Other important distinctions are public versus private and national versus international corruption. Public corruption occurs when one of the parties is a public official. Private corruption takes place within and between companies (Rabl 2008). In public–private corruption the corruptor is usually an employee from a private company and the corruptee is a public official. Corruption can be confined to the territory of a single country, or it can be international, when the parties involved come from different countries, the payment is made in another country or through intermediaries in another country (Argadoña 2005).

The first anti-bribery legislation with transnational reach was the *United States Foreign Corrupt Practices Act* (FCPA) of 1977. This law criminalized foreign bribery of public officials by the US companies (Kaczmarek and Newman 2011). Note-

worthy is that not all payments to foreign officials are prohibited by the FPCA: the Act excludes facilitation payments, i.e., small bribes paid to “get things done” (Cleveland et al. 2009).

The reason for the USA to develop corruption laws with international reach was the occurrence of several corruption scandals, revealed by the post-Watergate Securities and Exchange Commission (SEC). In the mid 1970s, bribery charges against Lockheed, a major aerospace company, became headline news (Goodman 2013). To secure sales, Lockheed, and many other American corporations, were making payments to senior civil servants and heads of state (Beenstock 1979). The aerospace company paid for example more than \$ 1 million in illegal payments to Prince Bernhard, husband of the Queen of The Netherlands (Berkman 1977).

Until the 1990s, the USA was the only country with an international prohibition against bribery, which led the US firms to complain about competitive disadvantages because corruption was a widespread feature of global business (Kaczmarek and Newman 2011). This was illustrated by many cases, among which the case of the French oil company Elf, of which three former managers have been convicted for corruption. In two long interviews in *Le Figaro* and *Le Parisien*, Elf’s former chairman Le Floch-Prigent, showed the systematic way in which Elf paid large bribes to obtain oil contracts from statesmen (McMillan 2005). Both President Mitterand and the then prime minister Chirac knew of these bribes, *inter alia* because Le Floch-Prigent went each year to the Elysée Palace to explain the annual reports, including “Commission paid”. Bribery had become the standard operating procedure and was also seen as necessary in order to outbid the competing oil corporations and to secure French interests. Former Elf executive Le Floch-Prigent, in reaction to the prosecution of the corporation for bribing statesmen, stated that all his predecessors did exactly the same as he did and that all his successors would do the same.

In some European countries bribe payments were even tax deductible, as for example in Germany, France, and The Netherlands. But when bribery scandals and economic crises provided growing evidence for the detrimental consequences of corruption, the Organization of Economic Cooperation and Development (OECD) became an advocate of anti-bribery measures (Cleveland et al. 2009). In 1997, members of the OECD adopted the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*. Because the OECD Convention is not self-executing, since the OECD has no direct enforcement power, it requires nations that signed the Convention to adopt their own legislation prohibiting international bribery (Cleveland et al. 2009).

In 2003, the *United Nations Convention Against Corruption* (UNCAC) was ratified by 154 countries, including Russia, China, and India, who are not signatories of the OECD Convention. The UNCAC requires states to criminalize a wide range of corrupt acts and to introduce effective policies for the prevention of corruption (Cleveland et al. 2009).

In 2008, the United Kingdom was strongly criticized by the OECD for failing to bring anti-bribery laws in line with its international obligation under the OECD Convention. The turning point became the corruption case of BAE System Plc’s, a multinational defense, security, and aerospace company headquartered in London.

BAE was suspected of paying more than \$ 2 billion in bribes to Saudi Prince Bandar bin Sultan and others in the 1980s, allegedly to secure an arms deal. Although Britain's Serious Fraud Office had not filed a prosecution, the USA began its own case. In 2010, BAE agreed to pay \$ 400 million (Kaczmarek and Newman 2011). In response to the US case, the British media and the political opposition asked for greater enforcement of corruption regulations. The British government promised stringent new anti-bribery legislation, leading to the development of the *United Kingdom Bribery Act* (Kaczmarek and Newman 2011).

The UK Bribery Act of 2011 is among the strictest legislation internationally on bribery. It criminalizes public and private, active and passive, and national and international bribery. A corporation can be held liable when it fails to prevent bribery on its behalf by a person who is associated to the company, i.e., who performs services for the organization. The only defense available to the company is proving that it had "adequate procedures" in place designed to prevent bribery from being committed (Ministry of Justice [MOJ] 2010).

In the last decades, several corruption scandals in interstate commerce led to the development of international corruption legislation. Whether the increasingly tough corruption laws are an effective tool in combating and preventing international bribery by corporations is a question that needs further research. The recent allegations against Royal Dutch Shell, for paying 1.3 \$ billion to a Nigerian minister for oil concessions show that transnational corruption is at least still a problem (Daly 2013).

Corporate Involvement in Gross Human Rights Violations

This chapter shows a clear historical trend of increasing awareness of the (potential) adverse corporate impact on societies and (groups of) people. This is also the case for possible negative corporate impact on human rights, as well as corporate involvement in violations of international humanitarian law and international crimes. This chapter has already shown some examples that fall in this category: The wrongdoings by the East India Companies and in the Congo Free State would now be seen as breaching most major human rights treaties as well as the Geneva conventions. The crimes committed in these cases might nowadays even give rise to an investigation by the International Criminal Court (ICC). (Anderson and Cabanagh 2000).

The role of corporations in violations of international laws and treaties is clearly not only a contemporary phenomenon. Concerns about the perceived increasing power and influence² of especially large multinationals increased drastically the past few decades. The NGOs have published many allegations of corporate miscon-

² See and De Grauwe and Camerman (2003) ['among the hundred biggest 'economies' in the world 51 are corporations and only 49 are countries' (Anderson and Cabanagh 2000 cited in De Grauwe and Camerman 2003). Anderson and Cavanagh (2000) 'The rise of corporate global power', Institute for Policy Studies].

duct related to human rights violations and conflict situations. A review of historical and contemporary case studies shows that corporations can (and do) form a crucial link in the causation of gross human rights violations and international crimes either directly or through the principal perpetrator of these crimes (Huisman 2010). The possible negative impact is generally largest for big multinational corporations, especially those operating in conflict situations and(/or) states with weak governments. Also, corporations in countries with oppressive regimes and or violent rebel groups risk involvement in their harmful policies and actions.

