

PLOMO ó PLATA:
POLITICS, CORRUPTION AND DRUG POLICY
IN COLOMBIA

by

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ABSTRACT

The purpose of this dissertation was to explore the problem of making drug policy in Colombia and to determine why Colombian officials have been unable or unwilling to bring international criminals to justice and how this has not only affected internal state order but external state relations in an increasingly interdependent world. A study of the politics and history of Colombia was first carried out through an examination of the contention that Colombia is the most violent country on earth. Next, the growth of criminal organizations in that country was traced over several decades. Factors such as indiscriminate violence, corruption, historical party rivalries, traditional oligarchical structures, extremes of wealth and poverty and guerrilla movements were also found to contribute to a very difficult environment in which to make and implement policies in the Colombian criminal justice system.

Secondly, the international dimensions of this problem were explored through an examination of international criminal law, generally and extradition, specifically. The United States was found to have significant influence on Colombian drug policy in how it has, in effect, turned a domestic consumption crisis into a foreign policy problem. A focal point of relations between the two states has been the 1979 U.S.-Colombia Treaty of Extradition which the U.S. insists Colombia enforce. When Colombian traffickers have been extradited, however, the drug cartels' violent retributions have been so deleterious to the social order that desperate Colombian officials have been virtually coerced into finding political/legal barriers to the Treaty.

Colombian policy makers have thus been subject to extremes of violence, coercion and international pressure from fiercely competing interests such that it is difficult, if not impossible, to make effective and lasting policy to combat drug trafficking. The results have been fatal for many Colombian officials and debilitating for the country's political system and international relations.

The research for this dissertation has included an analysis of available literature, both academic and government sources as well as other communications relevant to the research subject such as media reports. A content analysis as a form of unobtrusive research was undertaken together with interviews with selected persons who have expertise in the area.

DEDICATION

To Dr. John Ekstedt. Thank you for your mentorship, wisdom and friendship. I have learned a great deal from you about seeking truth and justice and hope to continue to do so in future years.

Also... to that mystical and magical thing called happiness that has for so long led me on a merry do-si-do with sharp reverses and dizzying spins, all the while eluding me.

It was as if God had decided to put to the test every capacity for surprise and was keeping the inhabitants of Macondo in a permanent alternation between excitement and disappointment, doubt and revelation, to such an extreme that no one knew for certain where the limits of reality lay...on the streets of Macondo men and women were seen who had adopted everyday and normal customs and manners but who really looked like people out of a circus. In a town that had chafed under the tricks of the gypsies there was no future for those ambulatory acrobats of commerce who with equal effrontery offered a whistling kettle and a daily regime that would assure the salvation of the soul on the seventh day; but from those who let themselves be convinced out of fatigue and the ones who were always unwary, they reaped stupendous benefits...and everything written on them was unrepeatable since time immemorial and forever more, because races condemned to one hundred years of solitude did not have a second opportunity on earth.

Gabriel García Márquez, *One Hundred Years of Solitude*

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INTRODUCTION

*Foul whisperings are abroad.
Unnatural deeds do breed unnatural troubles.
Shakespeare, Macbeth, Act V.*

Background

Interest in crime, and more specifically corruption, began during the writing of an M.A. Thesis in which the activity of multinational corporations in Sub-Saharan Africa was examined. Among other things, it was found that many of these corporations operate by often specifically encouraging corruption. The study of the political systems of six black African states demonstrated how, due to their colonial experiences and present-day systems of governance, they are not only susceptible to corruption but often solicit bribes from the foreign governments and multinational corporations that operate within their borders. While Dependency Theory was found to assist in explaining the relationship of multinational corporations to Third World states, it accounts for only part of the phenomenon. During the course of the research, it was found that Dependency Theory did not sufficiently address the political exigencies encountered in the African context. Indeed, the problem was much more complex than it had first appeared. Hence, another theory was developed to account for the high incidence of political corruption in black Africa. This theory was labeled "Contingency Theory" and served as an effective compliment to Dependency Theory. It was concluded that in states where constitutionalism is lacking, corruption, patronage and violence are as much due to

individual struggles for power and self-aggrandizement as to historical experience and inequalities in wealth between North and South.

In addition, while pursuing graduate studies, a teaching assistantship was obtained in the Political Science Department of the University of British Columbia, for international relations courses. Subsequently, upon graduation, appointments were obtained to teach Political Science, International Relations and International Conflict at Douglas College in New Westminster. During this time, it was realized that International Relations texts rarely discuss global crime, with the possible exception of Regime Theory developed by Stephen Krasner and a few others -- and even in this case only peripherally. The problems and issues pertaining to global crime became clearer as a result of attendance at several seminars and conferences on the subject of organized crime and corruption -- one of the most significant being *Respondacon II*, a satellite conference that included among its participants the Presidents of Nicaragua and Argentina, many of the top officials, members of the police, and union leaders, of a majority of the countries of North and South America. This stimulated an interest in the problems of corruption as a result of organized crime in Latin America.

Research on the subject of Colombia began several years before applying for doctoral studies at Simon Fraser University. The then President of the Society for the Reform of Criminal Law was the local facilitator for *Respondacon II*. After the conference it was learned that he was working with the Colombian Ambassador to Canada, Dr. Fernando Cepeda Ulloa, to initiate a project to reform parts of the Colombian criminal justice system. An opportunity was presented to work with the Society to

organize an international conference on the *Reform of Evidence* in Vancouver and in the meantime help to develop the Colombian project. After the successful completion of the *Reform of Evidence* Conference, a meeting was arranged in Ottawa with Ambassador Cepeda and a collaboration was begun to secure funding for reform in the Colombian criminal justice system.

After returning to Vancouver, contact with Dr. Cepeda was frequent. Concurrently, a series of meetings were also initiated with Dr. John Ekstedt, the co-Director of the Institute for Studies in Criminal Justice Policy at SFU. The possibility of applying to do a Special Arrangements Doctorate with the University on the subject of the Criminal Justice System in Colombia was explored. The Justice project with Dr. Cepeda could provide a unique opportunity to obtain relevant data. In order to prepare a Special Arrangements proposal, a serious literature review on the subject of Colombia was initiated. At this point the inquiry was based on the assumption of the existence of excessive corruption in the criminal justice system of Colombia. Indeed, much of the literature located in the Simon Fraser University and University of British Columbia libraries tended to support this assumption.

The Dissertation Proposal

In the original proposal, the research objective was broadly stated: "to study the implications of drug corruption on the criminal justice system of Colombia". Political-legal corruption was defined as the misuse of political office or trust for private-regarding pecuniary or status interests. The purpose was to examine how such corruption has affected both the internal as well as the external sovereignty of Colombia. The study was

based on the hypothesis that because Colombia attempts to mirror a form of Liberal Democracy incompatible with its history and tradition, it is left with a governing structure which is unable to deal with such factors as extreme violence, rapid social change, extensive poverty, high unemployment, criminal activity, partisan political rivalries, ineffective and corrupt state institutions, and more recently, foreign relations dilemmas. With that hypothesis framing the research, an attempt was made to focus on corruption as an exemplar for testing the underlying assumptions of the hypothesis. However, it was soon discovered that corruption is only part of the key to understanding the problem of instability and thus the difficulty in formulating a coherent and workable drug policy in Colombia. Internal factors of extreme violence, rapid social change, extensive poverty, high unemployment, criminal activity, entrenched oligarchical structures, bitter historical political rivalries, guerrilla movements, highly organized drug cartels and ineffective and corrupt state institutions have all contributed to an unstable environment for the making and implementing of policies by Colombian officials.

In addition, intense international pressure, especially from the United States, to end the international traffic of illicit narcotics has forced Colombian officials to address the international ramifications of breaches of international criminal law by Colombian nationals. Hence, what might have been dealt with as a domestic problem of criminality has become, in recent years, a foreign relations dilemma for Colombia. Colombian officials are now grappling with making difficult policy choices. On the one hand, satisfying the demands by the international community to end drug trafficking usually means swift and violent retaliation against the Colombian state by Colombian organized

crime groups. On the other hand, when desperate Colombian officials attempt conciliatory measures with traffickers in an effort to restore order, international pressure has been intense. Threats to Colombian sovereignty have been made and tensions between the United States and Colombia have ultimately resulted in the decertification of Colombia by the United States for foreign aid.

The making of drug policy in Colombia has thus been a 'juggling act' for successive Colombian administrations. Colombian policy makers are pressured from all sides, by numerous interests, to make policy that in the end displeases one group or another and which has resulted in extreme levels of violence and instability, the extent of which has been unsurpassed in other parts of the world. In the face of this, the Colombian government has attempted to maintain order without the proper resources, training or equipment. The results have been fatal for many Colombian officials and debilitating for the country's political system and international relations.

Drug Culture and Policy in Colombia

The drug traffickers that operate from bases in remote regions of Colombia are often cited as being a major cause of the violence that occurs (see, for example, Pearce, 1990; Lee, 1989; Bagley, 1989; Dix, 1987). While the cartels, as the drug traffickers are called collectively (Colombians prefer the word 'Mafias'), are a strong source of violence and corruption, they are not the only or the first source of the culture of violence that exists. Colombia has a long tradition of violence that predates this century. Indeed, the culture and sub-cultures that have sprung from this tradition are complex and multi-

faceted making violence and lawlessness an everyday problem that the Colombian criminal justice system has been unable to prevent. This has led to the question as to whether the Colombian criminal justice system is, in fact, in a crisis of legitimacy.

An added dimension to the problem has been the policy of the United States regarding drug trafficking. From the U.S. point of view, the problem is one of drugs destroying the heartland of the United States; for the Colombian Government, it is a problem of terrorism, lawlessness and corruption, as well as appeasing the United States. The U.S. approach has focused on eliminating drugs at the source or seizing them before they reach the United States. To that end the specific international policies it has promoted in Colombia, as in other states in Latin America such as Bolivia, Peru, and Mexico, include eradication, crop substitution, interdiction and enhanced law enforcement. While Colombia has co-operated in this regard, its current social/political system and economic instability have not led to any immediate solutions. Additionally, it has the ever-present worry for its sovereignty if the precedent set by the United States in its 1989 invasion of Panama to depose Manuel Noriega can be viewed as the most glaring example of the lengths to which the U.S. will go in its concern over drug issues.

One of the recent multilateral initiatives was the 1990 Cartagena meeting where the United States, Colombia, Bolivia, and Peru signed a declaration of co-operation. However, "[s]o far the results have been meaningless" (Camacho in Bagley, 1994: 99). The U.S. government has attempted, rather, to initiate aerial and naval blockades leading to violations of Colombian air space, coupled with the decertification of Colombia for both bilateral and multilateral foreign aid. "The use of direct military actions has also

been contemplated, ...and the soldiers of the Cold War are now bearing down on a new enemy" (1993 Newsweek, July 16, 1990; CNN Kingdom of Cocaine, December, 1993).¹

The response by the Colombian government has been swift: "Independent of the U.S. government's or Congress's interest in reiterating their interest in the struggle against drug trafficking, Colombia is not willing to accept unilateral criteria on performance or the use of arbitrary certification procedures" (AFP Paris, July 16, 1994).

Thus, one dimension of the problem is that Colombia is indeed currently in the grips of what Colombian journalist, Antonio Caballero, termed a 'commercial war' -- a war that is being waged by some of the country's most powerful traffickers in cocaine (El Espectador October 1, 1989). Their war is one of vested business interests and protection of their members from extradition to the United States. Indeed, the cocaine cartels have virtually formed a 'state within a state', replete with an organized infrastructure and a well-grounded political base that pervades all aspects of Colombian life. They have resorted to violence, killing scores of judicial, police and military personnel along with hundreds of civilians in order to avoid prosecution by the Colombian state, and later to coerce the Colombian state to halt extraditions to the United States. Colombian government officials have repeatedly stated that their first priority is to end the pervasive violence and restore order to Colombia.

