

INTERNATIONALIZATION OF CRIME

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Two decades ago, very little thought was given to global crime trends. Anecdotes of the Sicilian Mafia, Chinese triad, and the exploits of Al Capone seemed distinct and peculiar to their respective societies. The advent of technology has changed everything. The new information age introduced computers, satellite transmissions, and the Internet. A global village has been spawned with no turning back. Regrettably, all of these advancements have been paralleled with their misuse by criminals. The scope of the criminal law has been parochial and territorial. As a result, once territorial crimes have become increasingly more transboundary and international in character.

I. NEW TYPOLOGIES

The internationalization of crime has been characterized by new methods of offending. The proliferation of the drug trade with all of its attendant by-products presents the major challenge. Gang warfare and contract homicides have been overtaken by money laundering, tax evasion, arms smuggling, trade in women and children, prostitution, and computer hacking. The Internet has enabled on-line banking, casinos, piracy, pornography, and sales of every sort.¹ The reach of the criminal law has been tested and out-manuevered. The development of telemarketing on a global scale has proven problematic.

Economies like Barbados, based on a small land area, population, and gross national product, have witnessed much stress. Under the sheer volume of transactions and interdependence, the challenge to determine, much less control, offenses is evident. The promise by potential investors to create employment is always attractive. However, the need for serious evaluation of such potential investors, whether individual, corporate, or institutional, cannot be overstated.

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1. The types of proliferation of these services are many and varied, and even the most cursory search on the Internet yields many examples.

II. LEGISLATION

Pursuant to the signing and ratification of the Vienna Convention on Narcotics Drugs and Psychotropic Substances,² Barbados and most of the Anglophone Caribbean nations enacted enabling legislation. A trilogy of enactments, namely the Drug Abuse (Prevention and Control) Act,³ the Proceeds of Crime Act,⁴ and the Mutual Assistance in Criminal Matters Act,⁵ became effective in Barbados. The criminalization of money laundering has been paramount. In response, provisions like the distinct Know Your Customer Rules,⁶ minimum retention periods for banks to keep records of banking transactions,⁷ asset forfeiture,⁸ and international cooperation have been established.

The legislative provisions have been instrumental in seeking to control this developing and uncharted sector of off-shore finance. To date, local experience has been positive as specific legislation covers societies with restricted liabilities, international business companies, offshore banks, international trusts, and foreign sales corporations, among others.

Regionally, experiences have been mixed. The collapse of the European Union Bank in Antigua gained international coverage as it was discovered that questionable Russian figures were behind the operations.⁹ Recently, in St. Vincent, the revocation of licenses of some offshore banks has led to litigation

2. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, 28 I.L.M. 493 (1989).

3. Drug Abuse (Prevention and Control) Act, Cap. 131 (1991) (Barb.).

4. Proceeds of Crime Act, 1990-13, Cap. 143 (1990) (Barb.).

5. Mutual Assistance in Criminal Matters Act, Cap. 140A (1992) (Barb.).

6. *See* Money Laundering (Prevention and Control) Act, Cap. 129, § 7 (2000) (Barb.). The Know Your Customer Rules (KYC) require banks to monitor their customers and their banking activities in an attempt to detect money laundering. The KYC are international in origin and are promoted by the Financial Action Task Force (FATF) in compliance with international treaties. The FATF's forty recommendations to combat money laundering can be found at http://www1.oecd.org/fatf/AboutFATF_en.htm#Forty.

7. Currently, Barbados requires a retention period of five years. Money Laundering (Prevention and Control) Act § 8(a).

8. *Id.* § 14.

9. Larry Rohter, *New Bank Fraud Wrinkle in Antigua: Russians on the Internet*, N.Y. TIMES, Aug. 20, 1997, at A3.

and added notoriety.¹⁰ In September 2000, the collapse of First Bank International in Grenada led to press reports for FBI assistance.¹¹ Allegations that senior officers of the Bank had made substantial deposits in overseas accounts were rife.