Sutherland had already written about corporate wrongdoing during World War I (Sutherland 1949) but it was during and after the Nuremberg trials that the role and involvement of corporations and businessmen in warfare, crimes against humanity and war crimes was emphasized. Although it was not the German business sector that had put Hitler into power (Barkai 1991)—a popular conception of the first decades after the war (Turner 1985)—it were the large German multinational companies such as IG Farben (Hayes 1987) and Krupp that made it possible for the Nazi regime to wage war throughout Europe for almost 6 years (Huener and Nicosia 2004). Through aryanization and expansion many German corporations took over branches in occupied territories. German corporations produced the vehicles, synthetic fuel, weapons, and ammunition that were essential to the war effort. In addition, it is safe to say that the Holocaust, only halted by the end of the Second World War, could not have been carried out the way that it was without the products and services of German corporations. Moreover, all major German corporations, including IG Farben, Flick, and Krupp took advantage of (in total) millions of forced and enslaved laborers throughout the Third Reich (Allen 2002).

To give another example, in South Africa multinationals operating transnationally enabled the Apartheid regime to carry out their discriminatory policies of racial segregation and oppression between 1948 and 1994. Foreign investment was crucial to the South African economy, and thereby to the prolongation of the system of apartheid. Moreover, subsidiaries and affiliates of the USA and European corporations followed the official segregation policies, complied with laws oppression the black and colored population and supported the migrant labour system (Seidman 2003). It was not until the US economic sanctions of 1986 that foreign corporations started to pull out and, eventually, the regime fell.

More recently corporations operating in conflict areas such as the Democratic Republic of Congo have been heavily criticized. Anvil Mining, for example was accused for providing logistical assistance in the violent repression of a peaceful protest in 2004. For this a criminal investigation was started against the company in Australia, and some of its (expat!) managers have been prosecuted in Congo. Corporations concerned with the extraction of natural resources are heavily overrepresented in such accusations, as they often find their business in countries ruled by suppressive dictators or in a state of armed conflict (Huisman 2010). Corporations can also become involved in conflict by hiring security personnel that subsequently commits violations of international law or because of paying taxes or concessions that are used to finance the conflict. In The Netherlands, the Dutch manager of the Indonesian–Malaysian owned Oriental Timber Corporation was prosecuted for

complicity to war crimes committed in Liberia, because of the alleged atrocities committed by the companies' security staff. Besides as personal bribes, the concessions paid by OTC were allegedly used by Liberian president Charles Taylor, to finance the war in neighboring Sierra Leone, in which many atrocities have been committed (Huisman and Van Sliedregt 2010).

Empirically, the role of corporations in the causation of gross human rights violations is clear. Holding them accountable is something else. Because of the transnational character of the corporate involvement in these types of crimes, remedy and compensation mechanisms for victims are still very ineffective (Kaleck and Saage-Maaß 2010). The regulation of corporate behavior has not internationalized as much as corporate activity itself, causing a governance gap that is unlikely to close up any time soon (Ruggie 2013). For some time the Alien Tort Statute seemed a way to hold corporations accountable for involvement in violations of international law. This 1789 Statute enables the US district court jurisdiction of "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States". Nevertheless, while some of the cases were settled, none of the many Alien Tort Claims Act (ATCA) cases ever led to a final verdict. A recent US Supreme Court decision stating that the US federal statutes do not have extraterritorial reach significantly limited the scope of the ATCA as a successful tool to hold corporations accountable (Holland 2013)³.

Corporations do not fall under jurisdiction of the International Criminal Court so supranational prosecution of corporate involvement in international crimes is not possible (Kyriakakis 2009). The only way corporations could be held criminally liable is through domestic prosecution of international crimes in countries that ratified the Rome Statute and criminal jurisdiction includes legal persons (Kyriakakis 2007; Ramasastry and Thompson 2006) but such investigations are very rare. The case against the Dutch leaser of construction equipment Riwal, for example, was dropped by the Dutch prosecutor⁴. Riwal was accused of involvement in the destruction and appropriation of Palestinian property illegal under international humanitarian law. The Australian criminal investigation against Anvil Mining was also dropped.

There have been a number of international soft-law developments such as the 1977 Tripartite Declaration of Principles Concerning Multinational Enterprises by the International Labour Organization (ILO) Guidelines for Multinational Enterprises by the Organization for Economic Cooperation and Development (OECD) of 1976, and the UN Global Compact, initiated by UN General Secretary Kofi Annan in 2000 (Kaleck and Saage-Maaß 2010). While initiatives such as Global Compact has been evaluated by critics as unsuccessful because it was too voluntary in nature, more binding UN Norms failed because a lack of support by member states. The

³ See also <http://www.business-humanrights.org/Documents/SupremeCourtATCAReview>.

⁴ The case was dropped because the contribution was considered to be limited, the mother corporation Lima Holding B.V. has taken far reaching steps to terminate activities in Israel and/or the occupied territories and the effects of the investigation as well as the media attention were deemed already serious. <http://www.om.nl/onderwerpen/internationale/map/concerning/>.

recent UN Guiding Principles in Business and Human Rights (Ruggie 2013) seem more promising as the business community is responding positively and the United Nations Human Rights Council unanimously endorsed them. Nevertheless, like all soft law initiatives, these Guiding Principles are voluntary and do not have an enforcement mechanism, which raises serious questions on how they will be efficient in countering corporate involvement in conflict situations and oppressive regimes.

