

# Introduction



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Without justice, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on. If, by the admittance of abandoned men, this evil increases to such a degree that it holds places, fixes abodes, takes possession of cities, and subdues peoples, it assumes the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity.

—Augustine of Hippo, *City of God*, Book IV, Chapter 4.

What is the robbing of a bank to the founding of a bank?

—Bertolt Brecht, *Three Penny Opera*

Steal a little and they throw you in jail; steal a lot and they make you King.

—Bob Dylan

## DEFINING THE PROBLEM

A specter is haunting history. The ghostly presence of economic crime as political power has been all but absent in history writing, but not in history itself. Like dark matter, its synergy has been palpable if not always visible. Yet in our time, more and more emerges from the shadows, exposed in newspapers and tried in courts, and compels us to consider the history of the illicit political economy and its effects in past and present.

Here we venture to do so by specific examples. Three concepts—crime, corruption, and states—all hard to define and historically variable, are examined by ten authors writing about different places in different epochs. Our claim that there is a hidden history in the history of states and state making refers to the fact that most established narratives do not analyze how lawmakers and lawbreakers have been intrinsically connected, indeed dialectically involved in shaping each other.<sup>1</sup>

From Augustine's observation in the fourth century that kingdoms and robber bands were essentially the same, to Charles Tilly's insight in our own time that "banditry, piracy, gangland rivalry, policing, and war-making all belong on the same continuum," we have been aware of the similarity of these forces.<sup>2</sup> Yet historians have tended to write more respectable stories about the formal development of states and the overt challenges to them, such as revolutions. They have not acknowledged economic crime, which so easily and amorally changes sides, as having a bearing on significant historical transformations. Too often described as a marginal phenomenon, or a shadow that accompanies important political events, it becomes nearly weightless ephemera or material for novelists.

A closer look reveals a more frightening duality in which opposite sides of law interact, indeed at times mutually support each other. When corruption appears to stabilize states, when smuggling builds national economies, when the criminalization of cultural traditions serves imperial exploitation, when the illegal activities of diasporas support their states of origin, when states resort to breaches of their own laws in order to maintain or transform themselves, then we see how ambiguous the relationship between the state and criminal enterprises can be and how they mutually constitute each other.

Current reported events have brought this knowledge more forcefully to our attention. These days, there are almost daily headlines about corruption in governments, international trafficking of goods and people, and financial trickery. Piracy, once romanticized as historical adventure, has returned dramatically in the Indian Ocean. Drug traffickers supply both sides of civil wars as well as their customers. Purveyors of sex workers and of other kinds of laborers bring people from poor countries to serve illegally in richer ones. "Creative accounting" by financial institutions has bilked hundreds of thousands of people of their pensions, savings, and homes. Today's huge changes in production, distribution, finance, and all the social relations involved with a global economy challenge our notion of state sovereignty. But since we are ourselves the product of our times, these themes now urgently demand historical analytical attention.

Let us begin by reviewing some of the problems of definition. What is crime?

The simplest answer is that it is an infraction of the law. This immediately becomes complex when law is viewed as a product of violent power struggles enforced by the victor in successful states. In the Weberian ideal, such states exercise a monopoly of coercion, defined as the enforcement of law. However, history shows that the result of power struggles is never final, that competition and challenges to power often continue, and that these may alter the balance of forces and even reverse them.<sup>3</sup> Who is then the criminal? The displaced, perhaps disgraced leaders or the upstarts who replaced them?

This question usually refers to politically organized groups seeking state power. Here, however, we bring in nonpolitical self-interested actors, flexibly operating between the frontiers of conventionally acknowledged antagonistic political forces and exercising a weight of their own in the outcome. Emile Durkheim saw this kind of economic crime as potentially creative, even indispensable to the normal evolution of morality and law, and as characteristic of the transitional periods of capitalism.<sup>4</sup> Indeed, less than half a century later, sociologist Robert Merton found many features of the structural context of organized crime to be identical with that of legitimate business.<sup>5</sup> More recently, following Samuel Huntington along these lines, legal scholar Mark Findlay has declared that crime is an agent of social change, a silent partner in modernization by surmounting laws that hamper expansion, functioning as a lubricant in societies whose power relations and property interests are in transition. What sets it apart is covert operations and reliance on private violence and intimidation.<sup>6</sup>

A more familiar argument to the contrary sees crime as positively harmful. In this view, breaches of laws undermine prosperity and draw human and material resources into unproductive activities. Thus, corruption distorts ostensibly rational market systems by making human interactions and the enforcement of contracts unpredictable. And today, transnational crime destabilizes states and global politics by arming nonstate combatants.<sup>7</sup> Indeed, as the “Achilles heel” of capitalism, it threatens the international political and economic system itself.<sup>8</sup>

Even more relevant than the question of whether crime helps or hinders market economies is one that asks how meaningful the labels “crime” and “criminal” are. Anthropologists Jane and Peter Schneider, in an extensive review of the anthropology of crime and criminalization, highlight the ambiguity of both terms by distinguishing between criminalization, the ways that state authorities define criminal practices, and actual organized predatory activity which may involve “hypocritical, covert alliances” with political actors.<sup>9</sup> Political scientists have identified a world of “specialist accountants, lawyers, financial advisers, bankers and chemists, as well as

corrupt or compliant politicians, judges, government officials, law enforcement officers, members of the military, businessmen and even priests” that challenges conventional notions of a clear boundary between criminal and legal activities.<sup>10</sup> One even goes so far as to state that “crime is the continuation of business by other means.”<sup>11</sup>

Corruption as a subcategory of crime may be even harder to define. The notion that it is an abuse of access to public power for private gain assumes that these realms are legally and morally separate and that public power is accountable to the governed population. However, it is exactly this distinction that a historical perspective questions. What corruption means may depend upon historically specific practices in the use and allocation of property. Rhetoric denouncing “corruption” may be a weapon of established wealth against “illegal” competition but be inverted when power relations change. Thus, the dynamism of seventeenth-century capitalism produced charges and countercharges of corruption until the establishment of nation-states created legal frameworks of public authority that were more clearly demarcated from kinship legacies of rule.<sup>12</sup> Today, “corruption” is again politically viral when some banks and corporations, despite having breached legal frameworks, are nevertheless deemed “too big to fail” and their leaders are incorporated into government.