The ability to establish businesses in various countries renders national borders irrelevant. The collapse of Barings Bank in England as a result of the speculative conduct of Nick Leeson in Singapore is illustrative of this reality.¹² As a result, legislative provisions in the Caribbean seek to detect and trace the evidence necessary to combat globalized crime. Legal provisions exist for the forfeiture of all tainted property, especially that arising from narco-trafficking. The Money Laundering (Prevention and Control) Act was proclaimed on April 25, 2000, in Barbados.¹³ Under the Act, the Attorney General is authorized to appoint, and has appointed, an Anti-Money Laundering Authority.¹⁴ This Authority does not investigate; rather, it deals extensively with compliance matters.¹⁵ The legislation has broad application to banks, deposit taking institutions, societies with restricted liabilities, cooperatives, offshore banks, international business companies, international trusts, foreign sales corporations, and mutual funds, among others.¹⁶ Investigations will be conducted by the police through the recently established Financial Investigations Unit, with assistance from the U.N. International Drug Control Programme (UNDCP).¹⁷ The maximum penalty for conviction by an indictment is twenty-five years imprisonment and/or a fine of

10. *See St. Vincent Offshore Bank Starts Legal Action Against Ministers*, CANA BUSINE\$\$ INTERACTIVE (Sept. 28, 2000), at <http://www.cananews.com/cbi/businessupdate825.htm>.

11. *See Real Stories from the Field—The World's Biggest Bank Fraud*, 3 BUS. SEC. E-JOURNAL 10, 15 (Nov. 2000), at <http://www.lubrinco.com/ejournal/ej200011.pdf>.

12. Alan Cowell, *Trader Who Broke Barings is Back in Britain from Asian Jail*, N.Y. TIMES, July 5, 1999, at A11.

13. Money Laundering (Prevention and Control) Act.

14. *Id.* § 5(1). "Minister" means the Attorney General under the statute. § 2.

15. *Id.* 6.

16. All of these entities fall under the definition of a "financial institution." *Id.* § 2.

17. Police are granted investigatory rights and duties under § 15 of the Money Laundering (Prevention and Control) Act. *Id.* § 15. *See also* News Release, Canadian High Commission, Barbados Plan of Action, Canadian Assistance to the Eastern Caribbean (Feb. 1999) (on file at

BBD\$2 million,¹⁸ while the maximum penalty for a summary conviction on money laundering is five years imprisonment and/or a fine of BBD\$200,000.¹⁹

This new legislation is an all crimes based money laundering regime. Any offense that carries the death penalty or imprisonment exceeding twelve months constitutes an unlawful activity. "Unlawful activity" is defined broadly to provide the predicate offenses for money laundering.²⁰ Officers in financial institutions have distinct duties to report transactions of unusual nature or those involving criminal proceeds and the standard of proof is objective, being whether the officer knows or has "reasonable grounds to suspect."²¹

III. CIVILIZING THE LAW

The overarching threat of money laundering and the desire to combat transnational organized crimes in the Anglophone Caribbean have resulted in the civilization of the criminal law. As the vulnerability of the offshore sectors to such risks is exposed, swift and effective measures have been implemented.

Much use is being made of civil law procedures with *in rem* proceedings coming to the forefront. The full ramifications of "civilizing" the criminal law are yet to be studied, as for example, the extent to which judicial activism will lead to the imposition of constructive trust liability. Such liability would be of major concern to financial intermediaries and attorneys who do not fully comprehend the effects of their suspicions regarding certain clients.

The Proceeds of Crime Act of Barbados introduced various investigative tools obtainable from the High Court to ensure that all tainted property is immobilized for forfeiture and confiscation. Under Section 31 of the Act,²² the Director of Public Prosecutions may obtain a restraining order from the High Court in relation to any realizable property of an ac-

maeci.gc.ca/bridgetown/90201-e.asp) ("UNDCP funded financial crimes/money laundering course for the Barbados Police Force").

18. Money Laundering (Prevention and Control) Act § 20(3)(b).

19. *Id.* § 20(3)(a).

20. *Id.* § 2.

21. *Id.* § 8(1)(b).

