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Institutions, the Illegal Drug Trade, and Participant Strategies: What Corrupt or Pariah States Have In Common with Liberal Democracy and the Rule of Law

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Institutions generate incentives that guide behavior, but many analysts and policymakers underestimate the power of institutions to affect behavior by ignoring how distinct strategies work to generate similar outcomes in different institutional contexts. This article uses the illegal trade in psychoactive substances to illustrate how outcomes (the size of the illegal drug market) across very distinct political institutions can be the same because individuals adopt different strategies in their pursuit of the same behavior: to participate in the illegal drug trade. The illegal trade in psychoactive substances represents an understudied and poorly studied issue in international relations. Arguments that focus on the deviant characteristics of governments in the developing world and organized crime to explain the trade are misleading for empirical and methodological reasons. I propose a general argument about the proliferation of the illegal drug trade that accounts for its success in countries struggling with poverty, corruption, terrorism, and pariah leaders, as well as in rich, stable democracies in which the rule of law “reigns.” The article takes factors that are often seen as distinct in explaining the drug trade (e.g., civil rights in liberal democracies and corruption in developing countries) and demonstrates that their explanatory logic represents variations on the

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same causal variable: the ability to conceal oneself. My insight is that the strategies used to achieve concealment vary by the institutional context in which participants find themselves.

KEYWORDS *drugs, drug trade, institutions, organized crime*

The illegal trade in psychoactive substances ("drugs") proliferates in countries struggling with poverty, corruption, terrorism, and pariah leaders, as well as in rich, stable democracies in which the rule of law "reigns," and tends to be quite limited in many dictatorships. Analysts, policymakers, and politicians usually offer distinct explanations of the phenomenon in different types of countries; of particular interest is that those explanations generally see the cause of the drug trade in stable democracies as a result of the export of drugs from corrupt and pariah states. In this exploratory article I draw on models of institutions as factors that constrain and incentivize behavior to bring a unifying logic to understanding the illicit drug trade across levels of international cooperation, regime type, levels of economic, social and political development, and leader characteristics.

I argue that "concealment," understood as the ability of an individual to avoid scrutiny of his behavior by others, is the key variable that has been missing from our analyses. It will not shock many analysts to hear that consumers, producers, and traffickers in the U.S., Europe, Canada, and Australia "get away with it" by "hiding," and that laws protecting civil rights make it difficult for the authorities to catch them (Bakalar, and Grinspoon, 1988). Nor will it surprise anyone to learn that in Afghanistan, Mexico, Columbia, Myanmar, etc., corruption and a limited reach of the state facilitate the drug trade, or that drug use in General Pinochet's Chile was less than in democratic Chile. But rather than see these explanations of the drug trade as distinct, I argue that from a theoretical perspective they are in fact the same. My fundamental insight, therefore, is that the strategies used to achieve concealment vary by the institutional context.

The illegal drug trade is an understudied empirical phenomenon that can help us understand the complexity of how institutions guide behavior in areas that are not the focus of those institutions.¹ The consequent behavior, while unintended, should be incorporated into our institutional analyses. Political scientists look to the institutional structure of government to understand the illegal drug trade (cf., Clawson and Lee, 1996; Griffith, 1997; Rotberg, 2002), but without fully understanding how similar outcomes result from different institutional structures. Three general institutional structures stand out in these analyses. "Weak" or "failed states" are so wracked by corruption or internal dissent that the government cannot effectively enforce its own laws within its territory (National Intelligence Council, 2004). "Pariah states" may have effective institutional structures, but their governments

flaunt international prohibitions and permit or promote the illegal drug trade, and thus state institutions facilitate participation in the illegal drug trade. Liberal democratic institutions are based upon the rule of law (typically defined as a democratic system with an independent, impartial, and efficient judiciary that both constrains the government and protects individual rights); a market economy (whose existence limits the power of the government to direct economic activity; a government limited to regulating private action without disrupting too much the free movement of capital, goods, and services lest economic growth suffer); and competitive elections. It is the first two characteristics that interest us in the case of the illegal drug trade.

In addition to theoretical interest, the drug trade has importance for public policy reasons. Scholars of public policy, comparative politics, and international relations have addressed some of the associated issues, whether through sociology and criminology's focus on deviant behaviors (Parket, Aldridge, and Measham, 1998; National Institute on Drug Abuse, 1997), constructivists' emphasis on the struggle for power between state elites and civil society (Yongming, 1999), or economists' models of supply and demand in illegal markets (Rasmussen, Benson, and Mocan, 1998; Anderson and Bandiera, 2006). Democratic institutions and economic development are usually proposed as a way of defeating or at least significantly mitigating the trade in illegal drugs (Dupont, 1999; Youngers and Rosin, 2005; USAID, 2007).

Yet, the evidence, incomplete² and poorly structured³ as it is, makes it abundantly clear that consumption, production, distribution, and money laundering are phenomena that occur not only on the margins of domestic and international society, but in the very heart of middle class and stable liberal democracies. Analyses consequently suffer from not only the observational problems associated with studying illegal and covert activities, but perhaps more importantly, from a flawed research design when the answer to why drugs are produced and trafficked and money is laundered is sought primarily in poor, non- or marginally democratic polities and weak states (cf., Walker III, 1996; Bentham, 1998).

To remedy this critical error, I propose a general argument about the proliferation of the illegal drug trade that accounts for its success in countries struggling with poverty, corruption, terrorism, and pariah leaders, as well as in rich, stable democracies in which the rule of law "reigns."⁴ The illicit drug trade includes everyone involved in the consumer-producer chain of relationships that is associated with illicit drug consumption: consumer, distributor, producer, input suppliers, and money launderers. I begin with the assumption that some subset of the population will always be drawn to use psychoactive substances, including illicit ones, and others to supply that group; the purpose of the article is to explain proliferation beyond this undefined minimum produced merely by human nature.

Where democracy and legal institutions are weak, or privilege the rights of society over those of the individual, or the country is nondemocratic, participants in the illegal drug trade will adopt the strategies with which we are quite familiar. In corrupt states, police and politicians are paid to look the other way (therefore, they don't "see" what is going on and do not expose the illegal behavior). Pariah states screen national production, distribution, and money laundering behind the shield of state sovereignty (thus "hiding" it from the view of those nations and international regimes that would punish it). In "failed" states where the government has no presence in significant portions of the national territory, participants in this illegal phenomenon will seek out the physical limits of the government's reach. Paradoxically, in liberal democracies (where the rights of private property and civil liberties are strong), concealment also facilitates the drug trade. Here users, producers, traffickers, and money launderers hide among mainstream society, confident that the very strength of the rule of law and the responsibility of politicians to the electorate will dramatically drive down the probability of being discovered in their illegal activities. This freedom from unreasonable search and seizure holds true even for noncitizens whether they are resident, visiting, or just passing through the country.

These distinct strategies account for the ability of consumers to consume, producers to produce, traffickers to traffic, and money launderers to launder in rich and poor countries, democratic or not. But the differences in concealment strategies have significant negative impacts beyond the drug trade itself. All strategies to circumvent the law generate externalities that can potentially undermine domestic institutions and dramatically affect everyday life, but as discussed in the conclusion to this article, those that promote corruption and state weakness are particularly threatening.

This article is organized as follows. A first section presents my argument about why concealment is the key factor driving the drug trade and how "the rule of law" becomes the functional equivalent of corruption, weakness, and pariah status for this issue. In addition, the three major traditional explanations for the illegal drug phenomenon (deviant states, organized crime, and the balloon analogy) are introduced. The next section presents the available empirical data on what drugs are consumed illegally, demonstrating that the illegal drug trade cannot be adequately examined by focusing on the "unholy trinity" of marijuana, cocaine, and heroin. Subsequent sections present evidence about where illegal drugs are consumed, produced, and distributed as well as where the laundering of money occurs. The conclusion summarizes the power of the concealment argument and examines some important implications of the argument for institutional models of behavior, and drug policy.