Yet another dimension of this crisis is political. Often termed the 'dirty war', members of the traditional elite -- businessmen, landowners and members of the armed forces and police, partially for ideological/nationalistic reasons and partially for business

¹United States military forces have in fact already completed operations Hatrick I, II, and III.

interests, have sometimes allied themselves in unofficial para-military death squads with the cartels in order to combat left-wing guerrillas. This violence has expanded from there to the mass killings of opposition members and left-wing activists, exacerbating an already historically shaky political situation. However, the rise of the cocaine cartels and the numerous para-military groups is not the only cause of the present crisis in Colombia. It is merely the most recent manifestation of a historically-rooted pattern of violence: a tradition of bitter rivalry between the two official parties that vie for control of the governing structure which culminated in the late 1940's and 1950's in *La Violencia*, the final phase of which lasted until 1965². This was characterized by the phenomena of hired assassins, the formation of paramilitary and self-defense groups, extortion, kidnapping and guerrilla attacks -- all of which yet survive as replacements for legal methods of social change.

Thus, while violence has undoubtedly been an obstacle to halting drug trafficking, the question arises as to the extent of Colombian concern over drugs in light of all of the other problems. Drug cartels have also managed to subvert the policy process in Colombia through the use of corruption. As mentioned above, political-legal corruption may be defined as the misuse of public office or trust for private-regarding pecuniary or status interests. Corrupt behaviour such as bribery, nepotism and misappropriation of public resources is often accompanied by fraud, extortion, embezzlement, violence, and other forms of criminal activity (Nye, 1967; Heidenheimer, 1989; Klitgaard, 1989; Theobald 1990). In terms of the judiciary, unprecedented violence has occurred when

² The Liberal and the Conservative parties, dating officially from the late 1840s, have been responsible for this violence which even today dominates Colombian political life.

decisions have not been made in favour of cartel members. The Medellín cartel, centered in the country's large industrial metropolis, has been largely responsible for the assassinations and corruption of judges, so much so that persons of probity are now reluctant to accept that position. Members of the judiciary are threatened with the option of '*plomo ó plata*' (lead -- a bullet, or silver -- the Colombian slang for money) -- that unless they rule in favour of the criminals they will be killed, and further told that if they rule to the advantage of the traffickers, they will be well compensated. Indeed, some three-hundred and fifty judicial personnel are estimated to have been murdered since 1980, including fifty judges (Bagley, 1989: 73). The judiciary therefore maintains its independence with great difficulty.

There has allegedly been a dedicated effort within the central government to purge the police forces that have for a long period of time been dominated by drug cartels; a similar effort has been made to deal with related matters vis à vis the armed forces. Meanwhile, the charges that cartel members have made large contributions and paid bribes to politicians and their campaigns have been difficult to verify and as such even more difficult to halt.

This leads to the question of the economic benefits of drug trafficking to Colombia. In 1989, for example, illicit drugs accounted for approximately US\$2.5-5 billion in trade capital repatriated to Colombia, outranking coffee (US\$2-2.5 billion) as the country's principal foreign exchange earner (Bagley, 1989: 70). The cartels have even offered to pay off the national debt of Colombia twice (Collett, 1988: 130). Colombia's licit economy has been increasingly at risk -- the economic and enforcement costs of the

drug war, with heavy expenditures in the 'defense sector', have been estimated as high as \$2 billion (or 5 to 6 percent of Colombia's GNP) (Lee, 1991: 37-38). Thus, while the efforts of the government toward eradicating the violence associated with the illegal drug trade have been dedicated, from the economic point of view, at least, such efforts may not be so urgent.

A final dimension to this crisis has been international pressure. Drug cartels are illegal transnational criminal organizations involved in narcotics trafficking and related criminal activity that affect both the internal integrity of sovereign states and their relations with each other. The international community has pushed Colombia to bring such criminals to justice simply because they are Colombians. In fact, much concern has been expressed that issues such as the increase in transnational crime in the post-Cold War era, have led to the need for a change in thinking that basically amounts to altering the principle of sovereignty -- nonintervention in the domestic affairs of states. This theory has tended to hold that if there exist certain matters that tend to affect or involve the global community, then they are not exclusively matters of national jurisdiction (Specter, 1990: 172). The Colombian government has countered by stating that Colombia is a developing state lacking the sufficient resources to combat an essentially international problem. Indeed, this argument is not without merit for it is arguable that every state has criminal organizations that threaten international order to the extent that such criminals transport their activities across state boundaries. Even if domestic systems of law are able to deal with criminals within the boundaries of the sovereign state, governments may not always be able or willing to tackle a criminal problem which

originates from within their own borders, but whose effects are largely felt in another state. In comparative criminal justice research, this is the well-documented problem of transnational crime (Cameron, 1994; Mills, 1986; Zagaris, 1991).

International criminal law has played an important, albeit at times largely theoretical, role in the definition and assessment of these forms of crime and has been used as the argument by the international community for Colombia to act. However, as all states are aware, whether or not international criminal law is concretely employed and enforced is left to the state in question due to the simple fact that sovereign states are largely free to order their internal affairs as they see fit (Bull, 1977).

This initial work led to the conclusion that the problems in Colombia do not stem from a single source. Indeed, Colombia is a country of incredible contrast and diversity. At once there exists the Colombia described by some of the press as the most democratic country in Latin America, and at the same time, there is the Colombia of extreme violence and crisis, where constitutionalism and the rule of law are tenuous ideals at best.

Layout of the Dissertation

The first chapter of this dissertation explores two main theoretical perspectives that are helpful in explaining the problem of making drug policy in Colombia. First, policy perspectives are explored placing special emphasis on policy-making in crisis. It is reasoned that the variety of factors that have placed increasing pressure on Colombian policy-makers, such as the international community, the Colombian drug mafias, a political culture and historical propensity for violence in Colombian society and the

Colombian political economy, have contributed to a highly contingent environment in which to make drug policy. This has led to decision-making often being made quickly by a small group of people under conditions of duress or coercion.

The second theoretical perspective that is perhaps helpful to understanding the Colombian drug dilemma, is the policy environment. This discussion revolves around the types of actors that interfere in the internal sovereignty of Colombia, especially with regard to the drug problem. International organized crime and international law/criminal law are discussed as acting as international regimes in which the activities are based on calculations of common interests. Such regimes often pose a direct challenge to sovereign decision-making authority. Such elements are found to contribute to crisis-driven policy that is largely sporadic and reactive.

Chapter Two discusses the various methods that were used to collect the data for this dissertation. A content analysis of selected communications was undertaken as a form of unobtrusive research for the purposes of policy analysis.³ As a practical application of hermeneutic principles, the contents of a variety of communications were coded in order to help clarify their inherent or hidden meaning. This was done along with a comprehensive review and analysis of the general and academic literature dealing with the historical, social-economic and political (including criminal justice policy) aspects of Colombian drug policy making, as well as several interviews with Colombian officials. The research for this dissertation often required diverse and unconventional methods of

³ As a form of unobtrusive research, Content Analysis is defined by Babbie in The Practice of Social Research (1995: 305-327) as the analysis of communications such that the researcher does not alter the subject of study but, rather, observes results.

data gathering due to the complexity of attempting to observe policy and criminality across disparate cultural and linguistic domains.

The third chapter of this dissertation explores the historical tradition and international reputation of Colombia as being the most violent country on earth yet the most democratic in Latin America. It was concluded that Colombian attempts to establish a true democracy have fallen short due to the inability of the government to maintain order all of the time. When government is unable to maintain a stable and durable social order, democracy is difficult to achieve and particularistic loyalties tend to fracture the state allowing for the incidence of corruption and the operation of private power brokers.

Chapter Four examines drug trafficking and drug violence in Colombia and how such activity has contributed to a crisis for desperate Colombian policy-makers. Chapter Five continues this discussion with an exploration of the international dimensions of the drug trafficking problem. International law and international criminal law, along with some of the attempts that have been made by the international community to halt the international drug trade is, further, discussed.

Chapter Six is an analysis of United States drug policy. The U.S. has, in recent years, been inundated with illegal narcotics to match the steadily climbing consumption demand there. However, it was found that rather than searching for more domestic solutions, it has turned the problem into one of foreign policy-with the argument that the national security of the United States is at risk as a result of such illegal activity. The chapter, from there, explores the evolution of this line of thinking and concludes that

much of this policy is driven by a traditionally realist stance that the United States has taken in international affairs. The impact of this realist perception has had a strong impact on U.S.-Colombia narcorelations to the point that Colombia has been called upon to resolve the problem. This has led to an escalation of tension between the two states that has tended to be played out in the issue of extradition.

Chapter Seven expands on the escalation of tension between the two states, and explores the question of extradition and the evolution of that legal remedy from the point of view of both Colombia and the United States. Due to pressure by the United States, successive Colombian administrations have attempted to deal with the extradition question with the result that when Colombian traffickers have been extradited to the United States, public opinion as well as violent reprisals by the drug mafias, have effectively put an end to its use. The result was that in 1996 the Clinton Administration de-certified Colombia for foreign aid, and, as the content analysis revealed, stepped up anti-Colombian rhetoric in the popular media. The question of extradition between the two countries remains a thorny issue that will not be easily or readily resolved.

Chapter Eight traces the evolution of Colombian drug policy since the late 1970s. The pattern that emerges is that in light of the many internal and external factors that impact Colombian decision-making, drug policy is made tentatively and tenuously. Colombian drug policy makers are, in fact, in the unenviable position of not only making reactive policy but the choices they make will likely be reacted to strongly, if not violently, by various internal and external interests.

The dissertation concludes with the observation that more work of a comparative nature is required in order for solutions to be found for this increasingly complex problem. Finger pointing and assigning blame to particular states will not resolve an international problem.

THEORETICAL PERSPECTIVES

For Fools Rush in Where Angels Fear to Tread

Alexander Pope, Essay on Criticism

The Making of Policy: The Colombian Drug Policy Dilemma

Under conditions of adverse circumstances or crisis, public policy tends to be made disjointly and reactively. Important and often irreversible decisions are made during crises which can prove fateful to the future of a country. There is in fact an inherent danger in the making of critical decisions during crises as they are highly contingent on such factors as the personalities of the people involved and the circumstances and problems encountered in the crisis. As a result of uncertainty, decision-makers have no clear view of what a particular outcome might be because a consistent statement of purpose is contingent on there being a situation of stability for at least a short period of time. Thus, in crises, decision-making is often characterized by quick decisions being made by a small group of people who are subject to duress or coercion (Dror, 1983: 3). The making of drug policy during the five Colombian policy eras dating from 1978 to the present, identified in Chapter Eight of this dissertation, largely falls into this category of policy-making under adverse and contingent circumstances. Indeed, there are a number of factors that have affected, and continue to affect, the drug policy 'gamble' in the Colombian context and which have contributed to the highly contingent environment in which Colombian policy-makers are forced to make decisions. These factors, discussed more thoroughly in other chapters of this dissertation

include: U.S. foreign policy and pressure by the international community, Colombian drug mafias, a political culture and historical propensity for violence in Colombian society, and the Colombian political economy.

A plethora of definitions of public policy abound to form an often confusing picture for students of public policy. Ekstedt, for example, takes the view that public policies are decisions made based on compromises between competing social values (Ekstedt, 1990). Ekstedt's definition is that "[p]olicymaking is concerned with competing values and the achievement of social purpose...[a] policy statement (in the criminal justice system) constitutes a declaration of social value and it is upon the basis of the declared value that subsequent decisions are made" (Ekstedt, 1990: 75). Others define public policy as "whatever governments choose to do or not to do" (Dye, 1979: 7); a "projected program of goals, values and practices, which connote an explicit statement of goals and values to be achieved as a result of the policy itself" (Lerner and Lasswell, 1951: 3); "[a] course of action or inaction chosen by public authorities to address a given problem or interrelated set of problems" (Pal, 1987: 31); "[p]ublic policies are the expressed intentions of government actors relative to a public problem and the activities related to those intentions" (Dubnick and Bardes, 1983: 8).