Conclusion

The aim of this chapter was to study the historical origins of business related crime, to get a better understanding of the historical context and recent developments of transnational corporate crime. This chapter has illustrated the rise of transnational corporate crime in the last decades. A number of causes can be found. First, the rise of transnational organized crime, especially in the second half of the twentieth century. Organized crime needs the services of legitimate companies, such as for money laundering. Also, organized crime often takes the appearance of legitimate business(es), facilitated by the asymmetries in the national regulation of transnational business activities. Second, modern era globalization can be related to transnational organized crime, such as MNC's getting involved in corruption, environmental pollution, and gross human rights violations in developing economies. Third, globalization has increased the awareness of corporate wrongdoing abroad. Developments in transportation and communication technology have enabled regulatory agencies as well as nongovernmental organizations to monitor corporations and their actions all over the world.

Nevertheless, the historical focus of this chapter has also nuanced the tendency to view transnational corporate crime as a new phenomenon, created by globalization. The historical cases discussed in this chapter create the impression that unfair trading practices and other abuses constitute the dark side of the accumulation of profit and the competition of scarce resources (Box 1983; Coleman 1987).

Furthermore, this chapter has shown that problems of transnational and business related crime are framed depending on their contemporary manifestations. The appearance of corporate crime seems to reflect the scandals and cases of misconduct that outrage the public and make good media attention (Levi 2006): from the muckrakers exposure of the robber barons at the beginning of the twentieth century, to trading with the enemy after World War II, consumer related crimes in the 1970s (e.g., the birth defects due to the drug Thalomid and the preservative Dalkon Shield and the death and injuries due to the explosive car Ford Pinto; Punch 1996), insider trading at Wall Street in the 1980s, the Savings and Loans crisis 1990s (Cavallita et al. 1997) and the big accounting fraud scandals in the new Millennium (e.g., ENRON, Worldcom, Tyco, etc). These are all US cases⁵, but other countries also

⁵ This chapter did not discuss all of these (see for a more complete oversights; Rosoff et al. 2014; Friedrichs 2010).

have their landmark cases. Due to these cases, the problem of organized crime in a certain era might be framed differently between countries, although the manifestation of corporate crime in literature is dominated by the US cases. For instance in the Netherlands attention in the 1970s focused on cases of corporate tax fraud while in the 1980s environmental crime came into the spotlight due to cases of serious pollution (Van de Bunt and Huisman 2007). But besides these differences, the similarities of occurrences of corporate crime in different countries in the same timeframe stand out. For instance, the wave of accounting fraud cases in the new millennium was not limited to the US, as was shown by the large-scale accounting frauds at the multinational Italian *dairy* and food producer Parmalat and at the grocery giant Ahold, dubbed by *The Economist* as “Europe’s ENRON” (March 27 2003). And due to the increased intertwinement of economies, as a result of globalization and the dominance of the US economy in this, big cases of corporate fraud can have a transnational or even global fall-out. For instance, its complicity to the ENRON-fraud case led to the downfall of accounting firm Arthur Andersen, which had over 85,000 employees in more than 80 countries. According to various criminologists, the global financial crisis of 2008 was the result of large scale subprime-mortgages frauds in the USA, and especially in de state of California (Nguyen and Pontell 2010; Friedrichs 2010).

Finally, this chapter shows two mechanisms in the “production” of transnational corporate crime. Law has a central role to play in this. In the first production mechanism the law is codifying changes in moral beliefs on what are tolerable business practices. In certain eras and certain contexts practices such as forced labor, environmental pollution, corruption, and insider trading were standard business practices and considered normal. For reasons that deserve further study, moral judgment changed and these practices were viewed by public, politics and perhaps business itself as intolerable and even criminal. Public outrage over cases of such behavior led to scandals. Scandals led to official inquiries. Inquiries led to regulation and criminalization. In the second mechanism, law is used as an instrument to change moral, in order to influence human or corporate behavior. Harmful behavior is prohibited or restrained by regulation to change this behavior. But this regulation and especially criminalization can also create criminal markets. This mechanism can lead to a shift from corporate crime to organized crime, or a close collaboration of the two. Environmental regulation has created a market for illicit waste disposal services, depending on local circumstances provided by organized crime groups or legitimate waste processing firms. Increasing taxes on cigarettes had led to cases in which tobacco companies collaborate with organized cigarette smuggling, to retain their market share. Whether the legal construction of corporate crime leads to an increase or decrease of the actual crimes, is still a question for empirical research. These codifying and instrumental functions of the law make good starting points for further study into the history of transnational corporate crime.

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Chapter 8

Criminal Organization and Transnational Crime

Edward R. Kleemans

Introduction

Criminal organization is dependent on context, place, and time. However, in the study of organized crime, criminal organization is often conceptualized without a wider view on the context within which opportunities for criminal activities arise and in which criminal networks develop that take advantage of these opportunities. Historical research teaches us a lot about these opportunities and how criminal networks may evolve, during various periods in history within varying contexts.

In this chapter, I briefly review some major theoretical notions about criminal organization: protection theory, the bureaucracy model, illegal enterprise theory, criminal networks, and situational approaches (for a more extensive version of this review, see Kleemans 2014).¹ Furthermore, I discuss how the historical chapters in this volume provide valuable insights in the topic of criminal organization.

Theories on Organized Crime

Protection Theory

Nowadays, in many developed countries, we are used to “strong states,” but historical research shows that the idea of a sovereign state only applies to a small part of

¹ The first part of this chapter is based upon my more extensive review of several theoretical perspectives on organized crime (Kleemans 2014).