EXPLANATIONS FOR THE ILLEGAL DRUG TRADE

The Concealment Argument

My concealment argument builds upon an expected utility analysis to highlight the key determinants of the decision to participate in the illegal drug trade, whether as consumer, producer, trafficker, or money launderer. This argument assumes that people involved in the illicit drug trade can be usefully understood as individuals making rational decisions. As such, their participation occurs when the benefits of participating outweigh the costs associated with being involved in the illegal activity.

$$eU(\text{illegal drug trade}) = (f) \text{ benefits expected} - \\ (\text{probability of getting caught} \times \text{penalty for} \\ \text{getting caught} + \text{health risks of involvement})$$

This basic proposition holds for everyone involved in the trade. For consumers the benefits can be (depending on the substance and mood of the person) pleasure, personal insight, the relief of physical or psychological pain, or any combination of these. The benefits associated with consuming illegal psychoactive substances are known to users and are fairly reliable, even if some drugs require the consumption of greater amounts over time to achieve the desired mental and physical state. The benefits to most others involved in the trade are basically monetary and material, although for gang members selling on the streets, membership in the group counts as much as the possibility of advancing to more profitable and influential positions (Levitt and Venkatish, 2000). Whether it is money, material goods, influence, or a sense of belonging, these benefits are quite reliable.

For everyone the probability of getting caught is essentially dependent upon law enforcement's ability to discover the user with sufficient evidence for a penalty to be applied. How compelling such evidence is required to be will depend on the formal and informal characteristics of the legal system within which one operates (cf., The Sentencing Project). Penalties for getting caught violating the drug laws also vary not only across countries, but among subnational units (e.g., state and local legal codes). Although penalties vary dramatically across countries and socioeconomic strata (Mustard, 2001), they can be quite severe in rich, liberal democracies as well as in poor, authoritarian states or weak democracies.⁵

The health risks associated with the drug trade are disease, addiction, and premature death. Just as for alcohol and tobacco, however, the health consequences generally manifest in the long run and thus are subject to discounting in the short term. Further attenuating the impact of health risk on behavior, consumers of illicit substances tend to be aware, whether through peer

knowledge or published information, that the health risks for non-injected drugs are often comparable with or even substantially less than the health risks of the legal and popular psychoactive substances of nicotine and alcohol. (Santinder, 1980, pp. 158–166).⁶ Some unknown subset of intravenous drug users understands the health risks associated with sharing needles; thus, they participate in needle exchange programs or purchase new syringes where the law permits. Indeed, consumers can mitigate those risks by adopting “harm reduction” strategies (e.g., consuming plenty of water and staying cool if using Ecstasy, not driving a vehicle while high on marijuana). Health risks for producers, traffickers, and money launderers are generally physical harm or death at the hands of competitors engaged in these illegal activities. The level of violence within the drug trade, while often spectacular when it occurs, turns out to be a relatively rare occurrence given the number of people involved and the opportunities for conflict (Denton and O’Malley, 1999; Reuter and Haaga, 1989, pp. 24–25). Producers of highly toxic and combustible substances (e.g., methamphetamines) also confront the risks of illness and accidents.

An expected utility analysis does not claim that concealment is the only factor that determines participation in the illegal drug trade. But because health risks are likely to be severely discounted and penalties not only vary but are dependent upon getting caught, I deduce that the key variable for explaining the general phenomenon of participation in the illegal drug trade is the probability of getting caught. That probability, in turn, is the inverse of the probability that one’s concealment is effective. Where individuals can engage in such activities without attracting the attention of those who would penalize them (the very need to corrupt officials indicates that punishment is likely if the activity were exposed), such activities will prosper. Alternatively, such activities will not prosper where individual behavior cannot hide from social disapproval or the legal process, or is only attained at material costs that exceed the expected benefits of engaging in such illegal activity. These points can be expressed as three Concealment Hypotheses:

- Hypothesis C1:** Concealment is the key factor facilitating participation in the illegal drug trade.
- Hypothesis C2:** Where civil liberties are strong, where the state’s reach is short, or where corruption is rampant, the illegal drug trade will prosper.
- Hypothesis C3:** Where individual liberties are severely constrained by government policy and those constraints target illicit psychoactive substances, the illegal drug trade will not prosper.

The evidence in support of these hypotheses should be distributed in a U-shaped curve along axes representing participation in the illegal drug trade (X axis) and the rule of law (Y axis) (see Figure 1). The two peaks of

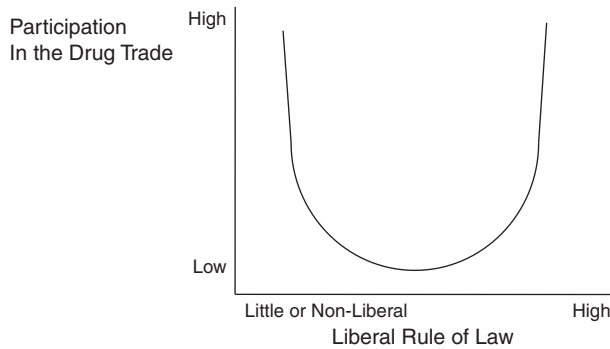


FIGURE 1 Concealment.

the curve should be populated by very different polities. Close to the origin of the Y axis (low level of the rule of law) we expect to find a group comprising pariah states that promote the trade (e.g., the Taliban government in Afghanistan prior to 2001, Bolivia's narco-government in the early 1980s, Myanmar), and nations that have ineffective or corrupt governments (e.g., Pakistan, Mexico). At the upper end of the Y axis we expect to find another peak, populated by stable, liberal democracies (e.g., the U.S., Canada, the UK, Australia, the Netherlands). Hypothesis C3 tells us that the trough of the curve should be populated by countries with totalitarian or authoritarian governments that are opposed to the drug trade (e.g., the Soviet Union, China under Mao, Nazi Germany, Pinochet's Chile, Singapore).⁷ Concealment hypotheses also indicate that countries in transition from effective authoritarian governments to effective liberal democratic governments (both of which oppose the drug trade, e.g., Russia, Eastern Europe, Chile) should see an increase in the presence of the illegal drug trade. Effective authoritarian governments that are liberalizing economically and hence diminishing the presence of the state in the citizens' lives as well as creating new opportunities for corruption (e.g., China, Vietnam) should also see an increase in the illegal drug trade, though, *ceteris paribus*, at levels below those of liberal democracies, pro-drug pariah states, and corrupt governments.

Alternative Arguments

The search for understanding the resiliency of the illicit drug trade has produced a number of different arguments that are alternatives to my concealment argument. Here I will examine three of the most common explanations: deviant states, organized crime, and the "balloon" analogy.

Our first alternative argument highlights the deviant state (DS). There are two variants to this model, one that centers on the institutional capacity of the government and the other on the "will" of the government. They both have in common the notion that the norm of international society, as represented

by three UN antidrug conventions,⁸ defines a number of psychoactive substances as illegal under a variety of circumstances (some without a prescription or license, others under all circumstances). States and people that violate those norms are considered “deviant.”⁹

In the “weak” or “failed state” variant of the DS model, the government has laws prohibiting production and trafficking of illegal drugs and articulates a desire to eliminate this criminal activity. Nevertheless, its law enforcement agencies (including the military when tasked with fighting the Drug War), its judicial system, and even high-ranking politicians may offer “protection” to these criminals for a fee. For example, Mexico’s Drug Czar, General José Gutiérrez Rebollo, initially praised by U.S. Drug Czar General Barry McCaffrey for his commitment to combating drugs, was discovered to be working for one drug cartel against another (Fineman, 1997; Anderson, 1997). Even in the absence of corruption a government may be unable to enforce its laws because it has little actual authority in areas of the country where illegal drugs are grown or through which they are trafficked. The “pariah state” version of the DS model focuses on a government’s unwillingness to abide by the international prohibitionist norms governing drugs. The antidemocratic nature of pariah regimes is a dominant institutional feature, but since not all antidemocratic governments choose to flaunt international drug laws, the focus is on leaders’ choices. Examples include the “narco-state” of Bolivia in early 1980s, the current military government in Myanmar, the Taliban government in Afghanistan in the 1990s, and the current North Korean government.