While these definitions are all helpful, the ones that make the most impact are those such as Ekstedt's that include a reference to values. Defining public policy as action directed toward the remedy of a problem/s such as Pal or Dubnick and Bardes do, does not sufficiently take into account the importance of values. Models where values are not a variable could make the analyst's job easier were the policy process and public

policy purely technical, but, the fact that people are involved means that there are also divergent interests to be considered. These differing interests, in turn, are often the result of particular needs and different assumptions about the world in which we live and therefore imply different moral, philosophical and value standards. Indeed, as Lindblom in his article "The Science of Muddling Through" argues, the "limits of human intellectual capacities and on available information set definite limits to man's capacity to be comprehensive" (Lindblom, 1959: 84).

Central to the study of public policy is the precise influence of ideas in the political process (Pal, 1989). Governmental authority and legitimacy rest on a network of beliefs about human nature, society, and the purpose of government. As such, ideology -- the value or belief system that is accepted as fact or truth by some group -- plays an important role in the processes of society. As politics is the activity of gathering and maintaining support for collective projects, at the end of the day, the ability of the government to do anything is based upon the need for legitimacy -- public support. As such, the government as a policy maker must garner legitimacy for its policies. In order to do so, short of using coercion, it must, to a certain extent, attempt to take into account the values of the public. That is not to say of course, at any given time any individual is absolutely certain of his or her ideological view point. Since values often refer to the moral principles which people hold, they reflect the sense of what ought to be rather than what is. Indeed, beliefs about what ought to be done may sometimes contradict short term or utilitarian interests. Most people therefore simply adopt a value 'package' quite unreflectively, believing that they have given the matter sufficient consideration, but in

actuality have merely chosen according to their individual pragmatic interests. However, it is the confidence in social improvement that is the backdrop for all value systems -- especially in their pursuit of human happiness (see for example Diamond, 1993; Mead, 1982; Pye and Verba, 1965). Thus, public policies are "decisions made based on compromises between competing social values" (Ekstedt, 1990).

The policy process is inherently political, hence the making of public policy in a democracy hinges on the preparation and presentation of political policy arguments. Indeed, bureaucrats attempt to persuade their superiors; deputy ministers their ministers; those ministers the cabinet (Pal, 1987). While their policy arguments hinge on such things as problem definition, appropriate goals, and instruments, the ultimate decisions depend on the arguments that constitute the discourse on policy. And the variety of arguments is almost endless because of the variety of values involved (Ekstedt and Griffiths, 1988: Chpts. 4, 5,6).

Policy analysis has been defined by Pal (1987) as the disciplined application of intellect to public problems and as such uses a variety of techniques and styles depending on the problem and orientation of the analyst. It is as much an art and a craft as a science (Wildavsky, 1979). Analysts need to know how to gather, organize and communicate information, be able to develop strategies for understanding the nature of policy problems and the range of possible solutions. They should also be able to identify the likely costs and benefits of alternative solutions and communicate these alternatives to their clients. This mode of analysis is largely espoused by Clarke with his model for comprehensive planning for justice (Clarke, 1984). Furthermore, analysts need a perspective for placing

perceived social problems in context. For example: when is it legitimate for the government to impose methods for monitoring bureaucrats' bank accounts for the purposes of avoiding corruption? For analysts such as Vining, the answer to the question as to when the government should intervene in private affairs is based on the concept of market failure (Vining and Weiman, 1991). Thus for Vining, the analyst needs a perspective that includes government failure as well as market failure. This perspective can be found in the public choice approach (which uses as a model market forces and thus self-interest/utility maximizing behaviour of individuals) (see, for example, Self, 1993).

Pal identifies essentially a rationalist approach. His three styles of policy analysis are rationalist in the sense that they follow clearly discerned and sometimes mechanical steps to arrive at conclusions. They are as follows: descriptive, which includes content analysis and historical analysis; process; and, evaluation which includes logical, empirical and ethical evaluation. He argues that good analysis is always grounded in solid description and historical understanding, though it may focus on logic, efficiency, efficacy, or ethics (Pal, 1989).

As Ekstedt and Griffiths point out, an important influence on public policy is "short-term political need" (Ekstedt and Griffiths, 1988: 114). The making of drug policy in Colombia tends to fit this description rather well. In fact, policy-making in Colombia does not lend itself to mechanical or narrow applications, rather, it is most often a reaction to a short term political need, often a crisis, that may be interpreted by one or a few policy makers who will naturally impose their own values, beliefs and even personal aspirations on the policy at hand. Ekstedt and Griffiths, in fact, point out that in the

Canadian context, individual or personal/political interests often become the most significant factor in the policy result (Ekstedt and Griffiths, 1988: 114). Colombian drug policy-making is not immune from this phenomenon. While such political decision-making often distorts the true nature of the concerns that need to be addressed, it is, perhaps best that policy analysts recognize and acknowledge this dynamic rather than ignore it -- especially if positive change is to be brought about.

Colombia suffers from a breakdown of legitimacy and justice, caused by a variety of factors such as a long history of violence, the presence of a number of guerrilla groups, and cocaine cartels as well as pressure from external sources such as the United States government and the international community. There is the further problem of widespread and systematic corruption in all offices of government, including those of the justice system. The making of drug policy in Colombia is thus complex at best. Historically, it has been difficult for the government of the day to attempt to make even incremental additions to existing policy, as much of that policy has not tended to command the legitimacy of the people most of the time -- as Pearce characterizes it: Colombia is "a democracy without the people" (Pearce, 1990: 207).

To take this idea one step further, for Colombia "decisions made based on compromises between competing social values", is difficult, if not at times impossible, to attain. This is so because the word "compromise" does not fit readily in the Colombian drug policy context. As in many states, many of the social values in Colombian society appear to lie in individual interests. However, in Colombia these interests are often expressed in extremes of violence and corruption perpetrated by the drug mafias, for

example. These groups have demonstrated their relentless and ruthless unwillingness to compromise. Their insistence on continuing their criminal trafficking and related activities unimpeded by the justice system, indeed often targeting officials of the justice system, has led to a crisis situation for Colombian policy makers. Thus, even if Colombian policy-makers implement what they feel are compromises between social values, they may not make a great deal of headway (unless they conclude that corrupt or criminal activity -- looking after yourself at the expense of the state -- is a value). Indeed, the public choice model could be said to be taken to a literal extreme in the case of Colombian drug policy as the individual decision-makers themselves are utility maximizers whose behaviour is best explained, not in terms of their pursuit of the public interest, but rather, in terms of their own self-interest -- literally, their self-survival (Self, 1993).

The incremental approach, one of the more prominent styles of studying public policy, is helpful when trying to understand public policy and may be more easily applied to the Colombian situation than the rational model. Authors such as Lindblom contend that decisions are made through discrete, small risk-averse steps, and that adjustments should be made to existing policy (Lindblom, 1959). From this perspective, the incremental model suggests that the best predictor of future policy can be found in the recent past. This model is derived from broader efforts to explain political behaviour rather than just policy and decision-making in organizations (Doern and Phidd, 1992). In this light, incrementalism is usually viewed as the opposite to the rationalist approach to policy-making. For incrementalists, information and knowledge are never sufficient to

produce a complete policy program. Rather, they view policy development as a gradual unfolding, a serial process of constant 'adjustment' to the status quo. The significance of the change, or the size of the incremental step, according to Dubnick and Bardes, is related to three basic variables: the degree of satisfaction with past policy decisions; changes in the problematic situation the policy addresses; and the availability of new or innovative means for attacking the problem (Dubnick and Bardes, 1983).

There are a number of advantages of incrementalism for the decision-maker, most of which can be derived from a criticism of the rational model. In acknowledging the complexity and difficulties involved in problem-solving, it provides a more cautious, step-by-step model that does not demand sweeping changes. Such adjustments could be viewed as not embarking on overly-ambitious ventures of social transformation precipitously -- which it is argued, rationalists tend to do. Rather, incrementalists would argue (in the true Burkean tradition), the true effects of social interventions prior to actually experiencing them cannot be anticipated (Wildavsky, 1979; Burke, (1790) 1955).

Robert Behn in his article "Management by Groping Along" (1988) tends to support the incremental approach and argues that while policy-makers often have a good background in terms of experience and training deduced from theory to realize objectives, there are no guidelines for every given situation. Thus, the policy-maker must 'grop' along, testing each result while attempting to resolve the policy problem using different combinations and permutations until one particular method works. However, as Behn points out, there is no scientific validity to this method, rather it is "management by groping along" (645).

The incremental model has both cognitive and organizational components (Pal, 1987). It asserts that people usually do not think the way the rational model describes, as they lack the intellectual capacities (even in the age of computers) and sources of information to do so. Furthermore, the rational model fails to take sufficient account of the close relationships between facts and values and means and ends. Neither, incrementalists continue, can goals and values be abstractly determined.

However, and here is where the debate begins, according to rationalists such as Robert Goodin (1982) who writes a scathing criticism of incrementalism, incrementalists blunder by attempting to fix an error at each step without ever discovering what caused the error in its entirety due to their lack of theoretical foundations. But according to Lindblom (1990), incrementalism can adapt itself to the absence of theories -- it is a way of getting along without theory, when necessary.

Incrementalism is further seen as messy, halting, narrow, and conservative whereas a rational model seems clear, bold, expansive and innovative (Dror, 1986). Thus, as stated earlier, while the rational model serves as an ideal for many policy makers, the reality of the policy process in most governments more closely mirrors the incremental model. Much of the debate arises from the view that the incremental process is fundamentally contrary to rational techniques. Such techniques are seen as providing a false hope among those who use them in order that they can 'solve' policy problems, when in fact policy-making appears to rest on a completely different set of principles.

Dye (1978) contributes to the debate by listing several limitations to the incrementalist approach. For example, since consideration of alternative policies is

constrained by time, costs and availability, the approach's predictive value is limited. However, according to Wildavsky, analysts need only look to the recent past for clues as to what the future will bring (Wildavsky, 1979). But, as Dye continues, political constraints and the inability to forecast policy consequences will only encourage continued reliance on existing policies (Dye, 1978).

Wildavsky (1979) provides at least a partial solution to this debate by proposing that decision-making be of a hybrid variety which he calls policy analysis: that is two-thirds 'social interaction' (politics) or incremental and one-third 'intellectual cogitation' or the use of planning techniques such as in the rational model. Thus in his conception, intellect would be used to help guide rather than replace incremental policy-making. In other words, either model in its pure form does not work for him. This idea serves to refute Lindblom's assumption that the two approaches are irreconcilable.

In the case of Colombia, for example, certain conditions, which are expanded upon further in this thesis, generate assumptions about/or can trigger various hypotheses about a policy approach -- these conditions such as extremes of violence, criminality problems, foreign policy dilemmas and so forth, all contribute to the kind of approach taken for policy purposes. Given this, and given the discussion of policy in general, in the case of Colombia, a mix of the rationalist model with incrementalism is indicated.

Dror, in his book Policymaking Under Adversity, argues that most policy-making is made under conditions of adversity and as such an analysis of a policy must take these conditions into consideration (Dror, 1986). To do so, an integrated application study is proposed which includes five prime heuristic phases. These are: identification of main

capacity deficits (capacities for policymaking under adversity should be evaluated, in relation to predicaments, so as to identify main capacity deficits); improvement feasibility-domain mapping -- concrete situations of particular countries should be mapped in respect to more serious policymaking quality deficits; evaluation redesign proposals; interdependence testing; and, re-evaluation in terms of principles and strategies.

Bearing Dror's argument in mind, firstly, a detailed study needs to be made of the various problems that exist in Colombia. A plan needs to be drawn up, perhaps by distinguishing between the variety of problems, analyzing them separately and then jointly. Then alternatives along with a cost benefit analysis should be undertaken (with regard to corruption there is an excellent study done by Joseph Nye entitled "Corruption: A Cost-benefit Analysis", 1967). Finally, selecting and choosing the best way to solve the problem would precede implementing the decision. Thus far, the method has been rationalist, however, incrementalism would come into play at the implementation stage (as well as other stages). That is, changes should be brought about incrementally. Too many people have been murdered in reprisals for government policies in Colombia. If change is brought about gradually, augmenting and slowly altering existing policy, but at all times following a chosen plan of action, the violence will be at least minimized as far as possible. Some headway has been made. For example, the policy decision of the Colombian government to bring drug traffickers to justice has been difficult, but some constitutional changes, as well as such developments as courts where 'faceless' judges are

hidden behind one-way mirrors, have helped in the implementation of these 'value compromises'.