Obviously, definitions vary in part by era. Social construction of crime sees it as “behavior defined by individuals with the power and authority to make laws” that reflect their own interests while also influencing others to accept their view.<sup>13</sup> Thus, ruling elites label, reify, and punish as criminal those interactions that counter their interests. However, as historical capitalism developed from mercantile to industrial to postindustrial forms, such reification was undermined by actors inaugurating change. For example, smugglers portended free trade in the mercantilist period, and arguably today corporations evade “modernist” national taxes in a postmodern global economy.<sup>14</sup> In other words, the social construction of crime has a flexible relationship with the legal definition of crime. Where these are seriously out of synch, a major change in state-society relations may be underway.

This suggests that there may never have been separate legal and illegal economies as such, but rather a single complex web, hierarchically structured in terms of values, access, rewards, and experience.<sup>15</sup> Thus today, laundered money derived from illegal activities integrates into formal economies by investing in them.<sup>16</sup> In the recent global financial crisis, drug money, as the most available liquid capital, may even have saved the major investment banks from collapse.<sup>17</sup> Some fear that the growing power of politically unaccountable illicit actors, especially as assisted by information technology, may be edging out state institutions even to the point of a

kind of neomedievalism, that is, a nearly totally privatized form of social organization.<sup>18</sup>

These questions about political economy raise the even more complex historical question of the relationship of state and civil society and the meaning, origin, and reification of those terms. It is impossible here to review the enormous literature on the subject without vast oversimplification. Yet one must keep in mind that both notions are abstract concepts developed in modern thought most notably by Hegel, Marx, and Weber. For Hegel, civil society was a creation of the modern world, a sphere of individual freedom between the family and the state, with the latter providing the norms and laws that protect individual property and the market. Civil society presupposes the state, which holds it together by enforcement of law. Marx inverted this theory, arguing that the state presupposed civil society and the market. He saw through the vaunted “freedom” of civil society to the naked exploitation of labor by capital; for him, civil society was above all the arena of class struggle. The notion that the state was a neutral guardian of law was, for Marx, a profound illusion. For Max Weber, force was the essential element in both the foundation and maintenance of states, whose domination of society rested on their monopolization of the legitimate use of coercion within a given territory. His ideal type of a modern state took the form of a disinterested professional bureaucracy, whose staff does not own the material means that it administers, in order to enforce rational rules.<sup>19</sup>

All three theorists would have objected to the reification of the abstractions with which they sought to grasp the complexity of human organization, although we epigones have tended to fall into that trap. There are no material boundaries between the ideal “structures” of state and society; as people move fluidly between them, often acting inconsistently especially where rules are concerned. A “new criminology” of the 1980s linked to Marxist theory argued that people in all social classes, responding to contradictions of their historical conditions, respond rationally by moving in and out of different realms, some legal and some not.<sup>20</sup>

Eschewing Marxian dialectics, Foucault analyzed the mutual porosity of civil society and the state by dissecting the discourses that define the practices and forms of power. In the birth of criminology, the prison system, and the modern state, he saw a “microphysics of power” that is never fixed but is continuously forging new strategies. For Foucault, both civil society and the state constantly undergo change, both of them constituted by the interface of power, knowledge, and discursive practices, which he called “governmentality.” Changes in the law and the definition of crime work through interacting historical contingencies, discovered through “genealogy” rather than through dialectics.<sup>21</sup>

Literature analyzing the modern state fills libraries. Traditionally the modern state is assumed to have originated in the Peace of Westphalia, which ended the long European wars of religion with the Treaty of 1648, in which the major European countries agreed to respect the principle of territorial integrity, ceding to states sovereignty in both domestic and foreign affairs. This model has been extended to non-European countries, notably in the postcolonial period where it applies unevenly, given the arbitrary nature of the territorial boundaries of postcolonial states that were first imposed by imperialist powers. In addition, today's transnational movements of people, money, and commodities, as well as the ever-growing power of giant corporations whose wealth dwarfs even that of some states, has called into question the survival of state sovereignty in its historical form. What some have called a "post-Weberian" state is an open system struggling, sometimes violently, against nonstate actors like criminals, terrorists, or NGOs, in a flow of power that can move in either direction.<sup>22</sup> States are not formed only once, but are always in process, and the line between what is legal and what is not is constantly changing.<sup>23</sup> Jean Comaroff and John L. Comaroff have argued that norm and transgression, politics and crime endlessly redefine each other both within and beyond national polities, in a dialectic of law and disorder. Market fundamentalism, they claim, has created "zones of ambiguity" that are also frontiers in the struggle over sovereignty. Citing Tilly, they observe that in many postcolonial countries, violent crime even counterfeits government in providing fee-for-service security and social order, itself providing the "simulacra of law."<sup>24</sup>

Marx already recognized the existence of competing factions within the capitalist class and discussed various forms of accumulation. These could be applied to illegal activities as well. Thus, extractive activity that he labeled "primitive" would fit the predations of piracy. Illegal trade, like smuggling, fits into accumulation through commerce. Illegal manufacturing is productive accumulation based on the exploitation of illegal labor. The political question then becomes: at what point can a group enriched by illegal profits challenge and replace the ruling group enriched by profits deemed legal by the laws it itself enforces? To put it more bluntly: at what point do historically defined criminals become new rulers and change the laws accordingly? And if state making is a continuous process of struggle, what negotiations take place between lawmakers and lawbreakers short of or before an outright reversal of power?