Analysts using the DS model tend to see the illicit drug trade as split into two spheres identified as “producing” and “consuming” countries. “Producing countries” are also usually the home bases of “drug lords” who control trafficking and money laundering at home and within the “consuming countries” (cf. National Drug Intelligence Center, 2001). “Producing countries” are limited to poor, corrupt, or pariah countries and “consuming countries” are the rich, liberal democracies. The liberal democracies that have opted for a “harm reduction” strategy (e.g., the Netherlands, Spain, Portugal) are “deviant” with respect to consumption of those substances that have been “decriminalized,”¹⁰ but since they continue to pursue money laundering, production, and distribution above the minimal levels set for individual consumption of particular substances, the DS model expects them to be minimally involved in the drug trade beyond consumption.

Hypothesis DS1: The drug trade will flourish where governments are weak or corrupt, where states have “failed,” and where pariah leaders govern, and will be significantly less important where polities do not suffer from these ills.

Hypothesis DS2: The drug trade in “consuming countries” (rich, liberal democracies) will be driven by production, distribution, and money laundering in deviant countries.

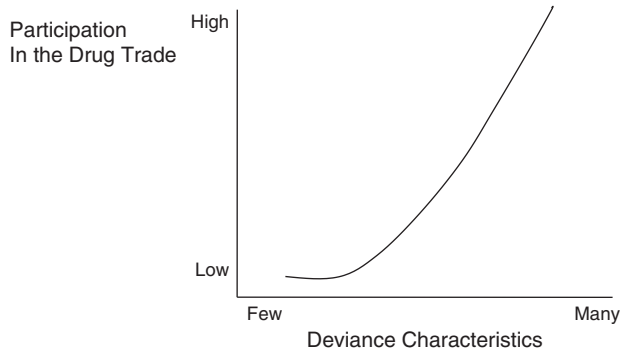


FIGURE 2 Deviance.

Figure 2 illustrates the distribution of countries along axes representing participation in the illegal drug trade (X axis) and level of deviance (Y axis). This distribution is upward sloping, indicating that deviant states have high participation rates, and non-deviant states have the lowest levels of participation in the illicit drug trade.

Our second alternative model, “organized crime (OC),” developed out of the perception in the 1960s by law enforcement and criminologists that the scope of particular crimes (e.g., illegal gambling, prostitution, corruption of unions and police forces, and the illegal drug trade) was too great to be the work of individual criminals (Beare and Naylor, 1999). Most contemporary analyses that discuss the “business of drugs” refer to centralized and organized groups rather than to disparate, decentralized individuals. How much centralization and how many members a criminal group must have to constitute “organized crime” is debated. The United Nations Convention against Transnational Organized Crime defines it as “a structured group of three or more persons, existing for a period of time and acting in concert . . .” while the Uzbek government only requires “a group of two or more persons constituted in advance for the purpose of joint criminal activity” (United Nations Office for Drug Control and Crime Prevention, 2003). Both of these definitions ignore the question of hierarchy, although the UN wants to see some “structure” in their relationship. Klaus von Lampe (2006) has collected over 100 definitions of organized crime.

The U.S. Federal Bureau of Investigation and U.S. legislation have perhaps the most complex definition of organized crime.

Criminal Enterprise . . . a group of individuals with an identified hierarchy, or comparable structure, engaged in significant criminal activity. . . . The terms Organized Crime and Criminal Enterprise are similar and often used synonymously. However, various federal criminal statutes specifically define the elements of an enterprise that need to be proven in order to convict individuals or groups of individuals under those statutes.

The Racketeer Influenced and Corrupt Organizations statute, or Title 18 of the United States Code, Section 1961(4) defines an enterprise as “any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.”

The Continuing Criminal Enterprise statute or Title 21 of the United States Code, Section 848(c)(2) defines a criminal enterprise as any group of six or more people, where one of the six occupies a position of organizer, a supervisory position, or any other position of management with respect to the other five, and which generates substantial income or resources, and is engaged in a continuing series of violations of Sub-chapters I and II of Chapter 13 of Title 21 of the United States Code.

Organized Crime . . . any group having some manner of a formalized structure and whose primary objective is to obtain money through illegal activities. Such groups maintain their position through the use of actual or threatened violence, corrupt public officials, graft, or extortion, and generally have a significant impact on the people in their locales, region, or the country as a whole.” (Federal Bureau of Investigation, n.d.a.)

Advocates of the organized crime model perceive the many definitional disagreements and differences in emphasis as “quibbles” rather than significant challenges. There is general agreement among government officials, the media, the entertainment industry, and “common sense” on the characteristics of organized crime in the drug trade, whether it is called Mafia, Mexican or Russian Mafia, Cali or Medellín Cartel, or Israeli Crime Syndicate. It is large, rich, and violent, it controls vast percentages of the drug trade in a hierarchical organization, and it has a constant desire to expand. For example, the Department of Justice reports that Mexican cartels “control” methamphetamine in the U.S. market (National Drug Intelligence Center, 2001). In the U.S., the stereotype includes the belief that one step below these infamous crime organizations are ethnically-based “street gang” versions of organized crime (Bloods, Crips, Jamaican posse, etc.), whose centralized control of membership, violent tactics, and increasing wealth make them formidable competitors even to the Mafia (Albini, 1991, p. 101). In Italy, the stereotype suggests Mafia control (Becchi, 1996).

The logic of the organized crime model is essentially that leadership and coordination among criminals make them more effective at carrying out crime, evading arrest, and avoiding conviction when tried. When extended to the drug trade, the difficulty law enforcement experiences enforcing violation of the drug laws is laid at the doorstep of organized crime. Although much of the public and political discussion focuses on capturing “drug kingpins,” law enforcement is more systematic in its fight against

organized crime.¹¹ Because the drug trade is so lucrative, advocates of the OC model expect that a new criminal organization will seek to replace the one that was dismantled by law enforcement, thus making continuous effective pursuit of organized crime a necessity (Williams and Savona, 1996; Farer, 1999). That pursuit relies not only on having “will” (as in the deviance model) but also on having the correct legislation and sufficient resources to detect and punish organized crime. Thus a non-deviant government and society can still be victimized by organized crime if they lack the proper legislation and adequate implementation resources (Nathanson Centre for the Study of Organized Crime and Corruption, n.d.). Following this logic, the UN provides “technical assistance to support the implementation of the Convention, with key outputs to facilitate the assessment and revision of national legislation to ensure compliance with the Convention and its Protocols; strengthen the institutional and operational capacity of law enforcement and judicial bodies to investigate, prosecute and adjudicate serious crimes, including organized crime; enhance international cooperation between criminal justice practitioners; and collect, assess and disseminate best practices in combating organized crime.” (United Nations Office for Drug Control and Crime Prevention, 2003; see also Williams and Savona, 1996)

Hypothesis OC: The drug trade will flourish where legislation and resources are inadequate for pursuing and punishing criminal organizations and will be significantly less important where such legislation and resources are wanting.

The distribution of participation in the illicit drug trade is hypothesized by the OC model to be as in Figure 3. Along the X axis we have the continuum of countries with appropriate organized crime laws and resources for

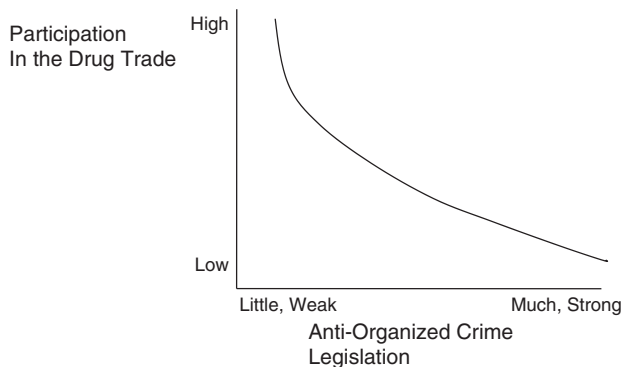


FIGURE 3 Organized crime.

implementation. The Y axis measures the degree of participation in the illicit drug trade. Hypothesis OC predicts a downward sloping curve, with highest levels of participation occurring in those countries that have the weakest organized crime fighting efforts.