Colombian Drug Policy as Crisis

The making of drug policy in Colombia may be characterized as a crisis situation for successive Colombian governments with both international and domestic elements. Colombian drug traffickers, employing extreme violence and corruption in order to coerce successive Colombian governments to not take action against the drug industry, comprise the domestic source of pressure for decision makers. The use of illicit drugs in the United States, Canada and the states of Western Europe and the resulting pressure by the governments of these states to stop the flow of narcotics has provoked a second, external, source of pressure on drug policy-making in Colombia.

More precisely, the crisis for the Colombian government stems from the use of violence and extortion by Colombian drug traffickers. This, in turn, has led to a crisis of legitimacy for the criminal justice system of Colombia, forcing decision makers to grapple with making policy choices that aid the cause of domestic order, but that do not necessarily satisfy the international community, or especially the United States in its "War on Drugs". Secondly, the international dimensions of this problem involve the international community in terms of international criminal law, generally and the issue of extradition, specifically. The United States has repeatedly pressured Colombia to enforce the 1979 U.S.-Colombia Treaty of Extradition. However, on the limited occasions when extraditions of Colombian nationals have been carried out, the extremes of violence employed by the drug cartels in reaction have been so deleterious to the social order that

desperate Colombian officials have been virtually coerced into finding political/legal barriers to the Treaty. Colombian policy makers have thus been subject to violence, coercion and international pressure from fiercely competing interests such that it is difficult, if not impossible, to make effective and lasting policy to combat drug trafficking.

Decision-making in crises has been written about extensively, especially in the fields of psychology and political science. In virtually every case, researchers have agreed that the threat to important values, which basically defines a serious crisis, produces a pronounced pattern of changes in the decision-making process (Robinson, Hermann and Hermann, 1969; Brecher and Wilkenfeld, 1982). Typically, as the crisis escalates, the environment becomes more unstable and induces increased perceptions of time pressure and restricted options in leaders (Holsti, Brody and North, 1969; Holsti, 1972). Meanwhile, their adversaries' options are perceived as increasing and leaders tend to resort to short-term 'quick fixes' rather than to long-term planning. There is also a tendency to fixate on pre-existing information, rather than on new sources, while at the same time communicating less with mediators and adversaries and more with perceived allies (Jervis, 1976).

Not only can the Colombian 'drug problem' be characterized as a crisis, but it may also fall into the category of a Catch-22, the dilemma in which the victim cannot escape insurmountable obstacles or perhaps more aptly, a Prisoner's Dilemma in which there is a tendency to forego co-operation in the pursuit of self-interest. This situation is one in which a zero-sum-game (a situation where essentially one party wins at the

expense of the other) applies as the result of two diametrically-opposed forces with vested interests -- the United States government and the Colombian mafias -- exerting pressure on the Colombian government to 'do' (the U.S. position), or to not 'do' (the Colombian cartels) something about drug trafficking in Colombia. Hence, the gain for one side has in both cases not only meant a loss for the other side, but a loss for Colombia, no matter what the outcome.

- The extradition question, which is dealt with at length in Chapter Seven of this dissertation, is a good example of how this game has been played out. On the one hand, the United States government has exerted an inordinate amount of pressure on successive Colombian administrations to enforce the 1979 United States-Colombia Treaty of Extradition between those two countries by extraditing Colombian drug traffickers to the United States for prosecution. On the other hand, when the Colombian government has enforced the Treaty and extradited traffickers, the Colombian drug cartels have used both indiscriminate violence and corruption to the point where the Colombian public demands an end to extradition -- a Catch-22 for the Colombian government. Thus, while Holsti points out that in situations of crisis, officials are more inclined to define and explicitly compare available alternatives in cost-benefit terms because they are more focused and pursue information more vigorously, in the Colombian case, there are a paucity of available alternatives. Bringing drug traffickers to justice in Colombia partially satisfies the United States, but it is deleterious to the health and safety of Colombian justice officials. Attempting to bargain with the drug traffickers to turn themselves in, as former President Gaviria did, does not completely satisfy the United States that the Colombians

are doing 'enough' to combat drug trafficking. While it is more satisfactory to Colombian cartel members to be incarcerated in a Colombian institution rather than to be extradited to the United States, as former Medellín cartel leader Pablo Escobar and others aptly demonstrated, they are not going to go or to remain willingly for very long.

Hence, Colombian policy-makers suffer from the same pathologies that attack other leaders in crisis. They are burdened by a reduced span of attention to all of the information, including that which regards possible consequences (see for example, Wallace, Suedfeld and Thachuk, 1994). Former Colombian President Barco (1986-1990) displayed this lack of attention to the possible consequences when he openly declared "war on drugs" in 1989 and unleashed one of the bloodiest periods of violence perpetrated by drug traffickers against the Colombian state to date. His successor, President Gaviria (1990-1994), could not renounce this 'war' quickly enough when he came to office, but suffered from increasingly displeased U.S. policy experts who wanted to send more military 'assistance' to help him resolve the problem.

Leaders are also burdened by cognitive rigidity which takes the form of undue influence from the evoked set of presently salient concerns and a limited tolerance for ambiguity or points of view that deviate from their preferred conceptions. Especially, but not limited to crisis situations, they not only tend to seek out only that information that confirms their personal views but are inclined to overvalue and turn to small cohesive groups for both emotional rewards and comfort (Janis, 1972). This has the effect of reducing the information and possible alternatives available to the decision-maker.

The inability to consider realistic alternatives and choose narrowly perceived options leads to decision-makers misestimating the chances for success of perhaps unduly optimistic outcomes and often underestimating the actions of an opponent. Stress, coupled with a distorted sense of time available, not only lends a sense of urgency to the decision-making, but causes the constriction of the decision-making group and a lack of consideration of long-term consequences (Wallace, Suedfeld and Thachuk, 1994). Problem-solving abilities are thus severely hampered and those decisions that are rather simple may not be considered because of the multitude of poor communications, difficult trade-offs, varying actors' interests, competing and/or conflicting goals within the leadership group and a variety of other factors that contribute to stress and hence the ability to make decisions in a crisis (Wallace and Suedfeld, 1988). Thus, a crisis may be said to lead to rigid reliance on old problem-solving strategies that are inappropriate for the matter at hand (George, 1980).

The Policy Environment: Complex Interdependency Theory – International Regimes

As discussed in the previous section, one of the gravest obstacles to making a coherent and lasting drug policy in Colombia is the presence of a variety of international actors that interfere with the internal sovereignty of the Colombian state. The United States has pursued its interests in Colombia with regard to a number of issues, the most recent being the drug trafficking problem. Multinational corporations have taken

advantage of Colombia's extensive natural resources in what might be characterized by Dependency Theorists as the perpetuation of a coercive, hierarchical, unequal and exploitive relationship (see, for example, Holsti, 1995: 10-14). And finally, international criminal organizations that engage in drug trafficking, and the attendant criminal activities, a large number of whom are Colombian nationals, have based their operations in Colombia and from there have succeeded in building vast international illicit empires.

While the international system continues to be anarchical, its nature may be more easily conceptualized, at least at the level at which states are thought of as being the primary actors in world affairs, as 'ordered' anarchy (see, for example, Bull, 1977). The system as a whole is characterized as an "anarchical society" because ultimately co-operation, not conflict, is often the observable outcome of relations between actors in international relations (Bull, 1977). Given this reality, the question arises: how can institutionalized procedures and rules for the collective management of global problems - international regimes based on co-ordinated co-operation -- be established and preserved? Interest in that question derives from two goals that motivate many neo-liberal analysts. One is "a desire to understand the extent to which mutually-accepted constraints affect states' behaviour" (Kegley and Witkopf, 1993: 32). The other is an interest in devising strategies for creating a less disorderly world order. As in domestic systems, the primary role of government is to maintain order and it is no less so in International Society -- maintaining some form of order is the prime concern of states. Extreme disorder would produce chaos, which in turn, would ultimately threaten the survival of the sovereign state as the prime actor in the world system. However, this

preservation of order might be more accurately characterized as the maintenance of 'interests'. Entities that challenge international order, and hence the interests of states, are deviants and have to be controlled. International society has, accordingly, devised a strategy for creating a less disorderly 'world order' via the formation of regimes. However, there is an irony at play here in that while some international regimes may have been formed for the expressed purpose of assisting states in the maintenance of an international *status quo*, other regimes have been developed that in fact achieve the exact opposite effect - that is they challenge the sovereign states system not only by their activities, but often by their very presence.

Stephen Krasner's work on regimes, or widely accepted rules, norms, and behaviour patterns within a particular issue area, was developed in the 1980s and continues to be dominant in this field:

Regimes can be defined as sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations. Principles are beliefs or fact, causation and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice (Krasner, 1982: 186).

According to this definition, regimes may be thought of as institutionalized systems of co-operation in a given issue area. In other words, it is a type of behaviour with principles and norms that bases activity on calculations of common interests. Hence, the attention to institutions and the influence of norms is more important than the pursuit of national interests. The global monetary and trade systems created during and after World

War II are vivid expressions of international regimes. International law as it encompasses treaty, customary and other forms of legal reasoning, exists as a strong international regime. Ironically, however, international criminal organizations are yet another form of international regimes.

Some of the shared interests that provide the basis for international co-operation among states and non-state actors in the form of regimes include: the protection of national security and political independence of states; the reduction of the likelihood and destructiveness of war through arms control initiatives; the promotion of peace through the development of rules and the institutionalization of conflict resolution; the development and enforcement of international law; the development of procedures and institutions that facilitate national economic expansion; and, the management and effective protection of global resources.

Unlike domestic political regimes, where decision-making authority is normally in the hands of established organizations, international regimes represent spheres of voluntary compliance based on common interests and widely accepted rules and norms. And while regimes are normally less institutionalized than international organizations and sovereign governments, their impact on global society is often underestimated. Regimes may not contribute decisively to international conflict resolution and functional interdependence, but they do regulate decision-making procedures based on commonly accepted rules and norms and they do promote shared interests. Regimes thus not only centralize enforcement procedures but "establish stable mutual expectations about others' patterns of behaviour" (Keohane, 1984: 89).

Generally, regimes originate in three ways. Firstly, they may develop as a result of explicit bargaining among two or more participants as has been the case with the development of the postwar international trade regime. Secondly, regimes may develop as a result of the coercive or leadership role of a dominant actor. For example, the development of the nonproliferation regime (involving the regulation of nuclear weapons proliferation) originated with a bilateral U.S.-U.S.S.R. agreement that was subsequently institutionalized with the 1968 Nuclear Nonproliferation Treaty.⁴ Thirdly, regimes may originate spontaneously in the response to mutual self-interests. Examples of such "self-generating" regimes include the international collective conservation efforts for endangered species and for the protection of the earth's ozone layer.

An interesting paradox is found with the incidence of regimes, however. This lies in the fact that, according to Krasner, Third World states due to their weakness in power and control of economic resources, have become involved in regimes as a way of not only addressing power imbalances between North and South, but as a way of strengthening their ability to withstand external pressures that they cannot normally influence (Krasner, 1985: 4). While this has helped developing states to address some of their problems of poverty and vulnerability, and has allowed them greater participation in global fora, it has also caused them to sacrifice some measure of their sovereign decision-making at the same time.

⁴ The 1968 Treaty on the Non-Proliferation of Nuclear Weapons commits the signatories to use nuclear fuels only for peaceful purposes and establishes a monitoring agency (the International Atomic Energy Agency) to examine all nuclear facilities to ensure that fuels are not diverted to the construction of weapons of mass destruction.