A clue to how this might occur is given by Saskia Sassen in her book *Territory, Authority, Rights*, in which she analyzes components in the formation of the early modern national state that became "assembled" into the formal mechanisms that legitimate some claims and render others illegitimate, as

when usury becomes interest or common lands become privatized.<sup>25</sup> Such “assemblages” may later become unbundled, even with complicity of the state itself, thus gradually changing the nature of what is criminalized. If some aspects of economic activity are removed from public regulation, illegal overextension may intrude and its practitioners may gain the power that comes with wealth. States themselves currently assist the formation of new *global* “assemblages” of trade and finance in order to keep their national economies competitive, thereby opening many portals to illegal transactions, which paradoxically undermine those very states’ legitimacy. Sassen notes that the national state is no longer a container of social life and calls attention to state complicity in its own withdrawal from full accountability to formal democracy.<sup>26</sup> Her de-reification of the ideal Weberian state can explain the current incremental transfer of authority to the private sector, even including aspects of the military through subcontracting. If a “tipping point” is reached, state sovereignty itself becomes partially “disassembled,” without being totally dismantled, as some observers of globalization have predicted.<sup>27</sup> Indeed, to enforce new laws on recalcitrant parts of civil society, the state executive is likely to strengthen its repressive apparatus.<sup>28</sup> In the extreme case where crime has become a continuation of the state by other means, a “parapolitics” or shadow government may even become functionally central to global governance, as exemplified by the above example of laundered money being used to bail out from the world financial crisis.<sup>29</sup>

Today, a hotly debated question has become whether public authority is eroding to the point of disempowerment in the new climate of privatization and the opportunities that it provides for illicit practices. Charles Tilly, to whom this book is dedicated, foresaw that as a danger. He posited that “world-spanning capital markets are gaining autonomy with respect to firms and states” while emerging new networks, including those of mafias, drug traders, and clandestine currency dealers, may well contribute to undermining state authority.<sup>30</sup> How such a transformation may be already occurring has been traced in detail by two German sociologists, Elmar Altvater and Birgit Mahnkopf. They argue that the integration of national economies into global production and markets drives out older state norms of labor laws and that cheaper global labor forces more people into informal work and the shadow world of criminality. Global deregulation of markets has involved respectable big banks in financial transactions for drugs, sex, oil, etc. as it has local notaries, lawyers, financial services, travel bureaus, hotels, jewelers, and casinos. Money laundering—the layering of illegal with legal money—is the formalization of informal money and, because it recognizes no boundary rules, threatens the sovereignty of the national state over its currency.<sup>31</sup> Susan Strange includes the power of transnational crime in the

world economy when she concludes that the state is in full retreat.<sup>32</sup> And Manuel Castells has stated flatly: “The state is not only being bypassed from outside by organized crime. It is disintegrating from within. . . . The question is not whether our societies will be able to eliminate the criminal networks, but rather, whether criminal networks will not end up controlling a substantial share of our economy, of our institutions, and of our everyday life.”<sup>33</sup> Carolyn Nordstrom concurs, seeing on the horizon shadow networks becoming emergent powers. Still hoping to prevent this, she urges dropping our illusions about the relationship between state, individual, and authority and advocates instead more research on how illegal economies configure global economic and political practices. “Research into the shadows, is, in the final analysis, research into power.”<sup>34</sup>

Others have argued that, to the contrary, state power remains strong and in some ways is strengthened by the new challenges to its sovereignty. Indeed, the invisibility of the boundary between crime and the state may itself be a source of power, as it allows regimes to mask their reliance on the very practices and organizations that could, paradoxically, also threaten their claims to legitimacy.<sup>35</sup> Marxist Alfredo Schulte-Bockholt claims that economic criminals and elites share the ideology of capital accumulation and tend to integrate in a variant of Antonio Gramsci’s notion of *trasformismo*. This is the notion that elites stay in power by admitting adversarial groups into existing structures of domination for the purpose of maintaining these.<sup>36</sup>

A Foucauldian twist is given by Jean-François Bayart, who warns against defining the state in terms of narrow institutions that might appear to be weakening, rather than in the complexity of power relations inherent in “governmentality.” Agreeing with Tilly, Bayart states, “The transnational hybridization of the state and crime . . . seems to be of a systematic order and constitutes one of the cogs in the interlocking machinery of state and world capitalism.” Dirty money, he claims, serves the consolidation of public power and, in most Western democracies, finances the mechanisms of political representation. Furthermore, by ostensibly fighting crime, states are strengthened by heightening their powers of surveillance and repression in their current official “war” on the increasingly global scale of economic crime.<sup>37</sup>

Theories abound, more than can be reviewed here, and anthropologists, sociologists, and economists have done valuable empirical work on illegal practices at the intersection of civil society and the state. Yet political historians largely remain focused on the formal structures and institutions of states, and have regarded the definition, incidence, and impact of crime as marginal or anecdotal phenomena. Alfred McCoy, who exposed the CIA’s

politics of heroin, has noted that “historians have encircled the state with a sacral barrier that bars cognizance of its profane margins—systemic violence, institutional corruption, extra-legal state security, illegal social controls and, most importantly, syndicated vice.”<sup>38</sup>

The reasons are understandable. For one thing, much of written history has served national purpose. Ernst Renan famously noted: “Forgetting, I would even go so far as to say historical error, is a crucial factor in the creation of a nation, which is why progress in historical studies often constitutes a danger for the principle of nationality.”<sup>39</sup> But aside from the ideological, there are also methodological reasons having to do with sources. Certainly illicit practices leave fewer trails than legal ones. Yet, despite themselves, they do leave some. The authors in this volume have found enough evidence to track criminal agents and actions so as to make plausible claims about their political effects. Government documents like court records reveal inner conflicts that expose corruption or challenge interpretations of law; reports of police and foreign spies give evidence of illegal economic transactions like smuggling, counterfeiting, and financial chicanery; in modern times, investigative news reporters uncover shady practices; anthropologists and other participant-observers like whistleblowers bring first-hand information. Like all historical knowledge, that of criminal political economy is rarely complete; it must be verified and contextualized, but it is not lacking.

This gray zone challenges existing historiography. It is the subject of the authors in this volume, each of whom deals with a different polity in time and space. Organized chronologically, this sample of ten essays offers glimpses into the global development of modern states and political economy and their powerful shadows of crime and corruption.