22. Proceeds of Crime Act, 1990-13, Cap. 143, § 31(1) (1990) (Barb.).

cused. Costs or damages may be payable as appropriate, including in instances of bad faith. Similarly, freezing orders may be obtained under the Money Laundering (Prevention and Control) Act to maintain the status quo. Such funds may be used for restitution or forfeited on conviction.²³

Under Section 42 of the Proceeds of Crime Act, production and inspection orders and other information gathering powers may be allowed following conviction for a scheduled offense. These orders would seek to identify, locate, or quantify property of a person who committed an offense.²⁴ Under Section 48, monitoring orders may be obtained by the police. Such *ex parte* orders may be granted by a judge in chambers. The object of such an order is to survey transactions conducted through an account held by a particular person at a financial institution. The names in which the account is believed to be held and the class of information that is required should be specified in the order.

IV. DISCLOSURE

Under Section 52 of the Proceeds of Crime Act, when a financial institution has information that it considers relevant to an investigation or prosecution and the institution passes this information to a police officer or the Director of Public Prosecutions, no criminal charge can lie against that institution.²⁵ Thus, an incentive exists for financial institutions to pass on such information promptly to law enforcement agents or the prosecution because by doing so the institution is treated as if it had not been in possession of that information at any time.²⁶

V. REGULATORY RESPONSE

Cross border trading on regional stock exchanges and increased investor participation in Caribbean economies have led to coordinated responses. The desire to maintain a clean image in the offshore sector and the establishment of the Financial Action Task Force (FATF) in 1989 led to the creation

23. Money Laundering (Prevention and Control) Act § 14.

24. Proceeds of Crime Act § 42.

25. *Id.* § 52.

26. *Id.* § 53.

in 1994 of the Caribbean Financial Action Task Force (CFATF) based in Trinidad and Tobago.²⁷ The CFATF seeks to coordinate the twenty-four Caribbean countries' anti-money laundering policies. The forty recommendations by the FATF, along with nineteen specific regional proposals, are attainable goals. The internationalization of crime in the region has led to a deepening and widening of regionalism as increased consultations and plans of action become imperative. Such coordination extends beyond the Anglophone Caribbean to the Dutch, French, and Spanish countries. In June 2000, the presence of Aruba, Netherlands Antilles, Dominican Republic, Haiti, Martinique, and Guadeloupe at the joint Ministerial Meeting on Justice and Law Enforcement epitomizes this new outreach. The U.S. Attorney General Janet Reno co-chaired the meeting with host Attorney General Ramesh Maharaj of Trinidad and Tobago

VI. SELF-ASSESSMENT

Another facet of the regulatory response to globalized crime is the constant effort at self-assessment by small countries. By this process their vulnerability to major transnational threats is reviewed. Towards this end, the Basle Guidelines on banking have been universally adopted.²⁸ The Know Your Customer Rules are reviewed constantly in an effort for banks to become familiar with their customers, and their customers' friends, businesses, and families. The minimum retention pe-

27. The CFATF is an intergovernmental body whose purpose is the development and promotion of both national and international policies aimed at combating money laundering. Information on the CFATF is available at its website at <http://www.cfatf.org/eng> or through the CFATF page of the FATF website at http://www1.oecd.org/fatf/AboutFATF_en.htm.

28. The Core Principles for Effective Banking Supervision was released on September 1997 by the Basle Committee on Banking Supervision. The Basle Committee on Banking Supervision consists of senior representatives of bank supervisory authorities and central banks from Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, the Netherlands, Sweden, Switzerland, the United Kingdom, and the United States. See Press Release, Bank for International Settlements, Basle Committee on Banking Supervision Bank for International Settlements (Sept. 22, 1997) (available at <http://www.bis.org/press/p970922.htm>); BASLE COMMITTEE ON BANKING SUPERVISION, CORE PRINCIPLES FOR EFFECTIVE BANKING SUPERVISION (1997), available at <http://www.bis.org/publ/bcbs30a.pdf>.

riod for banking records is seven years.²⁹ Though bankers realize that their duty of confidentiality remains vital to their clients' interest, bankers also realize that the need to halt illegitimate businesses is an overriding concern.