The most popular model for understanding the illegal drug phenomenon is our third alternative, the “balloon” analogy (“you punch it here, it pops out there”). Analogies can be useful guides for understanding if they are appropriate. The balloon analogy as commonly used requires that we think of the drug trade as something that is happening inside the balloon (“it pops out there”) and antidrug efforts as occurring outside of it (“you punch it here”). The balloon represents the drug trade, not a society or country (advocates are not suggesting “punching” a society). The balloon without air would be the equivalent of the elimination of the illicit drug trade, e.g., “Drug Free Sweden” (Goldberg, 2004).

The balloon analogy cum model turns out to be at best an inadequate description of what happens when a drug production, trafficking, or money laundering operation is broken up, or a drug falls out of favor with consumers or its supply dries up. The balloon analogy is best understood as an expression of frustration rather than a theoretical explanation of why the drug trade proliferates. A balloon is a closed system with a finite amount of “air” (usually conceived by balloon advocates as producers, traffickers, and money launderers, but not consumers) inside; a balloon generates no new “air” to rejuvenate itself or grow larger (note that the drug balloon is alleged to be “popping up” at some point, not growing larger). Unfortunately, the “popping up” in the drug balloon often represents new entrants into the drug trade and the model cannot help us think about how these new consumers, producers, traffickers, and money launderers get into the balloon.

The balloon analogy could be developed further, though I have not seen such efforts undertaken and even here it would face important problems. If someone or something (perhaps the demand for illicit drugs) were outside, the balloon could presumably be untied so more “air” could be added. Punching the balloon would generate a counteracting force to prevent the new air (new participants) from coming in and produce a bulge somewhere else in the balloon (as extant participants increased their operations to take advantage of the new opportunities to move into the activities carried out by those arrested). If the “machine” producing the new air were stronger than the law enforcement efforts directly punching the balloon, new participants would enter the illegal drug trade. Balloon advocates (“balloonists”) have not used the analogy in this way, probably because it complicates the picture and any possible solutions. The balloon analogy as traditionally elaborated suggests that we just need to find a way to eliminate the “air” that is already inside it to have a huge impact on the availability of illegal psychoactive substances. A small “hole” (e.g., eliminating the Medellín cartel in Colombia) or “popping” it by dramatically constraining its

ability to expand when hit by overwhelming force (e.g., eliminating supply), will produce the same outcome (the balloon will have no air, i.e., society becomes “drug free”), though at different speeds. And of course, switching our attention to the source of air for the balloon would lead us to focus not just on punching the balloon, but on attacking the source of the new air as well, particularly consumers.

The balloon analogy is most often used by law enforcement, antidrug politicians, and the press. Balloonists explain our failure to pop or deflate the balloon by claiming that laws are not sufficiently punitive to deter the trade or that corruption, weakness of the state, or pariah leaders produce weak enforcement of the laws. Many critics of the punitive approach to the Drug War also use the logic of a balloon to explain the expansion of the illegal drug trade into new areas in response to antidrug successes in old areas. According to this argument, the “popping out” of the balloon is the result of a poverty that is so widespread and deep that poor farmers or unemployed youth easily succumb to the opportunity to replace producers and traffickers of illegal drugs as a survival strategy (Walters, 2003; Drug Policy Alliance, n.d.).

The “balloonist” argument about cause is unclear, since it is a description at best, not an explanation. The source of the air, as well as its ability to move within the balloon, could be the result of either deviant factors or organized crime. Consequently, there are no “balloonist” hypotheses to develop separate from those generated by deviance and organized crime models.

In summary, the alternative models assume a linear relationship between the “good” and “bad” characteristics of states, governments, and people on the one hand and participation in the illicit drug trade. The concealment argument, however, proposes instead that a U-shaped distribution characterizes the relationship. Consequently, the concealment argument represents a dramatically distinct approach to understanding the proliferation of the illicit drug trade.

THE ILLEGAL DRUG TRADE: REVIEWING THE AVAILABLE DATA

Most analyses of the drug trade focus on the “unholy trinity” of marijuana, cocaine, and heroin. While it is true that we have the most information and for the longest period of time for these illegal drugs,¹² if we limit our analyses to these three drugs we capture only a subset of the illicit drug trade, and one that misleads us if we assume that it is a true representation of the general illegal trade in psychoactive substances. A focus on these three drugs points to developing countries as “producers” because of the geographic and climatological requirements for producing coca trees and heroin poppies and the alleged superior “quality” of marijuana from these

areas even though marijuana is grown extensively in the U.S. and other developed countries. Because the prices for these three illegal drugs are much higher there than in the poor countries where they are produced, this perspective leads easily to a view of developed countries as merely consumers.

The major producers of opium poppies are Afghanistan (accounting for 82% of total acreage in the world), Myanmar, Mexico, Pakistan, Lao PDR, and Colombia. In the case of coca, the major producers are found in Colombia, Peru, and Bolivia. For cannabis herb the top producers are Mexico, Paraguay, the U.S., and South Africa, although 122 countries and territories grow it (United Nations Office for Drug Control (UNODC) 2008, pp. 38, 66, and 97–98, respectively). If we limit our analyses of the illicit drug trade to these three substances, it is easy to see why a divide between developed countries as consumers and developing countries as producers dominates discussion.

In contrast to the focus on the unholy trinity, however, the rank order of drugs most used illegally in the U.S., after alcohol and tobacco (by under-age users) and marijuana, are psychotherapeutics without a prescription, cocaine, hallucinogens, and inhalants; heroin ranks extremely low on the list¹³ (Office of Applied Statistics, 2008). The Drug Abuse Warning Network (DAWN) data illustrate that of the 1.2 million emergency room visits annually in the U.S. including a “mention” of a drug, almost two thirds of drugs mentioned were not from the “unholy trinity” (Office of Applied Statistics, 2002a).¹⁴ Thus a variety of sources for U.S. drug use point to the minor role of heroin and the significant importance of drugs outside the “unholy trinity.”

Though European data are less comprehensive, they are confirmatory that the focus on the “unholy trinity” is misleading regarding actual usage patterns. The most extensive study surveys 16-year-olds in thirty-five European countries. Cocaine and heroin are not sufficiently prevalent to even make the survey list. In Britain, France, Germany, the Netherlands, and a few other countries, marijuana use dominates that of all the other illegal substances. But in seven countries (Turkey, Iceland, Sweden, Cyprus, Faroe Islands, Malta, and Greece) inhalants are reported as often or more often than marijuana; and in six countries (Turkey, Sweden, Romania, Poland, Lithuania, and Cyprus), surveyed students reported using tranquilizers or sedatives without a prescription as often as marijuana (European School Survey Project on Alcohol and Other Drugs, 2003, p. 25). According to figures for 2001, in Australia Ecstasy and amphetamine use was substantially more than double that of cocaine (3.4%, 4.0%, and 1.5%, respectively) and in New Zealand Ecstasy use was more than quadruple that of cocaine (2.2% to 0.5%) while amphetamines use was almost seven times as much (3.4% to 0.5%) [Australian Institute of Health and Welfare, 2005].

Latin American data also show the importance of a diversity of drugs outside the unholy trinity. Data provided by OAS surveys of students ages 13, 15, and 17 in seven of 35 member countries attest to the prevalence of cocaine in local drug markets and the importance of inhalants. Marijuana, however, is less frequently used illegally than tranquilizers and stimulants in all but Panama and Uruguay (Comisión Interamericana para el Control del Abuso de las Drogas, 2003). Though marijuana is the most widely consumed illegal drug among youth in Chile, the illegal use of prescription drugs is three times greater than cocaine, with heroin and crack use relatively insignificant (Consejo Nacional para el Control de Estupefacientes (2000), pp. 64 and 88). Brazil's top three illicit drugs, in rank order, are marijuana, inhalants and the illegal use of prescription drugs (Galduroz, Noto, Nappo, and Carlini, 2005).