Mary Lindemann’s study of early modern Amsterdam and Hamburg immediately questions our contemporary definition of corruption. Preceding the revolutionary disentanglement of private and public power, elites ruled more or less as a matter of course. Gift giving was a traditional form of social intercourse, not necessarily seen as bribery. Patronage, not necessarily viewed as nepotism, could facilitate social mobility. Agreements about shared political access could assure stability and prevent factionalism. Yet some concept of corruption existed if individual rulers exceeded the limits of acceptable behavior. In her study of the self-governing commercial cities of seventeenth-century Amsterdam and Hamburg, Lindemann explores the exact make-up of governing bodies and their powers in order to determine how and why charges of corruption emerged. Her comparison of the two cities and their different forms of governance shows that such charges could have been either used to force personnel changes while leaving a system intact or else aimed to radically reform the very structures

of government that enabled corruption. As both Amsterdam and Hamburg were important trading and banking centers that were also creditors to princes and countries, the question of who held power legitimately could lead to serious civil strife.

The turbulent seventeenth century saw other transgressions of established practices, some of which presaged later revolutions. Thus, the mercantilist policies of empires like England, France, and Spain put their colonies at a disadvantage, which they overcame by smuggling and piracy.<sup>40</sup> Fernand Braudel argued that in general pirate activity signaled newcomer powers seeking control over commerce on the edges of mainland empires in crisis or decline, the Mughal and Chinese as well as the European ones.<sup>41</sup> In this volume, Douglas Burgess shows how pirate plunder, a simple form of capital accumulation, became important to Rhode Island's economic development, which in turn contributed to the colony's political transformation and a very nearly open breach with the Crown a century before the American Revolution.<sup>42</sup> Lively legal arguments crossing back and forth over the Atlantic indicated that the American colonies had developed a system of laws specifically regarding admiralty jurisdiction—the law of all things related to the sea—suited to their economic needs and contradictory to the interpretation of king and Parliament. Rhode Island in particular had developed a culture of piracy virtually from its inception, and its growing success so irritated the English Board of Trade that it threatened to deprive the colony of its charter. Such debates bequeathed a uniquely American legal culture to the revolutionaries of 1776.<sup>43</sup>

Illicit trade also played a part in the heart of the European empires, whose governance could not fully control the seas and ports of the mushrooming global trade. Smuggling could become a political act of resistance and rebellion in the metropolitan core as well. Michael Kwass shows how in seventeenth-century France popular discontent with royal control over the consumption of commodities foretold a deepening antagonism that was to culminate, as in the American colonies, in revolution nearly a century later. The popularity of American tobacco made it a good target for state monopoly and consumer taxes, which led as well to a thriving underground economy. This drug trafficking in nicotine supported bourgeois investors as well as peasant traffickers and middlemen. A draconian penal code met with widespread resistance that included violence not very different from the moral economy of food riots of the time. Thus, by criminalizing smuggling, the state provoked a challenge to its very existence. Eventually, large crowds destroyed customs houses in the first acts of the French Revolution, which established the new legal regime of a matured bourgeoisie.<sup>44</sup>

The American and French revolutions established new nation-states with democratic features that could expand to greater inclusiveness over time. Whole populations more actively participated in the growing world market and took an interest in their state's claims to aggrandizement. In France, revolution soon became empire in competition especially with the British Empire, and in that contest England used criminal law to provide much-needed convict labor in its colonies. Anand Yang shows how the penal regime that England imposed on India in the nineteenth century was rationalized as bringing a superior morality, also evinced by England ending its involvement in the slave trade, although not by giving up trafficking opium into China. Yet the colonial state supplanted the loss of slave labor by the practice of convict transportation, which provided labor in the penal colonies to which Indian "criminals" were banished. Yang shows how penal discipline was calibrated to transform a population of fettered convicts into docile and productive workers, a labor force constructed for empire. Divided into ranks of attributed or attained morality, some got positions of trust and responsibility that engaged them in the penal system itself. As Singapore became the principal penal colony in Southeast Asia, its further growth as a colonial settlement depended on convict labor to build the town. Indeed, Yang concludes that criminalized and convicted colonials established much of the empire's infrastructure. His essay demonstrates the role of culture in the development of capitalist political economy.<sup>45</sup>

Colonial and indigenous states were not the only contenders for political power. Carl Trocki shows how alternative sociopolitical constructs sometimes competed and sometimes collaborated with such established authorities, thereby surviving in the criminal underworld, as in the case of the Chinese Triads or secret societies. Initially cooperative organizations of workers who left mainland China in the late seventeenth and early eighteenth centuries, these diasporic egalitarian brotherhoods became transformed into secretive local criminal gangs that eventually evolved into global criminal enterprises. Closely tied to China's mainland economy, workers, merchants, and mariners collaborated with these secret Triads to avoid state taxes and regulation. However, here too collusion with European imperial power allowed some secret societies to gain official status, leaving others marginalized into pure outlawry, dealing in drugs, prostitution, and gambling and enforcing labor discipline. With the rise of Asian nationalism in the early twentieth century, Triads served the anticommunist Guomindang in China and the French and British in colonial Asia. Enriched by the opium and heroin trades and engaged in the global anticommunist wars, they came to flourish as corporate capitalist concerns closely related to governments. They demonstrate

how illicit activities may offer a path of upward mobility from worker to entrepreneur that is less accessible in the formal economy.<sup>46</sup>

Similarly, in the modernizing state of Japan, the mafia-like *yakuza* worked closely with officials to ensure a relatively smooth transition to capitalism. Eiko Maruko Siniawer describes this cooperation in the use of violence to suppress labor and leftist activism from early in the twentieth century. She shows how *yakuza* could build on a long, contradictory history of both predatory practices and the support of local communities, even to the point of being themselves elected to public office in the interwar period. Politicians, industrialists, military men, and *yakuza* bosses involved in the construction industry formed networks to combat labor unions and to protect national customs against foreign ideas like democracy and/or socialism. The resurgence of socialist and communist parties and labor unions in post-World War II Japan led the state to revive its use of *yakuza* violence to suppress them. Profits from black markets, gambling, prostitution, and racketeering allowed the emergence of large syndicates, whose financial interests lubricated their relationship with the ruling conservative groups. Ultimately, popular reaction against political violence replaced thuggery with corruption, but maintained the relationship between *yakuza* and the state. Siniawer concludes that both operate in a fluid realm of capitalist political economy in which distinctions between legitimacy and illegitimacy become blurry.<sup>47</sup> What has evolved is the role and form of crime in the capital accumulation of the industrial mode of production, as distinct from that of commerce or simple predation.