VII. MUTUAL EVALUATION

Additionally, mutual evaluation examinations are conducted by the CFATF of regional member countries. This opening up of the offshore sectors, in particular to regional competitors for review, has marked a fundamental paradigm shift in the confidential world of banking. Parochialism has abated for mutual survival and respect. This added benefit for regionalism has enhanced relations in other sectors for social-economic cooperation. Old tensions, suspicions, and distrust have given way to the Caribbean Coordinating Mechanism and the Regional Coordinating Mechanism. Enhancing compliance with international standards while jointly seeking outside assistance through funding and training results in the combating of transitional crime.

VIII. PROFESSIONALISM

The presence of designated compliance officers in banks has become a standard operational procedure. The collapse of the Bank of Credit & Commerce International (BCCI)³⁰ has led to innovative responses. In Barbados, the portfolio of this fraudulent institution has been acquired and a new banking operation has been commenced by the Mutual Bank. As a result of governmental action in postponing its demands, deposit holders have been protected and renewed confidence has been generated in the banking sector. This positive response by Barbados to an international criminal syndicate is worthy of emulation.

Increased vigilance and professionalism by auditors and fiduciaries in ensuring the observance of standard best practices in financial statements are encouraged. The prolific litigation resulting from the BCCI's collapse resonates well with accounting practitioners who prepare financial statements.

29. Proceeds of Crime Act § 50(1)(2)(a)-(c).

30. See *Bank Faces £1bn Law Suit*, BBC NEWS (Mar. 23, 2001), at http://news.bbc.co.uk/1/hi/english/business/newsid_1237000/1237507.stm.

Clear standards of objectivity and independence are reinforced by the potential for misstatement liability based on negligence and the subsequent loss of reputation. The constant need to ensure due diligence, the audit trail, and authorization for transactions has been brought to the forefront by the globalization of crime.

IX. NON-BANKING INSTITUTIONS

An area of vulnerability in small societies is the non-banking sector. The past decade has witnessed the development of *cambios*, money transfers, credit unions, insurance companies, and a myriad of non-bank deposit taking institutions. Some offer attractive interest rates to unsuspecting customers. The collapse of Trade Confirmers Ltd. in Barbados and the ensuing Commission of Inquiry did not result in the return of deposits to clients. The fact that interest rates were in excess of the statutory maximum led to illegality and non-repayment of the interest by borrowers.

The increased supervision and regulation of the banking sector could result in the diversion of funds to this informal, under regulated sector. Criminals are quick to exploit weaknesses in every system.

Money laundering, narco-trafficking, and transnational crimes command abundant resources for the use of corrupting officials and small operators in the cash-driven societies of the Caribbean. Studies show that many banks in the former Soviet Union and in Eastern Europe are suspected of being controlled by organized crime syndicates.³¹ The negative effect on the economy and depositors is realized frequently in the form of currency shortages, devaluations, bankruptcies, and capital flight.

In June 1998, the U.N. Special Session on Drugs highlighted this continuing area of vulnerability. However, no specific recommendation was agreed upon despite the statement of various proposals for action.

31. See, e.g., Press Release, Center for Strategic and International Studies, Russian Crime Syndicates Threaten U.S. Security (Sept. 29, 1997) (on file at http://www.csis.org/press/pr97_9.html).

X. CARIBBEAN INITIATIVE

In May of 1998, the CFATF, with U.S. assistance through the RAND Corporation, conducted a typology exercise on Internet casino gambling.³² This was a direct regional response, the purpose of which was to develop the capability to cope with the growth of Internet casinos operating out of St. Kitts and Antigua. The challenges posed by such ventures are immense. The host countries merely grant licenses to operators for a fee. However, the ability to regulate Internet casinos and detect possible offenses remains rudimentary at best and non-existent at worst.