International law is a good example in this regard. Some international laws related to meeting basic human needs, for example, may infringe on traditional values and political cultures, not to mention on juridical sovereign decision-making. Further, while the basis of much international law lies in some conception of international morality, it also leaves the door open for other states to use it as a vehicle for the interference in sovereign prerogatives of Third World states. The case of Colombia is a good example of this problem. As has been discussed above, one of the arguments used by the United States for Colombia to pursue a particular drug policy is legal. However, in reality this is essentially a U.S. foreign policy goal directed at addressing a U.S. domestic policy problem *vis à vis* Colombia. This use of international legal instruments to pursue a foreign policy strategy amounts to tampering with Colombian internal affairs and turns the international legal regime into a coercive foreign policy vehicle for strong states against weak states. Hence, due to such arguments, Colombia is made to look like an uncooperative state in the international legal regime.

This tends to lead to the discussion of two diametrically-opposed regimes: international law/criminal law and international organized crime. International law is a set of principles upon which states set out to enter into freely *pacta sunt servanda*. However, as is discussed in Chapter Five of this dissertation, international law is often slow to react to situations requiring urgent attention. It may take many years to conclude treaties and in the meantime would-be abusers of naked power and violence are given an avenue to institutionalize and operationalize procedures for conducting their affairs. Meanwhile international criminal organizations have developed largely due to the

perceived self-interests and recognition of the benefits of co-operation and co-ordination of efforts amongst crime groups. Such global crime groups operate at many different levels, but for the most part, are multinational in character, acting not unlike multinational corporations. The difference between multinational corporations and global crime organizations is that corporations are normally regulated to a certain extent by their home governments and usually by the government of the state/s in which they are conducting business. Multinational criminal organizations, on the other hand, do not submit to regulations of any form, at least not willingly. Indeed, they are regimes of pure self-interest, operating outside of the law, with virtual impunity in some regions of the world.

Despite these very apparent divergent bents, interestingly the international law and international criminal organizations regimes share some similar elements of 'necessity'. They share the common attributes of coercion of government in order to operate. That is international law has no monitoring device; in order to exist it is tempted to be manipulative. At the very least international criminal organizations such as drug trafficking cartels manipulate, and at the worst, they destroy governments to achieve their own ends. International law, as well, could be characterized by some as a direct challenge to the sovereignty of states. For example, the current attempts to formulate an international criminal court means that a particular power bloc will enforce controls over another group of states or its nationals -- in effect exerting an international form of 'mob rule'. The fact that the United States, until recently, failed to ratify the 1948 Convention on the Prevention and Punishment of the Crime of Genocide indicates an awareness that

such rules would, and could, be applied to U.S. nationals without the consent of the United States leading to a direct challenge to the sovereignty of the United States.⁵ Likely recognizing this contingency, the United States has been 'luke warm' in its efforts to help create an International Criminal Court.

Indeed, where international law and international criminal organizations diverge is, in reality, in the accepted standards of what is moral and what is not in international society. However, states have produced these standards and when actions are seen to deviate or oppose the interests of states -- whether it be against moral principles or against economic interests -- the actors are viewed as 'deviants'.

Hence, the pressure of varying forms of international state and non-state actors on the sovereign decision-making structure of Colombia has led to what may be characterized as a crisis situation for successive Colombian governments. Unfortunately there is no ready solution because states such as the United States may outwardly respect the juridical sovereignty of Colombia, but may circumvent formal channels or, alternately, use the very rules of the international system to coerce Colombian decision-makers into making drug policy that is ultimately detrimental to order in Colombian society. International regimes such as international law and international criminal groups, furthermore, may bring forces to bear that, while not direct violations of sovereignty, are at the very least deleterious to the autonomous decision-making structure. Colombia is thus left in a situation that is not readily or easily resolved. At once, pressure from the United States and the international community to end drug trafficking is great, but at the

⁵ Genocide may be defined as an act committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group.

same time the violently retributive actions of the drug cartels aimed at the Colombian state, acts as a significant deterrent for the Colombian government to make definitive policy to end the illegal narcotics industry. The result has thus been for drug policy in Colombia to be largely reactive, sporadic and disjointed.

RESEARCH METHODS

*Lies Have a Thousand Faces;
The Truth Has Only One.*
Anonymous

The learning objectives which guided this study created a demand for research goals which sometimes required diverse or unconventional methods of data gathering. At the very least, the emphasis on the relationship between personal and political power, policy and criminality across disparate cultural and linguistic domains created information needs not usual in other types of social research. Not unlike the threads of a Medieval tapestry that often took thirty years to weave, each piece of information plays an important if not crucial role in the finished piece. Indeed, not until all of the multicoloured threads were woven into the tapestry did it become apparent what type of scene was being observed and how very complicated and intricate it actually was. Often facts gained in the literature or during interviews were verified by using another source, employing what has been referred to as *triangulation* (Babbie, 1995: 106). Hence, the research for this dissertation involved the use of several methods, bringing more than one aspect of the topic to bear such that the resultant document includes a number of perspectives which, it is hoped, were helpful in reflecting the truth as accurately as possible. This particular tack was crucial to the final work as not only were a number of 'myths' dispelled in the course of the research, but the original hypothesis was largely disproven.

Content Analysis

Content analysis is a valuable research method for analyzing communications unobtrusively. Definitions of content analysis tend to refer to it as a research "technique" which helps to classify and/or describe systematically and quantitatively a variety of forms of communication in order to discern their underlying meaning (Kaplan, 1943; Janis, 1949; Babbie, 1995). Communication may take the form of messages, information, persuasion and even propaganda in such media as newspapers, magazines, videos, films, television advertising, formal speeches, government documents and so forth. What is of interest for the purposes of content analysis is the underlying meaning that such communications seek to convey to the recipient. Such purpose is determined in this method through an objective and systematic classification of the content by firstly identifying the language of the communication which relates to its manifest or obvious intent and from there, attempting to determine or interpret the latent or underlying meaning of the text. Holsti identifies content analysis as: "any technique for making inferences by systematically and objectively identifying specified characteristics of messages" (Holsti, 1968: 601).

Building upon this, it may be seen that there are two converging traditions in content analysis. The first tradition is commonly referred to as content analysis per se. Content analysis may be seen on two levels; manifest and latent, or what Nachimus and Nachimus (1987) characterize as cursory and detailed. The second tradition is described as discourse analysis and/or the analysis of discourse (Brown and Yule, 1983). Discourse analysis may be seen as an attempt to understand language as it is used and the ideology

which it attempts to convey. Propaganda serves as the classic example of this form of discourse.

Justification of Source Selections

In order to develop the specific research procedures, the operationalization process phase of content analysis allows for the the choices of sources to be analysed and measured. Babbie points out that this includes: "what range of variation to consider, what levels of measurement to use, and whether to depend on a single indicator or several" (Babbie, 1995: 132). For the purposes of this dissertation, a variety of different forms of communication were chosen in order to obtain a wide range of information on the subject. First, since it was the original intention to study the effects of drug corruption on the criminal justice system of Colombia, a number of books and articles about corruption and Colombia were analysed. These included two books written by Colombian scholars (Fernando Cepeda and Diaz Uribe) on the subject of corruption in Colombia. Some articles from Colombian newspapers were then chosen because they specifically dealt with either drug trafficking or corruption issues. As this content analysis was also being done simultaneously with the literature review, it soon became apparent that a shift in the focus of the categories included in the content analysis would be required. This was due to the realization that more elements than simply corruption affect drug policy in Colombia. Sources that dealt with the United States government and the "War on Drugs" including books, videos and media articles were added to the categories of communications being analyzed using this method.

*The Coding Scheme*⁶

In order to interpret the nature of the complexity that is Colombia, a scoring scheme was developed based on a stated hypothesis: "Colombia attempts to mirror a form of Liberal Democracy. In practice its governing structure is suborned by corruption and intimidation so much so that it is ineffective in the making or reforming of criminal justice policy to deal with important social problems". The coding requires determining Units of Analysis and Units of Observation. A Unit of Analysis is the individual unit to be described and explained. Colombia was the stated Unit of Analysis in each case. Units of Observation differ from a Units of Analysis in that they are the various samples chosen within defined parameters. These were clustered into six sampling units that totaled thirty-nine Units of Observation. Within each cluster sampling, there were seven randomly-selected Units of Observation. First, there were seven randomly-selected Colombian government documents, five written in Spanish and two in English. Second, there were seven randomly-selected international media reports -- five written in English, one in Spanish and one in French. Third, were seven sources on United States foreign policy randomly selected from academic journals, and fourth, seven articles on Colombian policy were similarly chosen from academic journals. Fifth, were seven randomly-selected reports made by international organizations from which excerpts were randomly chosen due to the length of the documents. Finally, four television documentary

⁶ Please see Appendix A for a sample of the scoring scheme used.

programs were also scored based on this scheme -- three from U.S. media and one from the Canadian media.

A coding scheme was devised that divided the content into two categories: the manifest and the latent. The manifest category was simply a selection of words that might or might not appear in the communications. These could be measured by simply counting their incidence in any given communication. Added to this simple measurement, however, was the 'weight' given to the strength of each word based on a scale of one to four, with one being a strong score and four being a weak score. Fifty-seven words with nine sub-categories were chosen soon after having completed the initial literature search. While the words were chosen in order to look beyond the superficial and determine the actual 'meaning' of the communications, it was later found that some rather distinct words had been overlooked. One obvious oversight was the word "narcotics" in favour of the word "drugs". However, the significance of this oversight in the end was helpful in that it was soon noted and not only led to a closer examination of the use of the prefix "narco" in combination with other words such as democracy, but also a second examination of the selected articles.

The second part of the scoring entailed determining the underlying meaning of the word -- in other words, the message or underlying meaning that was being conveyed by the choice of that particular word was scrutinized. The scoring of television documentaries was a much more laborious process in this regard as the images flash on the screen quickly. Thus, the meaning of the words used is not always clear until the tape has been re-played several times -- for example if the word "violence" was used, it was

scored for having been manifest in the communication. However, when a picture of a mother crying over the coffin of her dead son, Pablo Escobar, the former head of the Medellín cartel, was shown, the meaning of the word "violence" changed to imply some form of "victimization" and "sorrow".

There were a number of surprising results of this content analysis, the least of which was to partially disprove the original hypothesis. The other result was to reveal the use of 'propaganda' by several of the sources, with the media sources being the frontrunner in this regard.

Coding of Content -- Manifest and Latent

Elements of propaganda -- the deliberate representation or distortion of a particular point of view for a particular purpose -- were found to exist. This was found to be especially evident in the language used in the literature. Many of the images used to bring the "War on Drugs" into line involved the use of terminology that had been altered so that it flowed more easily in scholastic literature. Thus, for example, as del Olmo points out in her article, "The Hidden Face of Drugs" (1990), the word drugs was replaced with the historical English term "narcotics". This word was then coupled with trafficking, terrorism, money, democracy and so forth, to the point that "...all words related to drugs during the 1980s gained the prefix *narco*, for example, *narcodollar*, *narcoeconomy*, *narcostate*, *narcomilitary*, *narcosubversion*, *narcohabit*, and recently, *narcocontras*" (del Olmo, 1990: 36). Such word combinations not only gave a sinister air to words such as democracy, but they led the reader to believe that the democracy, or more sinister yet, *narcocracy*, in question had been *narcocompromised*.