A similar scenario plays in some states of the Western Hemisphere. Here Nazih Richani describes the role of drug traffickers in consolidating the state of Colombia. Naming them a “narcobourgeoisie,” he shows how the political economy of the cocaine industry made it historically symbiotic with state making. Focusing on the recent history of drug trafficking, Richani tracks the evolution of the marijuana trade into the coca trade and its sinister connection with the state through laws facilitating money laundering. The notorious Colombian cartels infiltrated official politics, even running for election, and they founded the paramilitary forces whose death squads fought Marxist guerillas in the impoverished countryside. Their influence in both major political parties enhanced police and military repression and resulted in elections that ushered in changes in land laws legalizing the cartels’ previous violent usurpations, thus enabling the use of land for money laundering, speculation, and contracts for multinational corporations. Richani concludes that the historical violence of criminal groups in Colombia helped to construct the corrupt and repressive nation-state of the present and its ties to the global economy.<sup>48</sup>

The African continent has experienced similar postcolonial tensions and deformations in state building. Here arbitrary colonial borders that intersect ethnic groups have proven hard to maintain. Kristof Titeca shows how, in Uganda, the state always had an ambiguous relationship toward smuggling in its border regions, where cross-border traders have come to wield power sufficient to dictate terms to government officials. Indeed, the widely bypassed formal economy and the growing informal sector together may now constitute an integrated whole.<sup>49</sup> On a daily practical level, local social norms do not criminalize smuggling; rather in such contested areas, state and nonstate actors negotiate official regulations in a fluctuating dynamic process in which public authority can wax and wane. On the one hand, rebel groups may be empowered in this way. On the other hand, the government relies on the same illicit traders to maintain a functioning economy.<sup>50</sup>

More suddenly and dramatically than any of the historical examples given so far, Russia since 1989 has built a new kind of state, transitioning with dizzying speed from socialism to capitalism. Despite its rapidity it nevertheless mimics the slower processes of market building and state formation normally associated with a distant past.<sup>51</sup> Patricia Rawlinson shows how criminals blazed the path to post-Soviet Russia's incarnation as a "mafia state." Once again, definition becomes critical. The Bolsheviks' revolutionizing of property relations in 1917 brought wrenching shifts in what was considered legal or illegal, leading its opponents to consider the new state itself and its enforcements as "criminal." The mammoth Soviet experiment to modernize quickly under socialist auspices created scarcities and inefficiencies that often led to corrupt networks of barter, which were expanded and strengthened by the legal vacuum opened by the 1990 reforms. The fast track to a market economy known as "shock therapy" created a criminogenic environment in which organized crime easily became confounded with private enterprise, soon dubbed "gangster capitalism." Despite recent anticorruption legislation the problem remains serious, the new state's privatization policies having embedded formerly criminalized oligarchs in its bureaucracy. However, Rawlinson concludes that for all its unique historical development, this outcome is not confined to Russia but may be emblematic for the current global symbiosis of business and politics.

With Beatrice Hibou's final essay in this volume, we leave the realm of single polities for the transnational Mediterranean region. She challenges the notion that deregulated markets and the spread of illegal transactions that they enable have rendered states impotent, asserting instead that in the new order, state partnerships with private entities actually enhance political domination. In the European Union, fear of economic crime, migration, and terrorism all emanating from the East and South has led to a

mythological opposition between its own law-abiding institutions and a stigmatized “Other.” In fact, large informal economies characterize all shores of the Mediterranean. Through four examples—migrant labor, money laundering, fake commodities, and smuggling—she shows how states collude in criminal activities while officially opposing them. In the area of production, migrant workers on temporary contracts are easily rendered illegal and may be expelled, which makes them a regional low-wage reserve of labor. Thus, through criminalization, judiciaries of the European Union collude with employers while simultaneously expanding their states’ powers of surveillance and control over immigration. Furthermore, European states officially fight the manufacture of fake goods, but turn a blind eye to the very same complaining companies that covertly make such goods for a secondary market. In the area of commerce, smuggling still implicates states in that they have privatized much of port security, which allows selective inspection of imports. Finally in the area of finance, control over money laundering targets small migrant cash transfers on political grounds while neglecting large illegal transactions. Hibou concludes that contemporary states hypocritically collude in crime in order to maintain themselves and the capitalist system.

Of course, these essays do not exhaust the enormous literature on crime, past and present, but they do point to the need for a *historical* analysis of its political effects, especially regarding state formation and maintenance. The historic nation-state is a relatively recent form of governance, and, constantly evolving, its future is uncertain. Therefore, it becomes of critical importance to us today to understand the meaning of increasingly noticeable transnational crime for state power and for democratic governance. This volume offers examples of the evolution of capitalist political economy through its mercantilist, imperialist, industrialist, postcolonial, and transnational phases and the role that illicit practices played and continue to play in changing the rules of the game, which is to say the laws, throughout.

We have seen that under the regulatory system of mercantilism, piracy and smuggling helped to build nation-states, their predations a form of primitive accumulation that helped to create new classes aspiring to power. Under nationalist imperialism, new rules forced captive peoples into unfree labor for their maximum exploitation. Under industrialism, privatized violence reduced working-class opposition to capital accumulation. The contemporary neoliberal deregulated market has widened opportunities for transnational crime, with alarming implications for civil society and representative political institutions. In sum, violence and deceit have been consistently coherent with transitions in historical capitalism. Yet while it may appear that the more things change, the more they stay the same—crime

persists—nevertheless the forms of these illicit activities have changed over time, adapting to different modes of production and interacting with different forms of governance.