CFATF conducted various exercises to demonstrate the phenomenal growth of cyberspace criminal activity with regard to Internet gambling, Internet banking, and cyberpayments. Many such electronic transactions create only fleeting and transient records. The ability to detect and trace transboundary financial offenses over the Internet was reviewed. The inherently ambiguous regulations coupled with cross border differences in legislation, practices, and legal interpretations rendered the task daunting. The major challenge in the hypothetical exercise was the absence of any norms to govern these emerging realities. As discussions progress and a search for uniformity continues, transnational crimes may flourish. Some transnational criminals possess the ability to stay ahead of new laws and dominate a niche for a particular period of time. The result is inevitably high profits for the criminal at the expense of law-abiding citizens. A substantial recommendation of the CFATF Workshop on Money Laundering Through Emerging Cyberspace Technologies was the establishment of a Permanent Joint Task Force.³³ The purpose of this agency is the development of policies for implementation. Further, it is envisaged that operational assistance on a multinational basis will be available by this itinerary force.

32. Caribbean Financial Action Task Force, Annual Report 1997-1998 (1998) (unpublished report, on file at <http://www.cfatf.org/eng/annrep/97-98.txt>).

33. The conclusions and recommendations made by the CFATF at the Workshop on Money Laundering Through Emerging Cyberspace Technologies can be found at the CFATF website at <http://www.cfatf.org/eng/typoexe/cyberspace/index.txt>.

Host countries will have to request such assistance in combating cybercrimes from the task force.

XI. LAW ENFORCEMENT

The advent of globalized crime has forced police forces constantly to look beyond their shores for suspects, trends, evidence, and proceedings. Law enforcement has been adapting to cope with increasingly complex crimes and jurisdictional issues. For a more competent investigation, cases may be handed over to another police force in a different jurisdiction. The Barbados Police Force has consistently sought to enhance its effectiveness and capabilities. As a result, U.S.-sponsored assistance in 1997 led to the force's accreditation by the Commission for Law Enforcement Agencies. This has been a singularly significant achievement as it is the first such accreditation of a police force outside of North America. This accreditation was achieved through the fulfillment of about nine hundred standards set by the Commission encompassing professionally recognized criteria for excellence in the provision of services and management.

XII. NON-DRUG CASES

The free movement of capital, facilitated by liberalized trade, regimes, the absence of currency exchanges, and the absence of exchange control regulations, has been a quagmire for law enforcement. The challenge has been the difficulty in separating illicit from legitimate transactions. For example, in Barbados in 1997, a telemarketing operation was started by a Canadian, Blair Down. The illicit operation allowed several locals to gain employment with various shell companies that targeted elderly citizens in North America. Various packages of lottery tickets were offered incorporating double billing, over invoicing, and outright fraud. Pursuant to an investigation in Seattle, a search of the premises in Barbados led to cogent evidence of the telemarketing scam. The Principal, Blair Down, eventually pleaded guilty and was jailed in Oregon. Some US\$12.3 million was recovered and much of it was used for compensation and restitution to the victims.³⁴

34. See *Interclaim Holdings Ltd. v. Ness, Motley, Loadholt, Richardson & Poole*, No. 00 C 7620, 2001 WL 1313799 (N.D. Ill. Oct. 29, 2001); *Public*

This case demonstrated practical cooperation between law enforcement agencies in the United States and Barbados. The sum of US\$100,000 from the forfeited assets was shared with Barbados on December 27, 2000. This development heralds a new era in cooperation resulting from the globalization of crime. It exemplifies non-drug related cooperation and demonstrates possible future trends.

XIII. MUTUAL ASSISTANCE

The internationalization of crime has accelerated the mutual legal assistance regime among countries. Early indications of such cooperation saw the European Convention on Mutual Assistance in Criminal Matters³⁵ followed by the 1986 Commonwealth Mutual Legal Assistance Model. The Commonwealth scheme is non-treaty based and depends on the passage of enabling legislation in each country.³⁶ The major challenge to these schemes has been the diversity among legal systems, as is evident in Europe, between civil and common law jurisdictions.