Much of the literature and the television documentaries, CNN "The Kingdom of Cocaine" (1993), PBS "The Godfather of Cocaine" (1995), and the CBC documentary "The Connection" (1997), that dealt with United States foreign policy, demonstrated a strong propensity for the United States to view itself as 'beseiged' by foreign *narcoconspiracies* and *narcoterrorists*. In fact, they served as important clues to the nature of the 'public relations' rhetoric that identified an 'enemy' that had to be combatted militarily rather than simply with the law. This point cannot be understated because, conveniently, *narco* went well with *guerrilla* (usually thought of as being communist) and *narcoguerrillas* from Cuba, Nicaragua, Colombia and other Latin American States soon joined the ranks of the enemy. Alternatively, the innocent people and states soon became victims of Communists aligning themselves with drug traffickers in the *narcosubversion* of their governments. This mix of drug traffickers with guerrillas served to create "a single issue which no one can publicly disagree with" was widely promoted after 1985 in the United States press (Omang cited in Kenworthy, 1995: 115). The only solution that was promoted was a military one since by now drug trafficking posed a "clear and present danger" to the national security of the United States. This was underscored by the 60 Minutes documentary on Manuel Noriega, former Dictator of Panama entitled, "Manuel Noriega: America's Prisoner" (1997), in which Noriega explained his side of the drug trafficking story indicating that much of the case against him had been fabricated by the United States for political expedience. The fact that the United States military violated Panamanian sovereignty by invading the country in 1989 in order to bring Noriega to trial in the U.S., did not tend to substantiate Noriega's claims.

However, what was significant was that the U.S. military had been used to bring a "criminal" to justice -- this was allegedly after legal avenues to secure his capture had been exhausted.

The Literature and Other Communications

The sources of the archival materials were library-based reference books and articles found at Simon Fraser University and the University of British Columbia, as well as three Mexico City libraries -- the Daniel Cosío Villegas library at the Colegio de México, the library of the Autonomous University of Mexico (UNAM), and the library of the Economic Commission for Latin America and the Caribbean (CEPAL). Furthermore, media reports, internet search tools such as Lexis-Nexis, and government documents were used. Colombian government documents, were for the most part, kindly furnished by Dr. Fernando Cepeda Ulloa, the former Colombian Ambassador to Canada. United States documents were found in all of the libraries, on the internet, and were also provided by the Institute for National Security Studies at the National Defense University, Fort Leslie McNair, Washington, D.C.

The literature review began with the examination of books that were later to be identified as "sensationalist" and "overly dramatic" but which were, at first, read as "sources" of information on the Colombian drug problem. Important to their being selected, in many cases, were the books' titles. In fact, titles and book jackets are often the first contact with manipulative or misleading communication (see, for example, Smith, 1989). Hence, for the purposes of this literature review, it is important to mention

the titles of the books and articles as they serve to illustrate how the literature was first chosen. The choice of background literature was in fact, crucial to the formulation of the original hypothesis for this dissertation. As has been mentioned in the section above, however, many misperceptions were then largely disproven as a result of the content analysis.

Turning the Tide by Sidney Kirkpatrick (1991) was one of the first of such volumes. In this particular work, Kirkpatrick recounts how he, a U.S. professor, quit his job to follow his life-long dream of opening a scuba diving business on Norman's Cay in the Bahamas. There he had the misfortune to get in the way of Colombian trafficker, Carlos Lehder Rivas, who bought the Cay and turned it into a transshipment point for cocaine on its way to the United States. Emphasizing the strength and reach of Colombian criminal groups, Kirkpatrick details how he was forced out of his business and off the island by Lehder's men. Kings of Cocaine: Inside the Medellín Cartel by Gugliotta and Leen (1990) which outlines most of the murders and acts of violence committed by the Medellín cartel in the 1980s added to the growing impression of Colombian traffickers extorting and corrupting every official with whom they came into contact with relative impunity. Other books included Charles Nichols' fascinating work The Fruit Palace (1985) in which the author, while writing a travel narrative of Colombia, encounters a cocaine trafficking ring. Nichols successfully follows a shipment of cocaine through the country and discovers how ingenious the Colombians are at smuggling drugs out of the country.

More scholarly books included Rensselaer Lee's The White Labyrinth: Cocaine and Political Power (1989), in which Lee exhaustively outlines the power that the drug mafias have in Colombia and the methods they have used to retain that power, began to demonstrate the inability of some of the more sensationalist books to distinguish fact from fiction -- indeed to back up any of the events claimed to be fact with anything other than heresay. Jenny Pearce, similarly outlines the power struggle between the narcotics traffickers and the Colombian state in her work Colombia: Inside the Labyrinth (1990), but further discusses the human rights abuses that have occurred in the name of fighting this 'war on drugs' and the extent to which the guerrilla groups have been involved. Bruce Bagley's prolific works on the subject of drug trafficking and Colombia, such as "Colombia and the War on Drugs"(1988/98) and "Colombia's Drug Dilemma" (1990) combined with a CNN documentary entitled "The Kingdom of Cocaine" (1993) and another documentary by PBS about the life of Pablo Escobar aptly called "The Godfather of Cocaine" (1995), all served to strengthen the original assumption that Colombia was being taken over by organized crime. The implication that many of these works make is that those persons who had not been killed by drug traffickers and continued to work in the criminal justice system were either subjects of extortion or bribery.

Reinforcing this conclusion were works such as the report of the Comisión de Estudios Sobre la Violencia, Colombia: Violencia Y Democracia (1987), edited by Gonzalo Sánchez G. and the Gaviria Government's Estrategia Nacional Contra la Violencia (1991). Both provide rigorous assessments of the problem of violence in Colombia and describe many of the forms of organized violence in Colombia. Berquist,

Peñaranda, and Sánchez's edited work entitled, Violence in Colombia (1992), also details the historical cycle of violence in the country. Robert Dix's book, The Politics of Colombia (1987) and Jorge Osterling's work, Democracy in Colombia (1989), helped to balance the skewed picture of Colombia somewhat, by discussing the political/administrative make-up of the country without emphasizing the violence and lawlessness overly. However, the general impression, resulting from the initial literature search, was one of a chaos in which bandits and drug traffickers dictate justice in Colombia. In fact, to this point, the evidence gave a sense of various interlocking and concentric circles of violence that resulted in a near-anarchic situation.

This, however, did not fit well with accounts characterizing Colombia as a highly organized democracy with a long institutional tradition embodied in a well-written constitution -- indeed a country with a reputation as the most genuine democracy in Latin America. The problem is that it simply could not be BOTH. Indeed, the extremes of violence and almost anarchical lawlessness do not fit with descriptions of an institutionalized government that guarantees order for citizens such that they may freely exercise their constitutionally-guaranteed franchise. Not only did this lead to a re-examination of the notion of democracy and the role of government in a democratic society, but also to the notion that there might be other factors at work that influenced the general perception of Colombia as created by the literature and other forms of communication itself. One major clue came from the numerous formal speeches of officials of Colombia, and even of its presidents and former presidents. Former Colombian president Alfonso López-Michelsen, in his article, "Is Colombia to

Blame"(1988), for example, claims that the drug problem is generated by U.S. consumer demand, and is not something inherent in the Colombian "politic". Documents of this sort from the Gaviria Administration, in particular, were in fact, generously supplied by the Embassy of Colombia in Canada. These adamant declarations led to a more careful examination of the other factors that might possibly be contributing to the "popular" view of Colombia. Scrutinizing the United States foreign and domestic policies with regard to drug issues became an important first step in this process. This was so because the United States has very vocally engaged itself in the fight to end drug trafficking, at least since Reagan declared "war" on drugs and his wife, Nancy initiated the "Just Say No" campaign.

The literature, produced by U.S. scholars, very straightforwardly outlines U.S. drug policy over the past hundred years. Bruce Bagley provides several important works in this regard. His article, "The New Hundred Years War? US National Security and the War on Drugs in Latin America"(1988), assesses the apparent 'failure' of U.S. drug policy in Latin America. Richard Craig's article, "Colombian Narcotics and the United States-Colombian Relations" (1981), along with his piece entitled, "Illicit Drug Traffic: Implications for South American Source Countries"(1988), both discuss the social impact of illicit drug trafficking on U.S.- Colombian relations. Juan Gabriel Tokatlián also examines the impact of the drug problem on the bilateral relations of Colombia and the United States in his article, "National Security and Drugs: Their Impact on Colombian-U.S. Relations"(1988), as do Andreas and Sharpe in their article, "Cocaine Politics in the Andes"(1992).

However, despite these and other excellent efforts to portray the difficult and many-faceted drug problem, a shift to a somewhat more rhetorical bent also began to be apparent in the literature written during the 1980s. Indeed, there was a constant barrage of criticism of Colombian drug enforcement officials and allegations that the "Colombian government is a corruption-riddled 'narco-democracy'" (Guardian May 21, 1989). One article by David Balsiger "Narco-Terrorism 'Shooting Up' America" (1988), (that also appears in a first-year political science text reader), discusses the "unholy alliance between known terrorist groups and drug traffickers", citing Cuban, Nicaraguan, Syrian and even Iranian connections to the destruction of American inner cities. This type of rhetoric tends to have coincided with former U.S. president Ronald Reagan's declaration that drug production and trafficking constitute a security threat to the hemisphere, and thereby to United States national security.

The policy during the Reagan Administration, in effect, turned a domestic problem of consumption into a foreign policy problem of supply by 'uncooperative' foreign states. Indeed, the foreign policy of the United States on this issue was clearly reflected in the literature. Robert Jervis' essay entitled, "Hypotheses on Misperception" contends that while misperception tends to distort foreign policy choices, decision-makers are just as apt to be heavily influenced by the theories they expect to be verified (Jervis in Ikenberry, 1989: 466). Thus, for example, during the Cold War, the United States CIA adopted a viewpoint of international relations, and of opponents to the U.S., that maximized the importance of its information-gathering, espionage, and subversive activities. Since the CIA could have lost its important position within the U.S.

Administration if it was decided that the 'cloak and dagger' politics of international relations were no longer vital to U.S. national security, it was to its benefit to perpetuate not only the image of a security threat, but to stress the need for such techniques to stop the insidious nature of Cold War dirty politics.

If this was the case during the Cold War, why should it be assumed that such behaviour would suddenly disappear with the end of the Cold War? Dana McFarlane of the University of British Columbia Education Library spent hours of her spare time helping to uncover this important clue. Her invaluable assistance helped to bring about the turning point that made this suspicion a reality in her discovery of a speech made by William Bennett, the former 'Drug Czar' of the U.S. Office of National Drug Control Policy. Bennett stated in a speech in 1989 that drug trafficking in Latin America poses a "clear and present danger" to the national security of the United States (Bennett, 1989(b):6). This is the same wording from a United States Supreme Court decision where Justice Oliver Wendell Holmes questions the circumstances that "are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent" (*Schenck v United States*, 1919). These words aroused the suspicion that there is more to U.S. policy, particularly toward Colombia, than simply halting the illegal shipment of drugs into the United States.

U.S. foreign policy regarding the Western Hemisphere has been very clear as far back as the Monroe Doctrine (1823), in which the U.S. expressly outlines the permanent nature of its national interest there. However, historically, threats to the national interest came from outside the Western Hemisphere, not from within. This posed somewhat of a

conceptual problem. It was nicely resolved during the Reagan era, however, with the contention that drug trafficking posed a threat to the national security of the United States because of the 'link' between the drug traffickers and communist revolutionary groups -- in effect combining the two most aggressive forms of evil believed contrary to the American way of life. The literature of the time generally bears this out. Further, and importantly for the purposes of untangling this very convoluted problem, books such as James Adams' The Financing of Terror (1986), and Weinberg and Davis' Introduction to Political Terrorism (1989), among numerous others, explicitly make the rather expedient link between drug traffickers and communist guerrilla movements. Books, such as Dancing on a Volcano: The Latin American Drug Trade (1988), by Scott MacDonald, also warn readers of the "tactical" alliance of the narco-guerrilla nexus. Scott and Marshall in their book, Cocaine Politics: Drugs, Armies, and the CIA in Central America (1991), even cite former U.S. president Reagan as stating that "[t]he link between the governments of such Soviet allies as Cuba and Nicaragua and international narcotics trafficking and terrorism is becoming increasingly clear. These twin evils -- narcotics trafficking and terrorism -- represent the most insidious and dangerous threats to the hemisphere today" (115). The evidence of 'myth' being mixed with fact for the purposes of United States foreign policy as well as others' purposes began to be increasingly apparent.