This brief overview of the illicit drug phenomenon makes it abundantly clear that any models that simply use marijuana, cocaine, and heroin as their empirical referents are capturing only a subset of the phenomenon. To the degree that that subset is not representative of the illegal drug trade, we will encounter research design issues that are serious enough to question the analytic utility of those models focused on these three drugs. Now we turn to the empirical cases of consumption, production, trafficking, and money laundering to evaluate how each of our three models explains the full picture of what is happening within each of these segments of the international drug trade.

Consumption

Let us first review what we would expect international data to show in order to prove our hypotheses related to consumption of illicit substances. Concealment hypotheses C2 and C3 lead us to expect consumption of illegal drugs to be a significant occurrence where democracy is strong and the rule of law reigns, as well as in countries rife with corruption, incapable of policing their territory or headed by a pariah leadership. Consumption will be a largely insignificant factor in countries where individual liberties are severely constrained by the prevailing authorities and those authorities are opposed to the illicit consumption of drugs. Deviance Hypothesis DS2 expects that illegal consumption of drugs in non-deviant states will be limited to those substances imported from deviant states (e.g., mainly marijuana, cocaine, and heroin for the U.S. and Europe, amphetamines for Australia and Japan) and Hypothesis DS1 expects that production and trafficking will flourish in deviant states. In combination, these hypotheses lead us to expect that "consuming" countries will experience decreases in consumption when either interdiction is successful or the deviant characteristics of "producing" states are diminished. Without necessarily taking a stance on whether consumption is demand or supply driven, the Organized Crime

hypothesis OC leads us to expect higher rates of consumption in countries where OC legislation is lacking, underdeveloped or weakly enforced. Even if consumption were demand driven, if law enforcement can dry up the supply, consumption will fall dramatically, if not cease.

As noted previously, because countries collect different, and limited, data, we cannot comprehensively test the hypotheses, though several clear-cut conclusions and other suggestive evidence emerge from review of available data. First, data presented in the previous section demonstrate that consumption in the alleged “consuming” countries is not limited to illegal substances produced in deviant states. The U.S. and Europe consume high potency marijuana produced primarily in developed countries, as well as inhalants and prescription drugs without a prescription in sufficient amounts to reject hypotheses DS1 and DS2. Indeed, in the 1990s in the U.S. consumption of cocaine (produced in the “deviant” state of Colombia) fell while consumption of first Ecstasy, then OxyContin and next amphetamines rose dramatically; all of these “replacement” drugs came from the non-deviant countries of Europe and the U.S.

The available evidence for evaluating Concealment Hypotheses C2 and C3 is favorable, but less clear-cut because we don't have the type of cross national data that is required for a definitive test. Supporting C2, analysts have reported widespread use of illicit drugs in countries characterized by corruption (Mexico) and weak states (Pakistan) as well as effective Liberal democratic states (U.S., Australia, Western Europe). Indeed, illegal use in the U.S. qualifies as an American pastime, judging by the fact that at some point in their lives almost 46% of the total population over 12 years of age is estimated by government surveys to have used an illegal substance (not including underage drinking or smoking) [Office of Applied Statistics, 2005b].

The low use of illicit substances in states where governments are anti-illicit drug use-oriented and neither weak, corrupt nor Liberal (e.g., Singapore [UNODC, 2006, Vol. 2]; Lao PDR [UNODC, n.d.b.]; China under Mao [Yongming, 1999; Dupont, 1999, p. 446]; North Korea [Dupont, 1999, p. 448]) supports Hypothesis C3. Increased drug use in China after its economic liberalization (Thompson, 2004; Yongming, 1999; Dupont, 1999, p. 446) and in Russia after their political and economic revolution (Paoli, 2002; Federal Research Division, 2005) is supportive of the principle inherent in Hypotheses C2 and C3 that movement along the political continuum from a state with strict suppression of individual liberties to lesser control of individual liberties would result in increased consumption of illegal drugs.

This partial evidence might also be consistent with an Organized Crime hypothesis because one might argue that organized crime “pushes” consumption. Despite the common acceptance of this “pusher” model, evidence from the U.S. indicates that the perceived level of availability of illicit drugs to high school students did not explain the decline in their drug use

between 1985–1995 since availability was stable or rising in that period. Falling drug prices could also be considered indicative of an increased supply to the general population; yet, in this period both prices and consumption fell (MacCoun and Reuter, 2001, pp. 30–32). Indications are, therefore, that consumption itself needs to be explained by reference to factors other than organized crime.

Production

The Concealment argument leads us to expect production of illegal drugs to be a significant occurrence where democracy is strong and the rule of law reigns, as well as in countries rife with corruption, incapable of policing their territory or headed by a pariah leadership. Deviant state arguments expect production to flourish where governments are weak, corrupt or headed by pariah leaders. The Organized Crime argument leads us to expect production in areas where criminal organizations thrive; given the emphasis of U.S. law enforcement efforts internationally, as well as in bilateral drug policy, one would expect organized crime to flourish in countries with underdeveloped legal systems and widespread corruption.

The available empirical record makes it difficult to argue that the deviant or legislative characteristics of governments have much to do with where illegal production of drugs occurs. Many countries in the world produce some type of illegal substance that is consumed for its psychoactive properties. None of the distinctions expected by deviance hypothesis DS1 of weak, corrupt or pariah governments and failed states gives us any insight into where illegal production occurs. Certainly Afghanistan and Bolivia are poor countries; they have suffered under weak or corrupt governments for many years, their legal frameworks and resources for law enforcement are limited, and illegal crops are produced there (opium poppies and coca for export, respectively). But in 2005 the U.S. was actually the third top producer of cannabis herb in the world, following Mexico and Paraguay (UNODC, 2006, Vol. 1); other major producers of marijuana include Canada and Australia. Marijuana consumption in the U.S. is increasingly of the high potency variety, which is not produced in Mexico but rather in the U.S. and Canada (Office of National Drug Control Policy, n.d.). Methamphetamine is produced by countries across the full spectrum of regime type, including the U.S., Canada, Mexico, the Czech Republic, the Slovak Republic, Moldova, South Africa, China, Philippines, Taiwan, Myanmar, Cambodia, Hong Kong of SAR China, and Malaysia. Similarly, amphetamine producers include the U.S., the Russian Federation, Poland, Bulgaria, Germany, Belgium, Spain, Estonia, Lithuania, and Canada, while Ecstasy producers include the Netherlands, Belgium, Canada, Estonia, Indonesia, China, Hong Kong of SAR China, Malaysia, Australia, New Zealand, South Africa, Egypt, Argentina, and Colombia (UNODC, 2006, Vol 1; Joyce, 1998;

Royal Mounted Canadian Police, 2004). Myanmar, Thailand, and Laos should also be added to this list (Paul, 2004).

An OC perspective offers ready explanations for why illicit drug production occurs in Europe, Canada, and the U.S.: the Israeli Crime Syndicate “controls” the Ecstasy market, the Mafia has made inroads into Canada, and Mexican drug lords “control” the superlabs that produce 50–80% of U.S. methamphetamine. However, the OC model does not shed light on the small scale but widespread methamphetamine production cooked up in households across the U.S. In the province of Ontario, Canada’s individually operated and small methamphetamine labs in rural areas dominate police statistics (Royal Mounted Canadian Police, 2004). In addition, the French “Cannabis Cup,” in which Parisian marijuana growers compete against each other for designation of the “best” cannabis, has not been characterized by analysts or law enforcement as being run by organized crime. A recent UN report on production reveals a shift in amphetamine and Ecstasy production from Europe to the U.S. (UNODC, 2006, p. 126) Given that the U.S. War on Drugs is official policy, that the U.S. has “a long-established—yet constantly evolving—organized crime program” (Federal Bureau of Investigation, n.d.c.), and that the U.S. has the highest incarceration rate among those countries that report such data (Walmsley, 2005), organized crime should not expect to prosper in the U.S. if anti-OC legislation is a key determinant of the trade. Consequently, moving illicit production from Europe to the U.S. makes no sense from the perspective of the OC model.