The United States and Switzerland developed a bilateral treaty in 1977 that has led the way towards creating such a mutual legal assistance regime.³⁷ Currently various mutual assistance models exist, as the Organization of American States/Inter-American Drug Abuse Control Commission (OAS/CI-CAD) Mutual Assistance Treaty illustrates. The UNDCP has presented a draft Mutual Assistance in Criminal Matters treaty for intra-Caribbean States.³⁸ The Caribbean-United States-European-Canada Ministerial Conference held in Trinidad in

Citizens, AARP are Helping Victimized Older Persons, SENIOR WORLD ONLINE (Dec. 22, 1999), at <http://www.seniorworld.com/articles/a19991222192459.html>.

35. European Convention on Mutual Assistance in Criminal Matters, *done on* Apr. 20, 1959, 472 U.N.T.S. 186.

36. Scheme Relating to Mutual Assistance in Criminal Matters Within the Commonwealth Including Amendments Made by Law Ministers in April 1990 (Harare 1986), *reprinted in* INTERNATIONAL CRIMINAL LAW: A COLLECTION OF INTERNATIONAL AND EUROPEAN INSTRUMENTS 345 (Christine Van den Wyngaert & Guy Stessens eds., 1996).

37. Treaty on Mutual Assistance in Criminal Matters, Jan. 23, 1977, U.S.-Switzerland, 27 U.S.T. 2019.

38. U.S. Department of State, Bureau of International Narcotics Matters, International Narcotics Control Strategy Report (Apr. 1994) (unpublished report, on file at <http://dosfan.lib.uic.edu/ERC/law/INC/1994/05.html>).

June 2000 under the U.S. Attorney General Janet Reno has agreed to study the draft.³⁹ If accepted, such a treaty would fill the vacuum between the Anglophone Caribbean states and their Dutch, French, and Spanish neighbors.

Mutual legal assistance in criminal matters is a cooperative mechanism among states to facilitate the production of evidence in an admissible form for use in investigations and prosecutions. Broad areas of assistance can be given by states covering evidence taking, search and seizure, provision of documents, service of documents, and the temporary transfer of witnesses or prisoners at any point from the investigatory stage to appeal. The utility of mutual assistance in criminal matters is that it provides for the rendering of assistance in an effective and expeditious manner. Central authorities can respond to each other without reference to diplomatic channels.

Letters Rogatory are used in the absence of such bilateral or multilateral agreements. Mutual legal assistance bridges the gap in common law jurisdictions where all of the evidence of a witness must be recorded verbatim. A summary or "process verbal" common to civil law systems is not sufficient.

To date, Barbados has provided mutual legal assistance to Canada and the United Kingdom. Court orders to access suspected bank accounts were obtained for a murder case involving Julia Elliott in Canada.⁴⁰ In 1999, she was released in Canada for breach of her Charter rights under the Canadian Charter of Rights and Freedoms during the pre-trial detention stage.⁴¹ An agreement to enable the sharing of forfeited assets between Barbados and Canada was signed on February 26, 2001. Thus far, more than US\$1 million in seized assets already has been shared between Canada and the Caribbean territory.⁴²

39. Janet Reno, Address at the Caribbean-United States-European-Canada Ministerial (Criminal Justice and Law Enforcement) Conference (June 13, 2000) (transcript at <http://usinfo.state.gov/regional/ar/islands/reno.htm>).

40. *The Queen v. Elliott*, [1999] C.R.D.T. 583.

41. See Elizabeth Raymer, *Crown Appealing Stay of Murder Charge*, LAW. WKLY., Oct. 1, 1999, LEXIS, Nexis Library, Canadian Publications File.

42. See *Barbados, Canada Signing Asset-Sharing Agreement*, CANA BUSINESS INTERACTIVE (Feb. 26, 2001), at <http://www.cananews.com/cbi/businessupdate1286.htm>.

XIV. EXTRADITION

Extradition or rendition proceedings among Commonwealth countries have been well-established and used against international criminals. Increased resort to extraditions is facilitated by the signing of modern extradition treaties, especially between the United States and the Caribbean states. The transshipment of drugs through the Caribbean by South American producers to North American and European consumers demands vibrant extradition procedures. The method of listing those offenses cognizable for extradition purposes has been replaced by declaring most offenses carrying a penalty in excess of twelve months imprisonment to be extradition crimes. The rules on dual criminality and speciality are observed broadly while the "conduct test" is used instead of the labelling of offenses.