Yet, throughout, there were also those such as Rensselaer Lee in his book, The White Labyrinth (1989), Merrill Collett in his article, "The Myth of the Narco-Guerrillas" (1988), and Martha Crenshaw, in her presentation given at the Seminar on

"International Terrorism and Organized Crime -- Security Concerns?" (September, 1996), who each patiently explain that except on rare occasions, a narco-guerrilla alliance is impossible in light of the fact that the two groups disagree fundamentally and even violently in terms of ideology -- the cocaine barons, being rampant capitalists, are morally repugnant to communists who wish to destroy every last vestige of capitalism. Bruce Bagley addresses the inherent problems with U.S. drug policy in his article, "US Foreign Policy and the War on Drugs: Analysis of a Policy Failure"(1988(b), as well as in his article co-authored with Juan Gabriel Tokatlián, "Explaining the Failure of U.S.-Latin American Drug Policies"(1992). Mathea Falco also expresses the opinion that U.S. policy has taken the wrong tack regarding drugs in her article, "U.S. Drug Policy: Addicted to Failure"(1996). However, despite such painstakingly laid-out evidence to the contrary, the majority of the literature written by American scholars continued to promote the unholy alliance between drug trafficking and guerrilla groups as the greatest threat to democracy since the end of the Cold War.

From this point of 'scholastic' propaganda, the conspiracy theory began to take on international dimensions. Articles such as Ivelaw Griffith's pointed discourse on how the politics of the Cold War have been transformed into the Post Cold War rhetoric of narcotics, entitled, "From Cold War Geopolitics to post-Cold War Geonarcotics"(1993), as well as Ethan Nadelmann's book aptly called Cops Across Borders: The Internationalization of U.S. Criminal Law Enforcement (1993), both assist in understanding the complexity of the post-Cold War foreign policy of the United States, especially regarding drug issues.

These assertions from the literature made evident the need for an analysis of United Nations documents that deal with terrorism and drug trafficking, and recent international criminal law which includes, but is not limited to, extradition. This was done on the assumption that the United States, being the only Super Power left after the end of the Cold War, tends to dominate the international legal agenda as well as the agendas of some multilateral lending institutions and other international organizations. U.S. Senator Arlen Specter's article, "International Crime Requires International Punishment"(1990), and Kirk Henderson's "Fighting the War on Drugs in the New World Order: The Ker-Frisbie Doctrine as a Product of its Times" (1991), both rather openly espouse the use of international law for United States foreign policy purposes. Indeed, the title of the article written by Engelmayer, "Foreign Policy by Indictment: Using Legal Tools Against Foreign Officials Involved in Drug Trafficking"(1989), tends to disclose the intent of U.S. foreign policy rather well.

For the most part, and perhaps surprisingly because of the strong role the United States plays in the organization, the United Nations documents reviewed did not demonstrate evidence of a bias. The U.N. Interregional Crime and Justice Research Institute's report edited by Francesco Bruno entitled, Prevention Compendium: Substance Abuse and Illicit Trafficking (1991), the Economic and Social Council's Commission on Crime Prevention and Criminal Justice's conclusions regarding the drug problem, "Strengthening Existing International Cooperation in Crime Prevention and Criminal Justice"(1992), in addition to the Report of the International Narcotics Control Board for 1991, all carefully discuss the illegal narcotics issue without attributing blame. Even the

former Secretary General of the United Nations, Boutros Boutros-Ghali in his speech. "Transnational Crime: The Market and the Rule of Law" (1994), was so diplomatic as to not attribute crimes to any one state in his remarks.

As a next step, the literature on corruption was once again studied, since one of the original assumptions underlying the research for the dissertation was based on the hypothesis that: "because Colombia attempts to mirror a form of Liberal Democracy incompatible with its history and tradition, it is left with a governing structure which is unable to deal with such factors as extreme violence, rapid social change, extensive poverty, high unemployment, criminal activity, partisan political rivalries, ineffective and corrupt state institutions, and more recently, foreign relations dilemmas". Certainly it is true that corruption exists in Colombia. Dr. Fernando Cepeda Ulloa recently wrote a well-regarded book entitled, La Corrupción Administrativa en Colombia (*Administrative Corruption in Colombia*) (1994), on this very subject. However, corruption is virtually impossible to trace in the often violent setting of Colombia, and the question remains, does it exist to the extent, or in perhaps the manner that, for example, Ethan Nadelmann in his article, "The DEA in Latin America: Dealing with Institutionalized Corruption" (1987/88), suggests? Hence, the original assumption that drug trafficking was the sole result of violence and corruption in the Colombian criminal justice system had become shaky.

Not only was the literature that discussed Colombia in a negative light now somewhat suspect, but by this point, even articles and books written by prominent Colombians themselves needed to be re-analyzed. Books by Colombian scholars and

practitioners were re-examined looking for possible signs that the authors were buckling to U.S. pressure. The pressure exerted by the U.S. has certainly been great and has ranged from denunciation of Colombian efforts at international conferences to 'carrot and stick' use of foreign aid as well as constant pressure by U.S. diplomats in the State Department on the Attorneys General of Colombia. The book by Diaz Uribe, El Clientelismo en Colombia: Un Estudio Exploratorio (*Clientelism in Colombia: An Exploratory Study*) (1986), outlining corruption in Colombia now appeared somewhat superficial. Certainly works put out by the United Nations, such as Crime Prevention and Criminal Justice in the Context of Development: Realities and Perspectives of International Co-operation -- Practical Measures Against Corruption (1990), were very one-sided and in favour of sending 'experts' from developed countries to help with the 'corruption problem'. However, Francisco Thoumi, a prominent Colombian scholar who wrote, "Why the Illegal Psychoactive Drugs Industry Grew in Colombia" (1992), and former Colombian president López-Michelsen of Colombia who stated in his brief article, "Is Colombia to Blame?" (1988), mentioned above, both claimed that drug trafficking is a demand problem, not a Colombian supply problem. Their apparent failure to succumb to the American 'way of thinking' about drug trafficking tended to support the increasing conjecture that the United States had been, until this time, rather successfully promoting a particular, but inaccurate, way of thinking.

By this point films such as Clear and Present Danger, Scarface, Sniper and a range of action films were found to be consistent for their misrepresentations and distortions of reality in Colombia and other Latin American states. Popular television shows, such as

Miami Vice and, more recently Nash Bridges, likewise not only presented an overly dramatic characterization of Latin Americans, but they also tended to romanticize the entire trafficker/law-enforcement relationship. Noam Chomsky's well-regarded film, Manufacturing Consent (1988), was valuable in giving some clues to this apparent propaganda. This was so especially for the point Chomsky makes about the low news coverage by the U.S. media given to the atrocities committed in East Timor, which Indonesia had brutally invaded in 1975, as opposed to the exaggerated reports on Cambodia in the same time period, where similar atrocities had occurred, but where the United States had a clear Cold War anti-Communist policy. His point about the media being the mouthpiece of United States policy began to ring true in the case of Colombia. Eldon Kenworthy in his book, America/Américas: Myth in the Making of U.S. Policy Toward Latin America (1995), outlines the history of the United States in manipulating fact, adopting it for some purpose, or rejecting it in others. His work is a valuable background to understanding this problem.

Further, books that had previously been disregarded as being too sensationalist, such as Gulf Stream by Paul MacDonald (1988), White Cargo by Stuart Woods (1988), and Under Siege by Stephen Coonts (1991), were revisited and were found to reinforce and popularize the image of Latinos as 'slippery bad guys' who plotted with possible communists (most often Cuban) or terrorists to destroy and corrupt the 'good guys' in United States through their drug trafficking and related criminal activities. The promotion of a number of falsehoods for a particular purpose, became increasingly apparent.

As mentioned above, Rosa del Olmo reveals the extent of the language used to perpetuate these images in her article, "Discourses on the Drug War: The Hidden Face of Drugs" (1990), where she exhaustively explores the language used largely by the United States media and policy makers to describe the drug war. Edward Herman, likewise in his article, "Drug 'Wars': Appearance and Reality" (1991), makes particular note of the "hot air component of Drug Wars" and explains that the phenomenon of the drug war is a public relations strategy to promote a particular foreign policy with the American public.

The final push resulted when the United States decertified Colombia in early 1996 for foreign aid, charging that Colombia was not making sufficient efforts to combat drug trafficking. Since his inauguration, President Samper had been plagued by accusations that he had corruptly received money from the Cali drug cartel for his campaign. The Colombian Congress finally cleared the President of drug corruption charges in July of 1996, however, it might be conjectured that this was due not so much to evidence of his innocence than to the political exigencies within Colombia. It was felt by Colombian observers that if the president was found guilty that the country would once again be plunged into such a severe crisis that it would take several years to recover, hence finding him innocent was a more prudent option for Colombian stability (Interview with the Jaramillos, May 1996). The United States responded angrily, however, and revoked Samper's tourist visa to the United States (Newsday September 24, 1996). A few months later, the U.S. media reported the accusation against President Samper that he had transported eight pounds of heroin in his private airplane to Washington, D.C., where he was attending an official meeting (Newsday, September 24, 1996). He was then forced to

fly from Washington on a commercial jetliner to New York City where he addressed the General Assembly of the United Nations. There he asked the world community to stop "satanizing" his embattled homeland, stating that Colombia is more of a victim than a villain in the losing battle against drugs (Austin American Statesman, September 24, 1996).

It was thus concluded that the media, and numerous scholars, have been particularly co-operative in painting Colombia in a bad light, including warnings of threats to the U.S. by narcoguerrillas. For example, when President Bush attended a one-day summit of Latin American leaders in Cartagena, Colombia, The New York Times reported that these groups were attempting to obtain SA-7 shoulder-fired anti-aircraft missiles in order to shoot his plane down (The New York Times, December 14, 1989). Time magazine even went so far as to print a story about Miss Amazon (Amazonia is a Department in Colombia) who ran for the title of Miss Colombia. The story recounted how it was discovered that she had actually been married. While not a momentous event, this tended to feed the misperception that Colombians are all somehow involved in criminal wrong-doing, or are at the very least dishonest (Time November 23, 1993: 14). In another instance Time quoted a high ranking U.S. official discussing Colombian policy makers who stated: "These people lie" -- a select statement which could only convey the view to American readers that all Colombian policy-makers are somehow untrustworthy (Time March 16, 1995: 31).

This initial research thus had confirmed that the problems in Colombia do not stem from a single source. Indeed, Colombia is a country of incredible contrast and

diversity. However, the information about Colombia is difficult to decipher. At once the press describe Colombia as the most democratic country in Latin America, but one in which extreme violence and crisis renders constitutionalism and the rule of law tenuous ideals at best -- surely these two threads were completely incompatible. It was obvious that further in-depth research was required to decipher this amazingly complex puzzle.

Interviews and Field Research

The field research portion of this dissertation was a rather complicated matter in that it was determined fairly early in the data-gathering stage that a trip to Colombia was going to be very difficult, if not impossible. While Dr. Fernando Cepeda, having returned from his post in Ottawa to Bogotá in December 1993, consistently encouraged and attempted to support an effort, for research to be conducted in Colombia, it soon became apparent that it would be a very onerous undertaking. Firstly, funding organizations such as the Ford Foundation, the McArthur Foundation, and the Inter-American Development Bank (IADB), among numerous others, were contacted in conjunction with the Institute for Studies in Criminal Justice Policy at Simon Fraser University. At first, many potential funders voiced enthusiasm for a field trip to Colombia and stated that it would be a "good first step in beginning a justice-related project there". However, as time went by, funding agencies became less enthusiastic in their communications. Part of the reason was ascribed to the fact that early in 1996 Colombia was decertified by the United States Government for foreign aid. On the eve of an apparent funding commitment by one organization in the spring of 1996, all communication was halted outright and it took most of that summer to determine the cause for this. It was finally concluded that while

not a direct form of aid, funding research constitutes 'assistance' to Colombia -- a number of organizations had obviously been following the political debate in the United States for some time and clearly did not wish to countermand the U.S. government's foreign policy decision.