Indeed, the historical trajectory looks bleak. One might be tempted to agree with Richard Vann's self-protective advice: ". . . it is at least possible that there might be subjects about which it would be ethically preferable for historians to rein in their curiosity or suspend the application of at least some of the rules of historical method."<sup>52</sup>

But this volume sees historians' ethics rather in confronting the full dimension of the past, because "the cost of suppressing information comes high. . . . what you don't know is especially hurtful, for it denies you the opportunity to deal with reality. It restricts choices by decreasing information."<sup>53</sup> An historical perspective on the impact of illicit practices on the development of the political entities may hold lessons about our future. I hope that this volume will inspire still more transparency in the study of history and thereby widen our choices for an ethical future.

## NOTES

Many thanks for the acute critical readings by and suggestions from Bonnie Anderson, Jean Anyon, Nanette Funk, Martha Gimenez, Joan Greenbaum, Atina Grossmann, Amy Hackett, Marion Kaplan, Douglas Morris, Mary Nolan, Krista O'Donnell, John Pittman, Nancy Reagin, Jane Schneider, Peter Schneider, Julia Sneeringer, Irwin Wall, and the anonymous readers of Berghahn Books whose suggestions helped to shape this Introduction.

1. Josiah McC. Heyman and Alan Smart, "States and Illegal Practices: An Overview," in Josiah McC. Heyman, ed., *States and Illegal Practices* (Oxford, 1999), 1–24, note the symbiotic connection between state law and illegality and see the state-society relationship as processual, rather than static. This excellent introduction to the volume of essays mainly by anthropologists proposes a broad historical pattern from 1450 to the present, in which states are constantly in formation and decline with illicit practices playing an ambiguous but an important part. However, the contributions refer mainly to the twentieth century in contrast to those presented here, which offer a historical trajectory from the seventeenth century on.
2. Charles Tilly, "War Making and State Making as Organized Crime," in Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol, eds., *Bringing the State Back In* (Cambridge, 1985), 170.
3. Willem van Schendel and Itty Abraham, eds., *Illicit Flows and Criminal Things: States, Borders, and the Other Side of Globalization* (Bloomington, IN, 2005), 7.
4. Emile Durkheim, *Rules of Sociological Method* (London, 1982), 101–2.
5. Robert Merton, *Social Theory and Social Structure* (New York, 1968), 134, 136.

6. Samuel P. Huntington, *Political Order in Changing Societies* (New Haven, CT, 1968); Mark Findlay, *The Globalisation of Crime: Understanding Transitional Relationships in Context* (Cambridge and New York, 1999), viii, 2–12, 127.
7. Robert Harris, *Political Corruption: In and Beyond the Nation State* (London and New York, 2003), 57, 166.
8. Raymond W. Baker, *Capitalism's Achilles Heel: Dirty Money and How to Renew the Free-Market System* (Hoboken, NJ, 2005)
9. Jane Schneider and Peter Schneider, "The Anthropology of Crime and Criminalization," *Annual Review of Anthropology* 37 (2008): 351–75.
10. John McFarlane, "Transnational Crime, Corruption, and Crony Capitalism in the Twenty-First Century: An Asia-Pacific Perspective," *Transnational Organized Crime* 4, no. 2 (Summer 1998): 1–30.
11. Phil Williams, "Transnational Organized Crime and the State," in *The Emergence of Private Authority in Global Governance*, ed. Rodney Bruce Hall and Thomas J. Biersteker (Cambridge and New York, 2002), 164.
12. Jeremy Adelman, "Commerce and Corruption in the Late Spanish and Portuguese Empires," in *Corrupt Histories*, ed. Emmanuel Kreike and William Chester Jordan (Rochester, NY, 2004), 428–60. Also Adelman, *Sovereignty and Revolution in the Iberian Atlantic* (Princeton, NJ, 2006), 160–66.
13. Stuart Henry, "Social Construction of Crime," *21<sup>st</sup> Century Criminology: A Reference Handbook*. 2009. <http://www.omnilogos.com/2011/06/28/social-construction-of-crime/>
14. Alan L. Karras, *Smuggling: Contraband and Corruption in World History* (New York, 2010), ch. 1 and 3, in which he points out that strictly enforced mercantile regulations led to their evasion and eventual replacement by the kind of freer trade practiced before by smugglers.
15. Philip Harding and Richard Jenkins, *The Myth of the Hidden Economy* (Philadelphia, 1989), 179.
16. John Robb, "Nation-states, Market-states, and Virtual-states," *Global Crime* 7, no. 3–4 (Aug.–Nov. 2006), 351–64.
17. Antonio Maria Costa, head of the United Nations Office on Drugs and Crime, cited evidence from officials in the United Kingdom, Switzerland, Italy, and the United States, in Rajeev Syal, *The Observer*, 13 December 2009. <http://www.guardian.co.uk/global/2009/dec/13/drug-money-banks-saved>
18. Moisés Naím, *Illicit: How Smugglers, Traffickers, and Copycats are Hijacking the Global Economy* (New York, 2005); John Lea, *Crime and Modernity: Continuities in Left Realist Criminology* (London, 2002), 127. Parag Khanna, "The Next Big Thing: Neomedievalism," *Foreign Policy*, 15 April 2009. [http://www.foreignpolicy.com/articles/2009/04/15/the\\_next\\_big\\_thing\\_neomedievalism?sms\\_ss=email&at\\_xt=4d7d3269a5697786%2C0](http://www.foreignpolicy.com/articles/2009/04/15/the_next_big_thing_neomedievalism?sms_ss=email&at_xt=4d7d3269a5697786%2C0) .
19. Georg Wilhelm Friedrich Hegel, *Elements of the Philosophy of Right*, ed. Allen W. Wood; trans. H. B. Nisbet (Cambridge, 1991), 250–51; Karl Marx, "The Critique of Hegel's Philosophy of Right," in *Early Writings*, trans. and ed. T. B. Bottomore (London, 1963); Max Weber, "Politics as a Vocation," in *From Max*