The Concealment model offers a way out of this conundrum. As long as antiorganized crime legislation is designed and implemented within a Liberal civil rights framework, organized as well as unorganized criminals can expect to identify multiple means of hiding their activities from the legal authorities. The Concealment argument expects that organized crime will put a great deal of effort into concealing their activities from law enforcement. But not only can the Concealment model explain what organized crime does, it can also account for what a focus on organized crime cannot, namely, the stove-top producers of methamphetamine and GHB, the small-scale marijuana producer, and the independent lab producing low quality adulterated Ecstasy.

An added benefit of the Concealment model over competing explanations of production is its expectation of a trough in the U-shaped curve regarding participation in the illegal drug trade. In the case of production, an illustrative case at the trough of the curve is Taliban-controlled Afghanistan. After the Taliban government took power, opium production continued to be widespread in Afghanistan even as the radical Islamic government moved against organized criminal groups that had extorted the trucking sector. Hence at this time Afghanistan was in the upper left section of the U curve. After years in power, still a pariah government and with no new legislation targeting OC in opium production, the Taliban decided that opium

production violated the Qur'an. Within one year of this decision, opium production was virtually eliminated—to the utter astonishment of the U.S. Drug Enforcement Agency—thus moving down into the trough of the U curve (Gannon, 2001). Another illustrative case is the People's Democratic Republic of Laos, which experienced a 93% decline in production from 1998–2005 through policies that would not be acceptable in a democratic country with a Liberal rule of law. Examples of methods adopted to bring about this dramatic decline in production include the forced relocation of 25,000 hill-tribe people to malaria-infested valleys, ostracism, and the forced exile from the village of those violating the opium ban. Results have included not only reductions in illicit production but also increases in malnutrition and mortality rates, since economic alternatives are few and food aid is limited (UNODC, n.d.b.; Chouvy, 2005; Cohen, 2003).

Drug Trafficking

Traffickers transport and sell these illegal substances, both across and within national boundaries. Because the ability to conceal expands or shrinks for different reasons in different types of states, my concealment argument would expect drug trafficking to flourish in nations where the rule of law is strong, as well as where it is weak; drug trafficking is expected to be weakest in strong authoritarian governments opposed to the drug trade. The alternative arguments all expect, for differing reasons, a distinct distribution of nations along the curve of participation in the illegal drug trade. Deviance analysts expect rich Liberal democracies to have a low incidence of drug traffickers, with those that operate in these countries to consist of immigrants from deviant nations. Even in the case of the Netherlands, which a deviant analyst might argue is a deviant society with respect to the international prohibitions against consumption of marijuana, the sale of marijuana outside of the limited amount available in special "coffeehouses" is illegal. Therefore, one would not expect to see Dutch distributors selling marijuana and other drugs on the streets. The OC model expects traffickers to flourish in countries that have not adopted and implemented appropriate OC legislation, and to be relatively limited in those that have.

There are many individual examples to support the deviance hypothesis DS1 for drug trafficking: corruption is certainly rampant in many countries known for trafficking in the "unholy trinity," implicating even presidents (Colombia [Dugas, 2001]) and the military (Burma/Myanmar [Bullfrog Films, 1996] and newly democratizing countries in general [Mares, 2002]). Many of these same governments are also unable to exert an effective presence in vast areas of their rural and even urban territory, whether because of civil war (e.g., Colombia, Myanmar), guerrilla movements (e.g., Peru and Sendero Luminoso), or regions run by warlords or gangs (e.g., Afghanistan and Brazil, respectively).

But a listing of the “usual suspects” supplying the unholy trinity of illicit substances does not explain why traffickers can send drugs from these corrupt and weak countries to the U.S., Europe, Australia, Canada, and other stable, Liberal democracies; nor does it explain how Ecstasy crosses from Amsterdam to the U.S., marijuana seeds and LSD from the U.S. to Europe, or high potency marijuana from Canada to the U.S. If we accept that corrupt and weak governments explain drug trafficking, how do we understand the Department of Justice’s claim that methamphetamine superlabs in California are under Mexican control? In fact, if corruption and weak government were sufficient explanations for drug trafficking, the production of those labs in California would not be distributed to anyone. The ultimate implication of such a causal argument would be that the U.S. market, serviced by probably the largest number of traffickers in the world, couldn’t exist.¹⁵ Those who want to explain this puzzle by labeling foreigners as responsible for activities that the U.S. cannot control without violating civil rights, are actually invoking an element of the Concealment argument while failing to address U.S. production not controlled by foreigners. Consequently, DS1 is of little utility in explaining trafficking of illicit drugs.

The organized crime model hypothesizes that trafficking of illicit drugs would be greatest in countries lacking adequate legislation and resources, and would diminish as countries adopted the appropriate antiorganized crime policies. Before examining whether countries with strong antiorganized crime legislation are distinguished by an absence of drug trafficking, it is worthwhile to ask whether thinking in terms of organized crime is even a useful approach for understanding the trafficking phenomenon.

Multiple empirical studies in Australia, Italy, the U.S., and Britain call into question the notion that a few large criminal organizations control the market for illicit drugs (Albini, 1991, p. 101). Even in the case of heroin and cocaine, the two most lucrative substances, one study of trafficking groups in New York City found that only 1 of the 39 was involved in all the phases from production to retail (manufacturing, importing, wholesale, and regional distribution). The majority of the groups were engaged in only one level of distribution in the commodity system (Natarajan and Belanger, 1998, pp. 1009–1010). Cocaine smuggling/importing seems to be more organized than heroin smuggling (perhaps because of the limited area in which coca currently is grown). But once the cocaine has entered the U.S. market the barriers to entry for traffickers at even high-level dealing are low (Reuter and Haaga, 1989, pp. xii, 8), resulting in a proliferation of people seeking to profit from its sale.

Two primary lessons emerge from most empirical studies: there is not “a” drug market, but multiple drug markets, even for the same substance; and the markets are not necessarily large or formally organized. Numerous examples exist in the literature documenting these circumstances. One study of a four-block area in Brooklyn uncovered four parallel but separate

markets, one ethnically based, another geared toward working persons, a third characterized by users/dealers selling to other users/dealers, and prostitutes hustling sex for drugs for themselves and their partners. Though many buyers are willing to buy from sellers representing different markets, sellers “prefer to define a market and to locate and retain repeat customers [in order] to increase business and reduce the probability of arrest” (Johnson, Hamid, and Sanabria, 1991, p. 67). An Australian study found women excelling in family business organizations dealing with drugs (Denton and O'Malley, 1999, p. 519), while in Michigan one high-level cocaine dealer sold to four female friends from high school that ran their own local distributing businesses. These “divorced suburban mothers . . . had children to raise, rent to pay, and reputations to protect, and . . . were not participating in other crimes. They were not part of the local bar or street scenes; the women themselves had stable contacts for sales in local businesses” (Reuter and Haaga, 1989, p. 45). Neither is the scourge of synthetic opium use via the prescription drug OxyContin the result of organized crime; rather it is a decentralized process that spreads mainly by word of mouth and is partly fueled by well-intentioned primary care doctors trying to stay up to date with advances in pain medication and keep a client base that demands such medication (Tough, 2001, pp. 33–37, 52).

One of the few studies of high-level cocaine and marijuana traffickers incarcerated in the U.S. for drug trafficking suggests that trust, reliability, and concealment are strategies that limit size of operations. The researchers suggested that “Successful operation does not require the creation of a large or enduring organization. . . . Some supplier/customer relations last a long time, but they are rarely exclusive, and those that are exclusive are voluntarily so” (Reuter and Haaga, 1989, pp. xii, 35–40). A study of heroin dealers in New York City found that lower-level dealers prefer servicing a known client base of 5–20 customers because it limited the number of sales, the probability of information leaks was reduced, customers could be watched and disciplined if necessary, and the dealer could adjust his behavior relatively quickly without a great deal of planning and negotiation if risks suddenly increased (Moore, 1977, pp. 18, 52–53). Middle-class cocaine dealers also minimized the risk of arrest by explicitly limiting sales to people they knew and trusted. This strategy is less likely to be followed by dealers who sell in bars and on the street; presumably as a consequence they are the most likely to be apprehended by the authorities (Waldorf and Murphy, 1995, p. 15).