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history and a small part of the world. Protection theory typically makes a comparison between organized crime groups and the state. It refers to historical examples of Mafia control over specific territories (e.g., Mafia control in Sicily since the late nineteenth century) and over specific licit economic sectors, such as the building industry in Italy and the dominance of Italian-American Mafia families in New York, in the building sector, the waste disposal industry, the Fulton fish market, the unions, the harbor, et cetera (e.g., Gambetta 1993; Jacobs 1999; Jacobs and Peters 2003; Paoli 2003). Mafia groups gained control, acting as “alternative governments,” and made profits by taking over two traditional state monopolies: The use of violence and taxation. In the international literature, these illegal operations on legal markets are also referred to as “racketeering.” These manifestations of Mafia control were often paralleled by “weak states.” Sicily is one of the main historical examples of absent state control (Paoli 2003). Other authors refer to periods of rapid transition, such as the Soviet Union being the prime example of rapid change and evaporating centralized state control that presented opportunities for the emergence of Mafia groups (Varese 2001).

One specific interpretation of these phenomena is that Mafia groups actually render a service (private protection) that is not provided by the state. In the absence of state protection of property rights and economic transactions, Mafia groups step into this business of selling private protection and ensuring economic transactions. According to this view, Mafia groups actually respond to a demand for “private protection” and provide a “service.” Diego Gambetta (1993), in his book “The Sicilian Mafia,” states that the Mafia is a specific economic enterprise which produces, promotes, and sells private protection and protects property rights and economic transactions, both legal and illegal. The Mafia, in short, renders the basic services that the state is unable to provide. Several authors have used similar ideas and have applied them to similar phenomena, such as the Hong Kong Triads, the Russian Mafia, and the Japanese Yakuza (for a review, see Varese 2011). Many of these authors borrow theories from political science (e.g., public choice) and economics (monopoly, cartel formation) (for a review, see e.g., Von Lampe 2006). They also share a “benign” interpretation of the Mafia, as responding to a “demand” for protection instead of seizing upon opportunities for extortion and abuse of power.

One of the strong aspects of protection theory is that it presents an explanation for both the dominance and the endurance of certain Mafia groups. The longevity of Mafia dominance in certain regions can hardly be imagined without the existence of implicit or explicit support of large parts of the population, the government, and economic actors. A weak point is the exaggeration of the “benign” aspects of such situations. Weak states and lax law enforcement create opportunities for criminal activities and criminal organization, but this does not mean that the outcome is positive for society at large. A recent example is opium production. Opium can be produced in many countries in the world, as the growing conditions are far less critical than for e.g., coca production. Nevertheless, opium production is concentrated in only a few countries, characterized mainly by weak states and “lax law enforcement” (Paoli et al. 2009). To be left alone by the government and by law

enforcement, is an important prerequisite for the emergence and endurance of criminal organizations. One of strongest aspects of protection theory is that it highlights situations that are conducive to the emergence of Mafia control, which is a dominant theme in the study of organized crime.

Bureaucracy-Model

Organized crime scholars have been preoccupied by the organizational aspects of organized crime and the so-called “bureaucracy-model” is a dominant theme in the literature. The bureaucracy model of organized crime became widely known through the public confessions of Mafia defectors, such as Joe Valachi, during interrogations of US Senate committees in the 1960s, and the scientific work of Cressey for the federal task force on organized crime. In his frequently-cited book, “Theft of the Nation,” Cressey (1969) describes organized crime as a more or less formal bureaucracy: pyramid-shaped, with a strict hierarchy, a clear division of tasks, codes of conduct, and internal and external sanctions. Basically, organized crime is viewed as a distinct organization and equated with a specific organizational form. This bureaucracy model of organized crime is very popular in criminal justice circles and turns up regularly in the media and in public debate, with frequent reference to godfathers being in charge and lieutenants controlling certain specialized divisions.

During the 1970s, many scholars fiercely criticized this conception of organized crime (e.g., Albin 1971; Ianni and Reuss-Ianni 1972; Smith 1975). Some critics took an entirely different theoretical position, based upon the illegal enterprise model, while others confronted the model with findings from original empirical research (e.g., Ianni and Reuss-Ianni 1972). Yet the general pattern was the same: The bureaucracy model was constantly “debunked” as naive and at odds with the facts. With the benefit of hindsight, one may conclude that the bureaucracy model of organized crime, for many forms of organized crime and for many illegal market activities, is indeed the exception rather than the rule. However, the discussion lost track of empirical realities. Cressey described Italian-American Mafia families during a specific time period. Perhaps he overemphasized certain structural features and the level of organization, but fierce critics sometimes seem to focus too much on contemporary local illegal markets in developed countries with a “strong state.” Meanwhile, they neglect the fact that some large criminal organizations do exist and have existed for a long period of time, even before major illegal markets, such as drug markets, developed. Examples are the Sicilian Mafia, the Japanese Yakuza, the Hong Kong Triads, and the Russian Mafia. However, authors describing these phenomena often do not conceptualize these as formal bureaucracies (e.g., Paoli 2003; Varese 2011). For example, Paoli (2003) interprets Mafia groups as brotherhoods, similar to primordial societies of generalized exchange, that are tied together by status or fraternization contracts. Through initiation rituals, recruits are bound to become brothers of other members and show altruistic behavior without expecting short-term reward. These status and fraternization contracts guarantee extraordinary

flexibility, as Mafia bosses dispose of the capacities of members (and even their lives) to reach their goals. It also explains the fact that Mafia groups are multifunctional entities, which are used by members to achieve a variety of goals.

Illegal Enterprise

Illegal enterprise theory emphasizes the similarities between illegal activities and legal activities. Offenders are viewed as normal, rational, profit-oriented entrepreneurs, who are involved in activities that, though illegal, are driven by the same laws of supply and demand as legal activities. Some products and services have been criminalized by governments, such as drugs, prostitution, numbers, and loan sharking, yet are still in high demand by some parts of the population. Other products and services are subject to high taxes (e.g., cigarettes, oil, and alcohol) or restrictions (e.g., import or export restrictions, quota, and licenses). According to economists, restrictions on supply do not eradicate demand. Indeed, they only alter market conditions for illegal entrepreneurs. Several authors have used concepts from economics to explain behavior in illegal markets (e.g., Schelling 1965; Block and Chambliss 1981; Reuter 1983).