In 1990, a Texan, Robert Harding Walker, was extradited from Barbados to the United States on mail and wire fraud charges. The fugitive allegedly had looted US\$56 million from two insurance companies in Texas, Western Fire and Casualty Insurance and National County Mutual Fire Insurance. The premiums were withdrawn from the companies that subsequently went bankrupt. The fugitive then wrote off the sums as bad debt.⁴³ Extradition was granted despite the fact that mail and wire fraud offenses are unknown to the criminal law of Barbados.

XV. OTHER COOPERATION

Small states prefer the use of extraditions over the abductions that have occurred occasionally. In June 2000, St. Kitts protested to the United States about the alleged abduction of one of its nationals for drug-related offenses.⁴⁴ The defendant

43. See Junda Woo, *Ex-Insurance Tycoon Is Jailed in Barbados After Long Manhunt*, WALL ST. J., July 9, 1990, at B6; Robert G. Knowles, *Texas Looks to Extradite Ex-NCM Pres.*, NAT'L UNDERWRITER PROP. & CASUALTY-RISK & BENEFITS MGMT., July 16, 1990, 301990 WL 2584320. For the legal history following Walker's extradition, see *Walker v. Brodhead*, 828 S.W.2d. 278 (Tex. App. 1992).

44. See *St. Kitts Protests U.S. 'Kidnapping'*, 15 MONTSERAT REP. 21 (June 16, 2000), at <http://www.montserratreporter.org/news0600-3.htm#f24>. For greater detail and insight in to the story surrounding the incident, see Patrick Smikle, *Drugs—St. Kitts: United States Ups Pressure on Suspected Traffickers*,

was taken to Puerto Rico by U.S. Drug Enforcement Agency (DEA) officials after he allegedly was arrested in international waters. Sovereignty is a highly cherished principle in international relations. Small, vulnerable nations logically demand consultations and due process in multilateral relations as a mark of respect and comity.

The Regional Security System in the Caribbean has been instrumental with British and U.S. assistance in combating maritime interdiction of narco-trafficking and customs violations. Cooperation among regional Customs Departments has been fostered through a well-established customs union, the Caribbean Customs and Law Enforcement Council. Police forces cooperate globally through Interpol, subject to the current inherent limitations.

XVI. FUTURE

The perspective of a small state is informed by geopolitical and resource implications. The internationalization of crime heralded a new ethos in international relations. The G8 countries have prioritized crime and the necessity to combat its harmful effects. As a result, resources have been provided for this laudable objective. Several initiatives have been undertaken internationally and regionally. The extension of U.S. law enforcement agencies to high risk areas through the provision of legal attaché, Coast Guard, and DEA officials is ample proof.

New regional structures like the CFATF, Regional Coordinating Mechanism (RCM), Caribbean Coordinating Mechanism, and the proposed Caribbean Association of Financial Regulators are active in the struggle against money laundering. The evolution of Mutual Legal Assistance Treaties, tracing, and immobilization of illicit proceeds of crimes are common. Yet the periodic self-assessments and mutual evaluations of countries along with increased vigilance over the non-banking institutions exert severe pressures on the resources of small, island economies with limited legal and regulatory personnel. At the June 2000 U.S.-Caribbean Ministerial Meeting in Trinidad, several islands requested help in completing volu-

INTER PRESS SERV. (June 15, 2000), at http://www.oneworld.org/ips2/june00/22_18_077.html.

minous questionnaires. Such basic requests reflect a paucity of resources.