These studies suggest that labeling all groups involved in drug trafficking as “organized crime” keeps us from appreciating just how decentralized and open illegal drug trafficking is. If that is true, then contrary to Hypothesis OC, we should not expect the proliferation of antiorganized crime legislation to be a good determinant of where traffickers operate.

There are other indications that Hypothesis OC is inadequate for explaining drug trafficking. The U.S. sees itself and as is seen by others, as having the most comprehensive legislation for fighting organized crime and devoting the most resources to fighting drug-related crime. If Hypothesis OC were powerful, we should not see the U.S. as a leading location for the export or import of illegal drugs and precursor chemicals (even if they could be smuggled into the country, there should be few traffickers to distribute them to consumers). Yet the Australian Crime Commission identifies the U.S. as a “significant embarkation point” for precursor chemicals for methylamphetamine production in Australia (Crime Commission, 2003, p. 17). The U.S. also exports LSD to Europe (Seper, 2003). Lest we think that the U.S. is unique among countries with strong antiorganized crime legislation, Great Britain, which modeled its legislation after that of the U.S., is currently experiencing a record cannabis crop, purportedly controlled by “Vietnamese gangs.” (Travis, 2007) Canada is an important source of Ecstasy, methamphetamine, and marijuana for Japan (Royal Mounted Canadian Police, 2004). The Japanese Yakuza dominate the illegal drug trade in Japan and are active in Hawaii, California, and the Philippines (Williams and Savona, 1996, pp. 17–18).

Once again the Concealment model does well in accounting for drug trafficking in deviant and non-deviant states, as well as those countries with both weak and stringent antiorganized crime legislation. Though no country has been able to stop drug trafficking over the long term, examples of a temporary trough in the U-shaped curve predicted by the concealment model exist. In Thailand, a six-month period in 2003 that produced 51,000 arrests and 2,000 extra-judicial killings yielded “some results” against methamphetamine trafficking (GlobalSecurity.org, n.d.). Prime Minister Thaksin Shinawatra announced that, “Drug dealers and traffickers are heartless and wicked. All of them must be sent to meet the guardian of hell, so that there will not be any drugs in the country” (Human Rights Watch, 2004). After gaining control of China, Mao’s government virtually eliminated the drug problem within three years using ruthless methods and a comprehensive social control system. Despite the fact that for twenty years these means could claim success, once the Communist Party began to move away from Mao’s totalitarianism, the illegal drug phenomenon came roaring back (Yongming, 1999; Dupont, 1999, p. 446).

Money Laundering

The globalization of national financial systems has created new opportunities for money laundering and made it more difficult to prosecute. In the financial arena, globalization refers to the ability of money to move quickly (even as fast as “real time”) across multiple national boundaries in the form of investment, as payment for goods and services, or simply as the movement

of savings. Even if we accept the IMF's upper estimate of the quantity of dirty money that was laundered in 1996 (\$1.5 trillion worldwide [OECD, 1999]), it is a drop in the bucket compared to legitimate flows of money (Fedwire, the major wire service in the U.S. transferred \$249 trillion that year [The Federal Reserve Board, 2006]).

Concealment hypothesis C2 expects that money laundering will prosper in corrupt and weak states, as well as in those Liberal democracies that are at the forefront of the globalization processes in migration, trade, and services. Deviance Hypothesis DS1 sees money laundering as concentrated in those states that are corrupt, weak, and led by pariah governments that will not pursue the money launderers, whether they have appropriate laws on the books or not. Non-deviant states are expected to both have the appropriate legislation and use it, with the consequence of dramatically reduced money laundering operations. Organized crime Hypothesis OC sees money laundering as a consequence of institutional inadequacy; money laundering is thus expected to prosper in states that do not adopt and implement the appropriate legislation, and be limited in those states that do adopt and implement the appropriate legislation.

Ideally, we would rank countries according to their performance on anti-money laundering (AML) legislation and the prevalence of money laundering in each, then see which hypothesis performs best in describing the distribution. The criteria for determining whether a country is adopting and implementing appropriate AML legislation are determined by the Financial Action Task Force (FATF), founded by the G-7 in 1988 and currently housed at the OECD; in 2004 its mandate was extended to 2012. FATF members, currently thirty-three from developed and developing countries, are selected on the basis of their "strategic importance" in the global process of money laundering, though the FATF also works with nonmembers as well (Financial Action Task Force, n.d.a.) as with other international AML organizations and agencies. It sees its role as the "international standard setter" in an enterprise that is constantly evolving as criminals adapt to the new laws and regulations in their efforts to launder money. The U.S. government has a "primary role in setting international standards" at the FATF; the organization's "40 Recommendations" have been endorsed by over 130 countries; in 2001 another 9 "Special Recommendations on Terrorist Financing" were added to the repertoire of international standards (U.S. Department of the Treasury, 2003, pp. 3–4; Financial Action Task Force, n.d.b.).

We can use two primary means to distinguish countries whose financial systems have money laundering problems. FATF and associated financial institutions, such as the World Bank and the IMF, created a category of Non-Cooperative Countries and Territories (NCCT), which identified entities that had failed to adopt and implement FATF guidelines. In 2000 and 2001, 23 countries had been put on the list, but they have all been cleared and no

new NCCT lists have been created since 2002 (Financial Action Task Force, 2007c). Of the 23, only Israel and Hungary could be designated as countries where the Liberal rule of law reigned (at least internally for the Israeli case). Unfortunately, the list is too incomplete and perhaps only marginally relevant (see the next paragraph), to provide strong support for the OC hypothesis.

An alternative list for evaluating money laundering prospects is produced by the Bureau for International Narcotics and Law Enforcement Affairs of the U.S. State Department (Appendix B: Major Money Laundering Countries). The U.S. came up with its own comprehensive list both because the NCCT process terminated and because it believes that evaluating the legislation itself is not adequate to determine whether a country's financial system has been penetrated by money laundering. The list is divided among "Jurisdictions of Primary Concern," "Jurisdictions of Concern," and "Jurisdictions Monitored." A striking finding is that of the 55 countries and territories in the "Primary Concern" category, 21 are Liberal democracies or their dependencies, including the U.S., Great Britain, Canada, France, and Germany (Bureau for International Narcotics and Law Enforcement Affairs, 2005). The list, consequently, clearly undermines both the deviant state and the organized crime hypotheses. Unfortunately, the data are too incomplete to evaluate whether a trough populated by strong authoritarian governments opposed to money laundering exists in the distribution of countries in which money laundering occurs, so we cannot fully evaluate the Concealment hypothesis.

But understanding why non-deviant states and those with FATF-sanctioned legislation nevertheless have major problems with money laundering provides some support for Hypothesis C2. Multiple scholars have noted that there has been no evaluation of whether the AML policies actually have an impact on money laundering, both because the incidence of this illegal activity is unknowable and because the legislation itself is inadequate and not focused where one would expect most of the money laundering to occur. The result is that very little money is seized; while the justifications for the fight against drug money estimate that no less than \$50 billion dollars a year are laundered, in the best of years, less than \$1 billion is actually seized (Cuéllar, 2003; also Levi, 2002; Reuter and Truman, 2004).

Enhancing the audit trails and increasing the profiling of financial movements would make it easier to expose money laundering and could possibly have an important impact on money laundering. But our concerns about civil rights and privacy, as well as fear of a government that retains a significant level of information about many financial transactions mean that we are unlikely to enact such legislation under a democratic process that lets ordinary citizens and private interests influence legislation.

CONCLUSION

The illegal drug trade, properly understood, presses us to think more carefully about actor strategies and how they can produce paradoxical outcomes that appear at odds with institutions' stated goals or the positive results they generate. Institutions that make governments accountable to their citizens, protect civil rights and limit state power in the economy create incentives that promote cooperation, thereby contributing to peaceful environments and economic growth. The illegal drug trade undermines accountability by corrupting governments, and diverts resources from more productive activities, and produces social tensions that limit cooperation. Unfortunately, the institutions that create beneficial incentives overall also produce incentives to adopt strategies that proliferate this illegal activity.