The best-known application of the illegal enterprise perspective is Reuter's "Disorganized Crime" (Reuter 1983). Illegality presents several problems to offenders, as contracts are not enforceable (as in legal business), illegal activities have to be concealed, people can be arrested, and assets can be seized at any time. Due to these constraints of illegality, Reuter predicts that most criminal enterprises will be small and short-lived. Reuter also uses several concepts borrowed from industrial economics (transaction costs and property rights theory) and concludes that, in illegal markets, small is beautiful.

Central to enterprise theory are the similarities between legal and illegal activities. It is, therefore, not surprising that some authors focus on the thin line between legal activities and illegal activities, and between "illegal entrepreneurs" and fraudulent and criminal "legal entrepreneurs." Furthermore, the rationality assumptions of economic theory sometimes drive authors in the direction of overemphasizing personal characteristics of illegal entrepreneurs (e.g., van Duyn 1993). Illegal activities and adaptation are explained by rational behavior, and success or failure is viewed as the result of intelligence and resourcefulness (or the lack thereof).

In public debate, concepts from illegal enterprise theory appear regularly in discussions relating to questions such as how different organized crime is from fraudulent or illegal "normal" economic activities, how successful governments can be in prohibiting or restricting certain illegal products and services (as these are in high demand), and how smart "the enemy" actually is: Very intelligent and well-organized (according to some) or disorganized and inept (to others)?

Criminal Networks and Social Embeddedness

Organized crime does not operate within a social vacuum, but interacts with its social environment. Therefore, we should have a thorough understanding of social ties and social interactions if we want to explain it (e.g., Albin 1971; Ianni and Reuss-Ianni 1972; Chambliss 1978; Kleemans and Van de Bunt 1999; Morselli 2009). Social ties are important, as offenders operate in relatively hostile and uncertain environments, primarily as a result of the illegality of their activities.

Several authors stress the similarities between legal and illegal activities, but illegality does make a difference. Illegality implies that contracts are not enforceable (as in licit business), illegal activities have to be concealed, people can be arrested, and assets can be seized at any time. The world of organized crime might be characterized as a kind of “jungle”: the financial stakes are high, yet the rules and mechanisms that regulate transactions in the licit world are absent: entering into contracts, paying debts via the official banking system, and—in case of disagreement—the availability of mediation or the courts. Hence, cooperation in the world of organized crime is not easy to come by, and curbing distrust between offenders is a continually recurring problem.

Granovetter (1985) put forward the idea that, in normal economic transactions, problems of distrust are mitigated by the fact that these transactions are “embedded” within networks of personal relations. Several sociologists have elaborated upon this idea of “embeddedness” (e.g., Coleman 1990; Burt 1992, 2005; Buskens and Raub 2012). These insights from the emerging field of “economic sociology” might enrich the study of organized crime. Time and again we find that family, friends, and acquaintances work together and provide each other with introductions to third parties (Kleemans and Van de Bunt 1999; Kleemans 2013).

Offenders may find new opportunities through the use of their acquaintances’ resources, such as money, knowledge, and contacts. Social relations might also dissolve problems of cooperation in an environment dominated by distrust, suspicion, and deceit. Cooperation becomes easier if relevant parties have information about each other and if they have invested time and energy in relationships (producing a “shadow of the past”). Furthermore, it helps if offenders know that they will probably meet again in the future, providing a “shadow of the future” (see e.g., Buskens and Raub 2012).

General ideas about the structure of social relations can also be applied to organized crime research (e.g., Kleemans and Van de Bunt 1999; Kleemans 2007). Social relations do not happen at random but often obey the laws of social and geographical distance (Feld 1981): the closer people live, the more daily activities they have in common, and the less social distance exists between them, the more probable it is that ties will be forged between them. This produces clustering of people based on factors such as geographical distance, ethnicity, education, age, et cetera. The same kind of clustering exists within criminal networks. People who have grown up together or who live in the same neighborhood may at a later date

become companions in crime, whereas people sharing a similar ethnic background may also become members of the same criminal group.

The idea of social embeddedness has been applied by many authors to organized crime (for reviews, see e.g., Morselli 2009; Carrington 2011). One of the key theoretical improvements of the social embeddedness literature on organized crime is that the traditional question of hierarchical models, such as the bureaucracy model, has been changed. Instead of asking the question, “Who is in charge?,” different questions are posed, such as: “Who is dependent on whom? And for what reason?” Answers to these questions are found in social relationships between offenders and their resources, such as money, knowledge, and contacts. This theoretical perspective opens ways for describing different modes of cooperation instead of superimposing one specific model on different criminal groups and different criminal activities. It seeks rather than assumes structure (Morselli 2009). It also explains two key findings on criminal networks: their flexibility and their resilience against arrests and seizures. If there are many connections between offenders, some offenders may be more important than others, yet nobody is really irreplaceable. As a consequence, offenders may seek different alliances, and criminal networks may evolve over time. Kleemans and Van de Bunt (1999) used the term “social snowball effect” to describe how offenders get involved in organized crime and how their careers develop: offenders get in touch with criminal networks through social relations; and—as they go along—their dependency on other people’s resources (such as money, knowledge, and contacts) gradually declines; subsequently they choose their own ways: they generate new criminal groups by attracting people from their own social environment, and the story begins all over again. The nature of criminal networks also explains resilience. In networks, nobody is really irreplaceable; even important persons such as investors, organizers, and facilitators can be substituted by others. Perhaps this is the main reason why criminal networks often seem to suffer little damage from arrests or seizures: links may be lost, but the chain is easily repaired.