- Weber: *Essays in Sociology*, trans. and ed. H. H. Gerth and C. Wright Mills (New York, 1958), 77–128.
20. Alan A. Block and William J. Chambliss, *Organizing Crime* (New York, 1981), 6–7.
  21. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York, 1977); Foucault, “Governmentality,” in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (Chicago, 1991); Foucault, “Nietzsche, Genealogy, History,” in Paul Rabinow, ed., *The Foucault Reader* (London, 1991), 76–100.
  22. Joel S. Migdal and Klaus Schlichte, “Rethinking the State,” in *The Dynamics of States: The Formation and Crises of State Domination*, ed. Klaus Schlichte (Aldershot, 2005), 14.
  23. Ibid. Also, Enrique Desmond Arias, *Drugs and Democracy in Rio de Janeiro* (Chapel Hill, NC, 2006), 42–48; Yoram Barzel, *A Theory of the State: Economic Rights, Legal Rights, and the Scope of the State* (Cambridge, 2002), 235–37; William J. Chambliss, Raymond Michalowski, and Ronald C. Kramer, eds., *State Crime in the Global Age* (Portland, OR, 2010), 24; David Nugent, “State and Shadow State in Northern Peru circa 1900: Illegal Political Networks and the Problem of State Boundaries” and Alan Smart, “Predatory Rule and Illegal Economic Practices,” in Heyman, *States and Illegal Practices*, make the same point as do the more recent contributions in Jean-Louis Briquet and Gilles Favarel-Garrigues, eds., *Organized Crime and States: The Hidden Face of Politics* (New York, 2010).
  24. Jean and John L. Comaroff, eds., *Law and Disorder in the Postcolony* (Chicago, 2006), 5, 11, 13, 34. The notion of a dialectic between the formal and informal economies was earlier proposed by Philip Harding and Richard Jenkins, *The Myth of the Hidden Economy* (Philadelphia, 1989), 175.
  25. Saskia Sassen, *Territory, Authority, Rights: From Medieval to Global Assemblages* (Princeton, NJ, 2006), 3.
  26. Ibid., 269.
  27. Ibid., chapter 4.
  28. Ibid., 168–85.
  29. Eric Wilson, “Deconstructing the Shadows,” in *Government of the Shadows: Parapolitics and Criminal Sovereignty*, ed. Eric Wilson (London and New York, 2009), 29–30.
  30. Charles Tilly, “Welcome to the Seventeenth Century,” in *The Twenty-First-Century Firm: Changing Economic Organization in International Perspective*, ed. Paul DiMaggio (Princeton, NJ, 2001), 205, 209. Also, Tilly, *Trust and Rule* (Cambridge, 2005).
  31. Elmar Altvater and Birgit Mahnkopf, *Globalisierung der Unsicherheit: Arbeit im Schatten, schmutziges Geld und informelle Politik* (Münster, 2002), ch. 8. Baker, *Capitalism’s Achilles Heel*, 25. R. T. Naylor, *Wages of Crime: Black Markets, Illegal Finance and the Underworld Economy* (Ithaca, NY, 2002), 250.
  32. Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge, 1996), ch. 8.

33. Manuel Castells, *End of Millennium*, vol. 3, *The Information Age: Economy, Society and Culture* (Malden, MA, 1998), 203, 354.
34. Carolyn Nordstrom, *Shadows of War: Violence, Power and International Profiteering in the Twenty-first Century* (Berkeley, CA, 2004), 233–35.
35. Patricia M. Thornton, *Disciplining the State: Virtue, Violence, and State-making in Modern China* (Cambridge, MA, 2007), 9. Karras, *Smuggling*, 67, makes a similar case for the early Atlantic powers, arguing that by both writing laws and tariffs yet allowing their evasion, the ruling bourgeoisie remained in power.
36. Alfredo Schulte-Bockholt, *The Politics of Organized Crime and the Organized Crime of Politics* (Lanham, MD, 2006), 137. Antonio Gramsci, *Selections from the Prison Notebooks* (New York, 1971), 58–59.
37. Jean-François Bayart, *Global Subjects: A Political Critique of Globalization*, trans. Andrew Brown (Cambridge, 2007), 70–72, 76. He makes these arguments also in *The State in Africa* and *The Criminalization of the State in Africa*.
38. Alfred W. McCoy, “Covert Netherworld: Clandestine Services and Criminal Syndicates in Shaping the Philippine State,” in Wilson, *Government of the Shadows*, 234.
39. Lecture delivered at the Sorbonne, 11 March 1882. ‘Qu’est-ce qu’une nation?’ *Oeuvres Complètes* (Paris, 1947–61), vol. 1, 887–907. Translation in *Modern Political Doctrines*, ed. A. Zimmern (London, 1939), 186–205.
40. Karras, *Smuggling*, ch. 2, sees piracy as part of imperial statecraft, but distinguishes it from smuggling in that piracy involved violence whereas smuggling rarely did.
41. Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II*, trans. Siân Reynolds (New York, 1972–1973), vol. 2, 865–91.

There is some debate about the priority of commercial or military function of piracy. Anne Pérotin-Dumon, “The Pirate and the Emperor: Power and the Law on the Seas, 1450–1850,” in *Bandits at Sea: A Pirates Reader*, ed. C. R. Pennell (New York, 2001), 25–55, argues that piracy played a part in nation building through its part in warfare among new powers seeking control over the seas. A counterargument, that piracy is caused rather by distortions in supply and demand of the market, is made by David Starkey, “Pirates and Markets” in *Bandits at Sea*, 107–21, and by Alan A. Block and William J. Chambliss, *Organizing Crime* (Amsterdam, 1981), 226–27. Thomas W. Gallant, “Brigandage, Piracy, Capitalism, and State-Formation: Transnational Crime from a Historical World-Systems Perspective,” in Heyman, *States and Illegal Practices*, 25–61, offers many examples for his conclusion that the ambiguous activities of bandits and pirates were directly related both to the development of a capitalist world system and to the formation of modern states. Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton, NJ, 1994) sees historical changes in rulers’ use of piracy, both military and commercial, but argues that the development of national states ultimately banned such nonstate violence as potentially harmful to international relations.