Examining the incentive structures created by distinct governing institutions and thinking about the rational strategies of actors in illegal markets not only contributes to our theories about how institutions matter, but also generates a new insight about the illegal drug trade: corruption, state weakness, pariah leaders, and violence are not the keys to understanding this phenomenon. These generally recognized negative factors are just some of the ways in which the logic of the illegal trade manifests itself in specific institutional contexts. The key factor is "concealment"—the ability not to be seen by those who would enforce the law. In institutional settings characterized by the weak rule of law, concealment can be achieved by paying off political or legal representatives who can shield the producer from the vision of those who would subject him to the law. But in countries or regions where the rule of law is generally respected and implemented, the drug trade prospers as well. Paradoxically, it is the existence of civil rights against unreasonable search and seizure of oneself or one's property and the strength of a government's commitment to uphold those laws even in the context of a War on Drugs that facilitate the illegal drug trade in these countries. Consequently, most participants in the illegal drug trade find it easy to blend with the nonparticipating majority of society; discovering them requires increasing the means to detect their illicit activities even as they disappear into the cacophony of our multidimensional existence in our homes, dorms, jobs, and shopping and financial experiences.

One might object to this conclusion by noting that mandatory drug testing in some employment categories and school activities and an explosion of drug related incarcerations after new antidrug legislation in 1986 have produced enormous costs for some sectors of society. (Gray, 2001). While true, the fact that in 2007 8.0 percent of the population over 12 years of age (almost 20 million people) was estimated to have used an illegal substance in the last 30 days (which is the U.S. government's definition of a "current user" [Office of Applied Statistics, 2008]) is an indication of how inadequate these admittedly significant measures are in the effort to achieve a "Drug

Free America.” The U.S. could certainly proceed farther along the road to “zero tolerance” if we were to adopt policies used by totalitarian states—create block committees to report on the activities of everyone, subject everyone to random searches everywhere, tap all phones and computers, and impose draconian penalties quickly and easily on anyone suspected of being involved in the drug trade. But we believe that these policies represent costs that are far too high to our liberties.

If “concealment” rather than corruption, state weakness and “pariah” leadership is the key concept that is most useful for understanding why consumers, producers, traffickers, and money launderers are able to establish themselves in a country, the policy implications completely undercut the thrust of U.S. and international drug policy. The increased costs of international monetary transactions and the slowing of the flow of goods for inspection are part of the price of pursuing illegal drugs more effectively, as is the generation of tension among countries seeking to allocate blame for the drug trade. The use of international resources to fight drugs instead of pursuing other needs is part of the opportunity cost of this drug regime.

In short, insistence that corrupt, “failed,” and pariah states are responsible for the proliferation of the drug trade diverts resources into a fight that is undermined by the very process of Liberal democratization that the U.S. and its allies pursue internationally. The promotion of democracy, respect for human rights, and the rule of law may decrease corruption and strengthen governments (all lofty goals), but may actually have a deleterious impact on the overall level of illegal drug trafficking, or at least not improve it, depending on where the country starts on the U-shaped concealment curve.

To recognize that otherwise positive institutions can create perverse outcomes challenges us to reform the institutions to eliminate or mitigate those perverse outcomes or recognize that the outcome itself has to be accommodated in the least costly fashion. In the case of the war on drugs, the “reforms” required to win the war undermine the institutions of Liberal democracy. If society determines that the “full speed ahead” approach is therefore unacceptable, other options include “stay the course” and changing course through accommodation of outcomes. Staying the course requires acceptance of a long-term, costly holding action with little to no progress in terms of reduced consumption, significant opportunity cost for expenditure on other policy priorities, and continued friction with international partners over maintenance of an international drug regime whose legitimacy and effectiveness is questioned daily, even in the Liberal democracies that constitute the models of international cooperation. A new course would include legalization of the use of psychoactive substances with implementation of harm reduction policies designed to mitigate the challenges generated by their use.

Whether the war on drugs is the most extreme case where otherwise positive institutions create perverse outcomes requires further research.

Two other illegal markets with pervasive demand are adult-age human trafficking for purposes of prostitution and labor. Illegal arms trade and child prostitution are examples of illegal markets with much smaller potential demand where vigorous law enforcement would be less likely to impinge on core institutions. Further research into these very different illegal markets will help elucidate the practical implications of these theoretical insights.

NOTES

1. On the rational design of institutions, see the special issue of *International Organization*, vol. 55, p. 4, Autumn 2001. On the general importance of considering illegal phenomenon in our social science models, see (Friman and Andreas, 1999; Andreas, 2004).

2. The cross national data in the UN Office on Drugs and Crime, the relevant EU agencies and the U.S. drug agencies is partial, incomplete, and generally not comparable.

3. For example, the Justice Dept surveys of whether prisoners were under the influence of alcohol or illegal drugs at the time that they committed their offense cannot tell us whether drugs produce crime. An argument about the relationship between drugs and crime requires that we not only knew whether people committed crimes while on drugs, but also whether they had committed crimes before ever consuming drugs, how many people consume drugs and do not commit a crime other than consumption, and how the illegal status of the drug, rather than its pharmacological characteristics, affects the propensity to commit crimes.

4. The existence of the trade itself is a far more complex issue that requires explaining why people desire to consume psychoactive substances and why some are illegal and others not. Andreas (1998) and Raustiala (1999) offer explanations rooted in economics and law (criminal and commercial) to explain why smuggling across borders occurs, but my argument is about proliferation of all aspects of the drug trade, including consumption, production, trafficking, and money laundering, whether those activities cross international boundaries or not.

5. The U.S. has the highest proportion of its population behind bars (Walmsley, 2005) as a result of its "war on drugs" and mandatory sentencing, including obligatory 25 years to life sentences in some states after a third felony conviction. (In California simple possession of an illegal substance can be charged as a felony.) Thailand, a major supplier of methamphetamines, has the death penalty for large traffickers; Singapore has the death penalty for trafficking in heroin, morphine, cannabis, opium, and some amphetamine type stimulants; even small dealers can get 15 years in Bolivia. In the Lao Democratic People's Republic users can be exiled from their villages and in China drug traffickers have been executed after mass rallies.

6. As a result, the U.S. government has turned toward more psychological and sociological models to prevent the use of illicit drugs.

7. Since social and religious norms are institutions, the logic of my concealment argument is likely to include variations in these norms regarding the use of psychoactive substances. Cfr. Scandinavian social democracies (Goldbert, 2004; van Solinge, 1997) and perhaps some Islamic societies (Samii, 2002; UNODC n.d.a.; Anderson, P. 2006). But I leave discussion of the variations across social norms to other scholars who wish to pursue this point.

8. 1961 Single Convention on Narcotic Drugs, amended by 1972 Protocol; 1971 Convention on Psychotropic Substances; and 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

9. On deviance as a social science concept, see Howard B. Kaplan and Robert J. Johnson, *Social Deviance: Testing a General Theory*, New York: Kluwer Academic/Plenum Publishers, 2001.

10. "Decriminalization" means that the act remains illegal but will not be pursued by the police or punished by the courts.

11. "The FBI has found that even if key individuals in an organization are removed, the depth and financial strength of the organization often allows the enterprise to continue." Federal Bureau of Investigation (n.d.b.)

12. MacCoun and Reuter (2001) offer this as a justification for minimizing attention to other illegal drugs in their book.

13. Heroin users are undercounted because of their demographic characteristics, but there is no indication that the real numbers would alter this ranking.

14. DAWN surveys were significantly changed in 2004 and data on drug "mentions" is not available after 2002.

15. Ironically, because U.S. law enforcement is not corrupt, most traffickers seek to limit their exposure by dealing with small numbers of known clients. Given the large number of consumers (about 19 million) and retailers who seek to limit the number of consumers to whom they sell, it is not inconceivable that the U.S. has over a million people dealing illicit drugs at the retail and wholesale levels.

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