Situational Approaches

Mainstream criminology traditionally focuses upon offenders instead of criminal events and criminal activities. An interesting aspect of situational analysis is that it changes our perspective from the motivations of offenders to the opportunities and constraints arising from the environment. Several authors have applied this situational approach, originally developed by e.g., Ronald Clarke and Marcus Felson, to organized crime, with a specific focus upon opportunities for crime prevention (for a review, see e.g., Cornish and Clarke 2002; Bullock et al. 2010; Von Lampe 2011; Kleemans et al. 2012). Situational analysis is “crime specific.” It is not focused upon organized crime in general, but is concentrated upon very specific criminal activities. Cornish and Clarke (2002) state that the problem analysis starts with unpacking the sets of “crime scripts” involved, as these will reveal the opportunity

structures that enable the activities involved. This way barriers for the commission of organized crime can be discovered and developed, similar to the “25 techniques of situational crime prevention,” which are aimed at increasing the effort, increasing the risks, reducing the rewards, reducing provocations, or removing excuses. Examples of this approach involve drugs smuggling, contraband cigarettes, sex trafficking, organized timber theft, mortgage fraud, and infiltration in the public construction industry (Bullock et al. 2010).

The situational approach conceptualizes organized criminal activity as sets of criminal events. It has enriched the organized crime literature with concepts such as “opportunity structures,” “crime scripts,” and “offender convergence settings.” Offender convergence settings are locations where offenders may find co-offenders and which allow criminal cooperation to persist even when the particular persons vary (Felson 2006, pp. 97–99; Kleemans and Van de Bunt 2008). Central to the situational approach is a general disbelief that criminal groups and criminal organizations are that important in explaining organized crime. Instead of focusing upon criminal groups, the focus lies on criminal activities and opportunity structures.

Historical Perspectives and Criminal Organization

Situational Aspects of Criminal Organization

All the historical chapters in this book show that the described criminal activities have a long history and that the organization varies from time to time and from place to place. Several situational aspects are intriguing. In the chapter on piracy, the author mentions that the most successful piracy was typically focused upon ports, straits, and gaps. Ports are the best location for petty theft, but straits are the best place for boarding a ship, because the ships do not have the chance to maneuver and escape. Examples are straits that are long and narrow and/or long sea lanes through which ships must pass, such as the Malacca Street. Such locations are a pirate’s paradise, in many periods of history, as all of the shipping must go through a very long and narrow maritime path. The author also mentions gaps, which include relatively small openings between two maritime areas that are otherwise patrolled by regional states.

Being left alone by governments and other agencies of social control, however, is also an important aspect for criminal organization. This is true for the collapse of Rome (a strong “state”), after which piracy expanded rapidly, soon controlling many crucial rivers, including the Rhine, Elbe, and Oder. The author also mentions the problems of piracy in seaports and river towns during the early Middle Ages. Piracy became such a problem that many major European cities were built 10–20 km inland for greater protection. Absence of “state” control, therefore, is a facilitating factor for criminal organization, and the same is true for problems of collective action for small (city) states. One example concerns the Italian city states,

with conflicting interests, who were more concerned with fighting rather than cooperating with each other. However, there are also historical examples of more effective cooperation, such as the Hanseatic League, creating mutual aid trade groups intended to protect its members from attack.

The background of all this piracy was “suitable targets.” Situational theories often focus on the crime triangle: a motivated offender, a suitable target and the absence of capable guardians. A prime example for this theory are the badly protected Spanish treasure ships from the New World. Particularly when countries are at war, pirates often get benefit from conflicting interests, making cooperation infeasible, or they may even be protected by rivaling countries or companies. In the past, the difference between (city) states and commercial enterprise is often fluid, as the sovereign nation state is a rather recent phenomenon. The “Golden Age of Piracy”, therefore, was during the early 1700s, when war between England and Spain created “state sponsored piracy.” Privateers were defined as a private man of war bearing a commission or letter of marque from their government, thereby allowing them to harass enemy commerce and take any captures as a prize before a Vice-Admiralty Court.

This period also marks that state protected criminal activities do not stop, when the state alters its policy. Criminal networks evolve and have their own dynamics. After the war ended in 1713, many privateers refused to quit and return to civilian life. This is also true for other periods in history, when the dissolving of armies often created trained bandits who started new activities that benefited from their experiences with the use of violence.

Long Term Trends and the Role of States, Conflicts, and Foreign Politics

A strong aspect of the historical chapters is that they show long term trends which might be overlooked, when focusing too closely on specific, recent time periods. The chapter on piracy, for instance, describes the continuity of opportunities for piracy. Opportunities for piracy have existed for a long time and in specific regions and in specific time periods these opportunities are better than in other ones. The same applies to the presence of motivated offenders. The role of the state, as mentioned before, is also important: Being left alone is a fruitful breeding ground for the emergence and the longevity of criminal organizations. The chapter on piracy, however, also shows the reverse. More resources were allocated to eliminating pirates and protecting trade and, as a consequence, the pirates profits slumped by the early nineteenth century. Former pirate havens, like New England, became wealthier and its attitude toward piracy changed: “*Once the merchants had created regular trade and a steady prosperity, however, the need to do business with pirates waned and so did their support. The merchants quickly joined the anti-piracy crusade and instead of finding a warm welcome, the pirates were confronted by the hangman and a long rope.*” (Starkey, cited by Elleman in his chapter).