42. Eliga Gould, "Lines of Plunder or Crucible of Modernity? The Legal Geography of the English-Speaking Atlantic, 1660–1825," in *Seascapes: Maritime Histories, Littoral Cultures, and Transoceanic Exchanges*, ed. Jerry Bentley, Renate Bridenthal, and Kären Wigen (Honolulu, 2007), 116, concludes that the great democratic revolutions had their origins in piracy and in the legal wrangling around it.
43. As in this case, Lauren A. Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (Cambridge, 2002), 6, notes that in colonial settings legal actors tended to craft legal strategies involving appeals to state law long before the colony made a claim for sovereignty. Nor did the shadow economy end with the American War of Independence. The title of Peter Andreas' *Smuggler Nation: How Illicit Trade Made America* (New York, 2013) speaks for itself. Stephen Mihm, *A Nation of Counterfeiters: Capitalists, Con Men, and the Making of the United States* (Cambridge, MA, 2007) shows how fake money met the need for credit and capital in the new nation and on p. 11 claims, "At its core, capitalism was little more than a confidence game." For the role of crime in later American history see Michael Woodiwiss, *Organized Crime and American Power* (Toronto, 2003). The classic study of the link between recent American foreign policy and the drug trade is Alfred W. McCoy, *The Politics of Heroin: CIA Complicity in the Global Drug Trade*, 2nd rev. ed. (Chicago, 2003).
44. For widespread evasion of taxes by smuggling in this period see Julius R. Ruff, *Violence in Early Modern Europe, 1500–1800* (New York, 2001). For the Atlantic world in this period, see Karras, *Smuggling*, ch. 4 and 5.
45. Benton, *Law and Colonial Cultures*, 261–62, traces the evolution of a global legal regime through the force of culture, which she defines as a set of routines for organizing cultural differences into structures of international continuity such as those of empire.
46. The apolitical aspect of the Triads emerged clearly during the Japanese invasion of China in 1937. In the countryside, they fought the Japanese, who themselves had recruited yakuza, but collaborated with them in racketeering in occupied cities. The Communist government of China banned Triads and drugs. Martin Booth, *The Dragon Syndicates: The Global Phenomenon of the Triads* (New York, 1999), 95. Hong Kong is the capital of modern-day Triads, some of whom have infiltrated South China itself with money laundering, gambling, drug trafficking, and prostitution. See Yiu Kong Chu, *The Triads as Business* (London, 2000) and Lo Shiu-Hing, "Cross-Border Organized Crime in Greater South China," *Transnational Organized Crime* 5, no. 2 (Summer 1999): 176–94.
47. See also David E. Kaplan and Alec Dubro, *Yakuza: Japan's Criminal Underworld* (Berkeley, CA, 2003). Yakuza groups are still not illegal and operate front companies behind which they engage in drug running, prostitution, cybercrime, and stock market manipulation, according to Jake Adelstein, *Tokyo Vice: An American Reporter on the Police Beat in Japan* (New York, 2009).
48. Recent confidential internal memos from Chiquita Brands International reveal that the company paid Colombian paramilitary and guerrilla groups as well as

- former president Álvaro Uribe. <http://nsarchive.org>. Colombia is certainly not the only South American state built at least in part by illicit activities. For that history in Argentina, see Jeremy Adelman, *Republic of Capital: Buenos Aires and the Legal Transformation of the Atlantic World* (Stanford, CA, 1999); for Peru, Alfonso Quiroz, *Corrupt Circles: A History of Unbound Graft in Peru* (Baltimore, 2008). Currently Mexico may be on the verge of becoming a narco-state, according to the head of its intelligence service who in 2008 claimed that gangs have infiltrated police, justice, and government bodies including the legislature. <http://news.bbc.co.uk/2/hi/americas/7506581.stm>.
49. The resulting hybridity of a legal regime is the central theme of Benton, *Law and Colonial Cultures*.
  50. The theme is echoed by Klaus Schlichte, "Uganda—A State in Suspense," in *The Dynamics of States: The Formation and Crises of State Domination*, ed. Klaus Schlichte (Aldershot, 2005). He argues that the Ugandan president faces a dilemma of modernizing while including indigenous patronage networks and that he solves it through partial compliance with and partial denunciation of corruption. A more state-centric than local approach is taken by Jean-François Bayart, Stephen Ellis, and Béatrice Hibou, *The Criminalization of the State in Africa*, trans. Stephen Ellis (Bloomington, IN, 1999) who argue that control over commerce rather than territory is a key demarcator of political power and that collaboration of state officials with smugglers has criminalized many states. Jean-François Bayart, *The State in Africa: The Politics of the Belly* (Cambridge, 2009) theorizes the emergence of hybrid states that integrate illicit and licit activities. See also William Reno, *Warlord Politics and African States* (Boulder, CO, 1998); Achille Mbembe, *On Private Indirect Government* (Dakar, 2000); and Janet Roitman, *Fiscal Disobedience: An Anthropology of Economic Regulation in Central Africa* (Princeton, NJ, 2005).
  51. Vadim Volkov, *Violent Entrepreneurs: The Use of Force in the Making of Russian Capitalism* (Ithaca, NY, 2002), xii. Ironically, the new Russian mafia learned from foreign contemporaries. Volkov interviewed a banker who had started as a racketeer and had trained from videos of the American or Hong Kong mafia, 10.
  52. Richard T. Vann, "Historians and Moral Evaluations," *History and Theory* (December 2004): 14.
  53. Joyce Appleby, Lynn Hunt, and Margaret Jacob, *Telling the Truth About History* (New York, 1994), 307.

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