Interdependence and participation in regional organizations demand full cooperation and compliance. Some Organization of Eastern Caribbean States (OECS) nations are struggling to survive on a monoculture of bananas. The preferential marketing regime with Europe has been ruled illegal by the WTO.⁴⁵ Efforts by small Caribbean states to diversify their economies are now being labelled as harmful taxation policies by the Organisation for Economic Co-Operation and Development (OECD) countries.⁴⁶

The onslaught of global crime on such fragile economies in the face of such hostility by developed countries could undermine the democratic traditions of these states. The globalization of crime must be attacked by all states participating in mutually-respected multilateral fora. The March 2000 U.N. Offshore Forum in the Cayman Islands suggested that the United Nations is the best broker for the establishment of mechanisms and standards for the offshore centers.⁴⁷

XVII. VISION

Future law enforcement trends in the fight against global crimes may be characterized by:

- 1) Increased enforcement of fiscal offenses by all countries.
- 2) More flexible extradition agreements evidenced by:
 - (a) relaxation of the Specialty Rule
 - (b) backing of warrants to expedite prosecutions

45. See, e.g., WTO Appellate Body Report, European Communities—Regime for the Importation, Sale and Distribution of Bananas, WT/DS27/AB/R Doc. 97-3593 (Sept. 9, 1997), at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm.

46. See Prime Minister the Hon. Lester B. Bird of Antigua and Barbuda, Speech at Quebec City, Canada (Apr. 20, 2001) (transcript available at <http://208.153.99.228/speeches/3summitamericas-bird1.htm>).

47. Press Release, United Nations Office for Drug Control and Crime Prevention, United Nations Offshore Forum Concludes: Delegates Reach Broad Agreement on Proposed Minimum Standards to Combat Money Laundering (Mar. 31, 2000) (on file at http://www.undcp.org/press_release_2000-03-31_1.html); Michael Peel, *G7 Cracks Down on Hot Money*, FIN. TIMES, Sept. 22, 2000, at xxv.

- (c) arrests based on reasonable suspicion rather than a prima facie case or probable cause threshold.
- 3) Establishment of specialized tribunals to address transnational crimes.
 - 4) Introduction of wire tapping and advance surveillance techniques coupled with witness protection in small states.
 - 5) Increased calls for model legislation and their adoption, such as the Convention against Transnational Organized Crime⁴⁸ and the OAS Convention against Corruption.⁴⁹

Moreover, future trends in the internationalization of crime may be evidenced by:

- 1) Production and marketing of more designer drugs along with heroin consumption.
- 2) Frequent resort by international criminals to the use of international conventions under cover of human rights violations.
- 3) Protracted litigation to delay investigations and prosecutions on jurisdictional issues.
- 4) Displacement of criminality to non-banking institutions, piracy counterfeiting, and cyberpayments in poorly regulated countries.
- 5) Constant attacks on law enforcement operations as too intrusive and breaching constitutional guarantees.

XVIII. CONCLUSION

Demand and supply are the constant rules of economics. As long as markets exist and human greed abounds, international criminals will seek to profit. Such fraudsters frequently pillage national resources with impunity. The principal challenge will relate to the development and adoption of strategies to control international crime, while allowing economies to flourish in accordance with democratic traditions.

48. United Nations Convention Against Transnational Organized Crime, Dec. 12-15, 2000, at http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_eng.pdf.

49. Inter-American Convention Against Corruption, Mar. 26, 1996, 35 I.L.M. 724.

Barbados and other small Caribbean states called for drug trafficking to be included in the jurisdiction of the proposed International Criminal Court. Currently, it is hoped that such a justified inclusion will materialize at the first review conference after the Permanent International Criminal Court becomes effective.⁵⁰

International criminals are skilled at exploiting national borders to protect themselves by masking evidence and their proceeds from crime. By contrast, law enforcement has been slow in apprehending these criminals due to difficulties in overcoming barriers to sovereignty. However, there is no doubt that current and enhanced efforts internationally, regionally, and nationally will continue to effectively combat and disrupt transnational crimes. Accordingly, the prospect for good governance and improved security of our global village is rather real for this generation.

50. Rome Statute of the International Criminal Court, July 17, 1998, 37 I.L.M. 999. As of March 12, 2002, fifty-five countries have ratified the treaty. The current number of countries who have ratified can be found on the Human Rights Watch website at <http://www.hrw.org/campaigns/icc/> (last visited Mar. 13, 2002).