These long term trends are also very clearly visible in the chapter on arms trafficking in world history, as well as—in this instance—the important role of states, conflicts, and foreign politics. The long term trends in arms trafficking are determined by innovation, demographic and economic trends, and foreign politics. Innovation regards to the discovery of gunpowder, the dramatic expansion due to mass production in the era of industrial imperialism (1860–1918), and the innovation in small arms (particularly light, automatic weapons), and their production, after the Second World War. Foreign politics are also important, as these influence legal deliveries of arms to certain parties. A prime example is the huge expansion of the arms business during the Cold War era (1945–1989), but interesting insights can also be gained by focusing upon the failed attempts to control and limit arms trafficking during the interwar era (1919–1939). States have different interests, as the description of Warlord China shows, and there is an obvious problem of collective action and “free riding” by nations that have an economic or political interest in delivering weapons, despite of international efforts to control this. It also shows that countries can play a double role: supporting an embargo, while turning a blind eye to companies that deliver weapons despite of these embargoes. The “end-user certificate” turned out to be ineffective, and a perfect excuse to reroute legal weapon flows.

How arms trafficking takes place is often influenced by demographic and economic patterns: geographic location, trade relationships, and social relationships (e.g., colonial politics and migration) produce not only an interest in arms smuggling, but also opportunity. Often existing trade flows are used or existing relationships between countries and companies. The influence of states, conflicts, and foreign politics is not only evident from the analysis done in this chapter of certain conflicts, but also of the aftermath of conflict. The end of a conflict often means a wide availability of arms, prone to arms smuggling, as well as a necessary contraction in the arms industry, creating a motive for illegal arms trafficking by these companies. War surplus weapons and overcapacity are important drivers of arms smuggling. Particularly in the chapter on arms traffic, it becomes clear that controlling arms traffic is much harder than controlling piracy, as the interests of states are far more diverse, while the industry that has to be controlled proliferated dramatically in recent history: the period between 1960 and 1999 witnessed a doubling of the number of countries that produced small arms, while the number of manufacturers increased by a factor of six. World production of small arms greatly accelerated, starting in the 1970s and by the 1980s the system of export licensing based on end-user certificates had become completely ineffective. Control and losing control is also a question of numbers.

Changing Values, Problem Definitions, and “Moral Panic”

A strong aspect of historical research is comparison of recent phenomena to similar phenomena a long time ago. Often this means that historians can prove that certain

phenomena have a longer history, that values may change over time, and that recent discussions are not as unique as people think. An example of this is the chapter on the history of slavery, human smuggling and trafficking. The chapter, however, is more about “framing” than about facts. It shows how trafficking in women was metaphorically attached to slavery in the nineteenth century. The original goal of groups that started the campaigns against white slavery was not to stop trafficking of women across international borders, but to fight prostitution and overall indecency. According to the author, campaigners found that the international transfer of women was a topic that was appealing to a larger public. Newspapers, pamphlets, novels, and movies are eagerly bought into this story. The attention to the subject was fired by the higher visibility of the mobility of young women seeking and finding employment via newspaper advertisements, according to the author. In the 1920s the definition of trafficking started to converge with that of slavery, and was defined very broadly. These very broad definitions implied that the alleged problem was inflated and that the problem was linked to other issues such as organ harvesting, genital cutting, and honor killings. According to the author, these broad definitions were used on purpose, as it meant that the problem could never be solved and could remain on the agenda endlessly.

The chapter essentially follows the same line of reasoning as “moral panic” approaches in criminology. The chapter is interesting, but also shows some problems of this kind of research. Advocacy groups are part of the political process and media and political discussions have their own dynamics, mixing facts, values, and favored solutions to social problems. This is a complex process, but in historical research a pitfall is to simplify too much and superimpose conspiracy theories on complex and scarcely researched realities. Many “moral panics” embody some kind of overreaction, but also feed upon real empirical phenomena as well as on changes in values. Some phenomena may have been similar in the past, but things that were taken for granted in the past, e.g., regarding labor conditions and human rights, have changed dramatically, particularly in western democracies. Advocacy groups may exaggerate and media may dramatize, but this is a part of a wider political process. One should not lose track of the real empirical phenomena underlying these debates and the changes in values that have taken place, e.g., regarding labor conditions and women rights. The chapter could have analyzed this in more detail, which becomes clear in the more recent descriptions about “loverboys,” voodoo-rituals, and the suggested connection between sex trafficking and an agenda for restrictions on migration. The coining of the term “loverboys” may be interesting, but the underlying phenomenon of loverboys is not an invention of the media or the police. It describes a basic strategy of sex trafficking that is often not recognized by the wider public: exploiting women through asymmetrical intimate relationships, characterized by a combination of grooming, bullying, and violence (Kleemans 2009, p. 417; Verhoeven et al. 2015). Also the “voodoo-rituals,” though obviously appealing to the media, are not fiction, but an actual ritual sometimes used by human traffickers from countries where women define this ritual as a real, binding ceremony. Finally, the agenda for restrictions on migration is clear in many European countries, but the

suggested connection with the debate on sex trafficking should be the topic of more detailed research. It may be true that the wider public has different views regarding foreign prostitutes as opposed to domestic prostitutes, but on the other hand the conditions for free, independent prostitution are also better for women who have legal residence status and stronger bonds to Dutch society. The recent attention for sex trafficking in the Netherlands has a lot to do with revelations of the presence of sex trafficking in the legalized prostitution sector (since 2000) and hence has a lot to do with both new “facts” and changing attitudes toward prostitution and sex trafficking.

The chapter on human trafficking is primarily important for the issue of “framing” and “defining social problems.” Criminal groups obviously benefit from an environment in which their activities are not defined as illegal or as a very low priority for law enforcement. Sex trafficking is inherently connected to prostitution, but this also means that normative and ideological discussions face a problem in distinguishing between these two issues. Sex trafficking can occur in countries where prostitution is illegal and in countries where prostitution has been legalized, such as the Netherlands. However, legalization does not eradicate sex trafficking, as some proponents assume. It rather changes the environment for sex traffickers. Legalized prostitution, however, is often equated with a clean, normalized business sector, while in fact this sector often retains many characteristics of an illegal market, including tardy problems such as sex trafficking. This leads to a counterintuitive effect that legalizing prostitution may in fact foster criminal organizations, by making sex trafficking an unexpected phenomenon that does not deserve a high priority, by shifting manpower from law enforcement to administrative checks, and by driving interest groups and politicians highlighting problems attached to prostitution into the corner of “moral crusaders” (for a review of research, see e.g., Huisman and Kleemans 2014).

Drugs, Warlords, and Failed States

The chapter on the criminalization of drugs shows that in most parts of the world, with the exception of China, where opium use was prohibited as early as 1725, and a few Southeast Asian states, opium and virtually all other mind-altering substances were legally available. In addition to being legal, they were often supplied under some form of government monopoly. In the late nineteenth and early twentieth century, however, the production of drugs, their use, and the traffic of them were criminalized.

The major producing and exporting countries (British India, Persia, and Turkey) refused to end the production of opium and continued to export it to those countries whose governments allowed its import. The chapter provides an interesting account of how the transnational drug trade started and how several international patterns emerged. Examples are the links between the American Mafia and the Chinese underworld and the move, with the end of Prohibition, into narcotics traffic. Another

example pertains to the French connection between China, Indochina, and France and the involvement of the Corsicans. However, the most intriguing aspect is the intermingling of drug trafficking, failed states, warlords, and politics, e.g., creating the Golden Triangle, an isolated region in the distant borderland of three relatively divided countries: *“It was an ideal location for an opium production regime that could effectively thumb its nose at the rest of the world.”* Warlords were able to support themselves by forcing local tribesmen to cultivate opium and traffic it.

Another important contribution is the active participation of secret service agencies and foreign politics of particularly the USA. Drugs production is locally bound and can only be effective if people are left alone by the state or by other states. Therefore, drugs production is dependent on failed states, uncontrolled borderlands, or foreign countries that actively support warlords who finance their armed struggles with drugs. The chapter argues that the Cold War priorities of the CIA and the US government in general, clearly came first. According to the author, USA covert forces preferred to seek partnerships with drug lords, Mafiosi, Triad gangsters, and other such individuals and groups, in order to combat what they perceived as the threat of communism. A cynical conclusion of the chapter is that the USA presents itself as one of the leading forces in the global campaign to suppress the drug trade while at the same time, as a result of its covert actions, prove itself to be one of the major mechanisms for promoting and assisting that traffic: *“The USA has involved itself in a series of clandestine conflicts over the past 60 years. Some have been fought to oppose communism; some to oppose terrorism. In almost every one of these, from Burma, to Nicaragua, to Vietnam, to Afghanistan, opium, or some other drug trade, has provided covert financing for these operations.”*

States, Criminals, Art, and Antiquities

In all chapters, the importance for criminals to be left alone by the state is obvious, as this is salient for the emergence and continuity of criminal groups. The chapter on art and antiquities confirms this. Art and antiquity theft is very similar to traditional predatory crimes such as burglary and robbery. However, the suitable targets of this type of crime are often unique, not always accessible, and difficult to sell in the market.

The chapter distinguishes between looting in war or in conflict zones and peacetime-looting. Often looting in war is done by states or supported by the state. Important examples are described in the chapter, such as the sack of Siracusa, Constantinople, and Prague, military-sanctioned looting from, and by, ancient Rome, Napoleonic Art Looting, looting during the first and second World War, and the Baghdad Museum. These cases show that transnational art and antiquities theft has a historical precedent in looting after and during military campaigns. Criminologists would describe such examples as situations of “anomy,” in which states and individuals have several options to rob and steal. Looting of art in war is also cyclical and self-referential, as later armies, such as those under Napoleon and the Nazis,

excused looting by pointing to the fact that the practice began with past civilizations, like the ancient Romans. Criminologists would call this as “techniques of neutralization” (Sykes and Matza 1957).

The other part of the chapter pertains to transnational peace-time art theft by individuals and criminal groups. According to the author, it has evolved from the realm of individual thieves into a “*transnational plague, with tens of thousands of thefts reported worldwide each year.*” The most interesting aspect of this account, however, pertains to developments in the arts market: art has proliferated, has rocketed in value, so suitable targets for art thieves are ubiquitous. Furthermore, the art market has been democratized and, as a consequence, the problem of marketing stolen pieces of art has decreased. Finally, the rising value of art has also stimulated security measures by museums and private collectors, which might be an inhibiting factor for art thieves. These three developments might be the underlying trends of the emergence of criminal groups engaging in art theft.

Conclusions

Criminal organization is dependent on context, place, and time. Research into organized crime should take a wider view on the context within which opportunities for criminal activities arise and in which criminal networks develop that take advantage of these opportunities. Historical research teaches us a lot about these opportunities and how criminal networks may evolve, during various periods in history within varying contexts.

All the historical chapters in this book show that the described criminal activities have a long history and that the situational aspects of criminal organization are important. Situational aspects pertain to criminal activities, such as opportunities for piracy, drugs production, weapons smuggling or art theft. Certain places and certain periods of history provide better opportunities than others. An important aspect is that situational aspects also pertain to criminal organization. Criminal organizations benefit hugely from being left alone by the state. This may have various reasons: they may perform functions that are beneficial to certain states, states have conflicts or smaller (city) states are unable to organize effective collective action. Therefore, in all chapters, failed states, periods of conflict, and diverging foreign politics play a key role. Furthermore, the normative aspect of criminal activities strikes the eye. Some activities are legal and some are illegal in certain periods of time, for various reasons. Criminal groups obviously benefit from an environment in which their activities are not defined as illegal or as a very low priority for law enforcement.

Finally, the chapters draw attention to issues of continuity and change. New opportunities arise and new or established criminal groups seize upon these opportunities. However, existing activities and established criminal groups are tardy. If politics change, it does not mean that criminal activities stop and criminal organizations evaporate. Indeed, existing criminal groups adapt and find new solutions to their practices in a changed environment.

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