An added dimension was undoubtedly the poor reputation that Colombia has earned in the international press for being the most violent country in the hemisphere. The so-called 'dangerousness' of going to Colombia to ask the kind of questions that need to be asked for the subject of this dissertation such as: "Has anyone you know who is a government official, ever benefitted or been involved in the illegal narcotics trade?" were thought by a number of people to be certain folly. Another pressing question that needed to be asked was regarding the extradition of Colombian nationals to the United States. This too was met with the stern statement by a Colombian family, the Bonillas early in 1995, that asking those kinds of questions in Colombia was "very dangerous" (Interview with the Bonillas, August 1995). This sentiment was echoed still more strongly by the Jaramillos, another Colombian family, in May the following year. They warned that asking questions about illegal narcotics and corruption of government officials was very risky but asking questions about extradition in Colombia was simply naive and might result in the "death of the person asking the question" (Interview with the Jaramillos, May 1996).

This caution may have been borne out by one occurrence that caused some consternation involving another researcher that was writing an article about former Medellín cartel leader, Pablo Escobar. Written by David P. Thompson and entitled,

"Pablo Escobar, Drug Baron: His Surrender, Imprisonment, and Escape" (1996), the biographical sketch on the first page of the article reads as follows:

David P. Thompson, 47, a free-lance journalist from Sacramento, California, has spent the last four years writing the book, *A long Strange Trip: The Life and Death of Pablo Emilio Escobar Gaviria*, to be published by Comanie du Livre, Paris, France, in early 1996. On September 9, 1995, while in Medellín, Colombia, completing research for the book, Thompson lapsed into a coma under suspicious circumstances following a meeting with an informant. His family was able to have him airlifted back to the United States on October 16, 1995, where his coma, the cause of which remains undetermined, has been diagnosed as terminal.

While not conclusive evidence of anything that might befall other researchers, former supporters of a field trip to Colombia began to voice their concerns rather strongly.

Indeed, it soon became apparent that the field research and the interviewing of persons would largely defy more conventional techniques of sampling methods such as those espoused by McCall and Simmons (1969). For example, these authors support the use of the *quota sample* technique which determines that a sample of persons representing different participation categories should be studied. However, as has been discussed above, members of the government and members of trafficking organizations were not going to answer questions about their knowledge of corruption and drug trafficking -- if they were brave enough in the first instance, and available and willing in the second, to answer such questions. Private Colombian citizens, some former government employees, living beyond the reach of both government officials and trafficking organizations (in Canada and the United States) were less concerned, but still reticent to discuss specific cases or to use names.

The pride, honour and nationalism of Colombians were further complications for gaining information. While numerous African people have been willing to discuss very openly and rather boastfully the people they know, indeed their own activity, regarding corruption (Thachuk, 1989), many Latin Americans became outraged at the possibility that their honesty might be in question, simply by association. Corruption and dishonesty certainly exist they claimed, but never in anyone that they knew. The point was well taken: that this is a matter of honour for many Latin Americans, and honourable people neither engage in criminal wrong-doing nor know personally anyone that has committed such dishonourable deeds. Asking an honourable person about such activity is to imply blame. However, people offering the information to a seemingly guileless person is another matter altogether. Dr. Fernando Cepeda, for example, repeatedly lamented that corruption is rampant in Colombia and published a well-regarded book, La Corrupción Administrativa en Colombia (*Administrative Corruption in Colombia*) (1994), as mentioned above, on this very subject. He further attempted to secure funding for a number of projects for which collaboration of Canadian and American colleagues would participate in an effort to effect anti-corruption policy in Colombia. Another Colombian scholar openly recounted the story of a relative involved in drug trafficking, and later incarcerated in the U.S., and shrugged it off by saying: "silly guy" (Interview with Informant A, 1997).

Many people began to make themselves 'available' to discuss the problems in Colombia. In what McCall and Simmons call the *snowball sample* technique, the number of subjects available to discuss the problem of making drug policy in Colombia began to

expand through referrals (1969). A number of persons were introduced through this technique and because of the referral by a person close to or known to them, were reassured of the validity of the *interviewer*, not necessarily the topic -- although almost everybody declined to use their names. This attitude is perhaps understandable when one considers that in 1990, for example, the total number of homicides in Colombia was 28,475 with a further 2,186 kidnappings for the same time period and by 1995, the homicide figure had climbed to 31,446, although the kidnappings had declined to 1,170 (Gaviria, 1991(a): 9, 41; El Tiempo, February 12, 1996). Indeed, Colombians do not appear to feel safe to discuss the crimes in too much detail: "the guerrillas that kidnapped a relative of ours and that extorted our family for US \$1 million (which we couldn't pay so they reduced the sum) conditioned the release of [this person] on the fact that we were never to talk of this, and if we were to see them (one of the kidnappers) on the street, on a bus, maybe in a government office, anywhere, we were to pretend that we knew nothing and that we had never seen them before, or else....." (Interview with Informant B, 1996).

One field trip that was very valuable was to Mexico City. It was reasoned that since Mexico City has some of the best libraries in Latin America, some valuable data could be gathered that is not available in Canadian or American libraries. The libraries of the Autonomous University of Mexico (UNAM) and the Daniel Cosío Villegas library at the Colegio de México were visited. At the Colegio de México, especially, the librarians were most helpful in gathering information about Colombia. Several books were xeroxed by the library at cost and served as valuable sources of background information, especially on the nature of the cocaine cartels and international organized crime

operations. The staff at the Colegio de México further recommended a visit to the CEPAL library (the United Nations Economic Commission for Latin America and the Caribbean) for which they even gave directions.

The following day, the United Nations CEPAL library was visited unannounced. This library was interesting, not so much for the helpful staff, including the principal researcher, Laura Gutiérrez V., who in the span of a short hour gathered a small box of United Nations documents, but for the event that occurred in the foyer of the building. Upon arrival, all visitors must sign in with the guard in the foyer and show some form of identification such as a University Student/Faculty card. After having taken a quick glance at the identification provided to him, the security guard immediately stated: "Oh you are the Canadian that wants information on Colombia. Correct?". This was rather perplexing and disconcerting and indicated that, perhaps, the Mexican authorities had been notified of the information that was being gathered on this research trip. Fortuitously, immediately adjacent to the CEPAL library, was the office of the United Nations International Drug Control Programme which was also visited completely unsolicited. There the Director, Dave Paul Zervaas, greeted inquiries with enthusiasm and even offered information on several pending projects for which he was seeking institutional partners.

That day the Colombian Embassy in Mexico City was contacted as the staff at the Colegio de México library had indicated that the Embassy housed a rather extensive collection of documents. The Librarian at the Embassy set a time the next day that would be convenient for her to give a tour of the library. Upon arrival at the appointed time the

following day, the guard at the gate indicated that there was "no one in the Embassy and that no entrance would be allowed". As he could not be persuaded that an appointment had been made with the librarian the previous day, and because this was the final day of the research trip, the Embassy library was never visited.

Another valuable research trip was to Calgary where Doctor Jaramillo and his family reside. Upon learning of the research, they extended an invitation to their home in order to discuss the political situation in Colombia. Their contribution to the dissertation was invaluable as they are very well-informed about current events in Colombia. Indeed, at one time, they edited a newspaper for Latin Americans living in Canada called Banderas, that was itself a source of some very sound background data.

Seminars and Conferences

Three other trips that were invaluable to the gathering of data for this dissertation were for the purposes of attending seminars and conferences. The first was to the Interamerican Defense College (IADC) at Fort Leslie McNair in Washington, D.C. in September 1996. The one-day symposium there entitled, "International Terrorism and Organized Crime -- Security Concerns?", was well attended by members of a number of Latin American militaries, members of the United States military establishment and academia. Clearly, this symposium formed part of the new United States hemispheric mandate to promote multilateralism and co-operation in "questions of common concern". The IADC, backed by the Interamerican Defense Board, which is the longest standing multilateral military organization in the world (created in 1942), provides a curriculum for members of the forces of states in the hemisphere (with the exception of Cuba). To

promote multilateralism, the IADC has placed great emphasis on what are called "Confidence and Security-Building Measures" (CSBMs). Several academics including Dr. Martha Crenshaw (an expert on terrorism) and Dr. Ivelaw Griffith (an expert on Hemispheric Strategy), were "pitted" against members of the military and police establishments of Latin America. Most notable was the adamant statement by Dr. Crenshaw that there is no such thing as a "narcoguerrilla terrorist", for narcotics traffickers are greedy capitalists, while guerrillas are motivated by ideology and generally shun capitalism as being anathetical to their beliefs. General Serrano, the Director General of the Colombian National Police, however, very laboriously spelled out the 'nature of the narcoguerrilla alliance', although appealing to emotion in terms of men lost in the "fight" against this so-called group, rather than to actual evidence of the alliance. It was clear, by the end of the day, that the academics heartily disagreed with the members of the police and militaries. The suspicion that the "narcoguerrilla alliance" had been fabricated for US foreign policy, as well as the needs of a poorly funded Colombian police and military force, was somewhat confirmed.

The United States Southern Command (SOUTHCOM) Symposium on Hemispheric Cooperation in Miami, Florida, in April 1997, was much less controversial, perhaps because there were fewer academics present. The theme of Confidence and Security-Building Measures was continued, although it was noted that there were several members of the United States Customs Service as well as the United States Drug Enforcement Agency that were not in agreement with the members of the United States Military over the exact nature of the 'threat' to the United States. Indeed, the one

controversial moment that did occur was in a 'break-out session' where discussion regarding this very issue took place. It was hypothesised by some present that the key to solving the problem is to re-define the threat. In other words, talking about drug trafficking (which consumed a large part of the entire conference) as a "security threat" was perhaps to overlook the fact that it is not a military problem but a legal problem. The moderator of this particular session effectively quashed further discussion of this. When the conclusions reached by the 'group' were later reported to the general assembly, it was noted by a number of people who had been present at that particular 'break out session' that it did not resemble what had been discussed. The conclusions to be drawn from this conference were that indeed the United States faces a security threat by drug traffickers. However, due to the insistence of many members of the United States Department of Defense that this requires military involvement rather than legal remedies, the disagreement between other agencies within the United States government are likely to continue.

Finally, the trip to the Latin American Studies Association Conference in Guadalajara, Mexico, also in April 1997, was an informative and valuable source of background information. The sessions on Drug Trafficking and Changing Hemispheric Security Concerns were well attended by some of the most important scholars in their fields. It was a great disappointment, however, that a panel on the subject of Violence in Colombia comprised entirely of some of the most prominent Colombian scholars in that country, was cancelled at the last minute. The completely unsubstantiated rumour at the conference was that these participants had been denied access to Mexico because of the

difficulties that Mexico was having with the United States government over the issue of the trafficking of narcotics in Mexico. How these two matters were linked was also unclear. However, the story did raise some interesting hypotheses about the very nature of the "war on drugs" and more importantly, its less-obvious victims.

DEMOCRACY AT ODDS WITH VIOLENCE AND CORRUPTION IN COLOMBIA

Colombianos: Las Armas Os Han Dado Independencia.

Las Leyes Os Darán Libertad

Santander

Colombia: A Questionable Democracy?

Colombia is a country truly at odds with its own tradition. Quixotically it has been described as the most violent country on earth yet the most democratic in Latin America (Dix, 1989; Osterling, 1989; Pearce, 1990; Bagley, 1988). While it is true that elections are regularly held and that there is the ability to form an opposition, it is questionable whether these are sufficient credentials to allow for the label liberal democracy. In addition to the fact that politics in Colombia are largely élitist and based on clientelism and skewed patterns of income and wealth, one of the gravest obstacles to true democracy in Colombia is the pervasive violence that finds its roots in partisan political cultures and historical experience and that threatens the very stability of the Colombian political system.

Colombia has undergone two eras of virtual civil war. As well, insurrectionary activity of guerrilla movements, paramilitary squads, and drug mafias, have all contributed to the country's violent reputation. The drug mafias, whose activities have been particularly deleterious to peace, are of particular interest to this dissertation. In an attempt to safeguard their illegal business activities, they have succeeded in helping to undermine the legitimacy of Colombian institutions through the corruption and extortion

of public officials to the point that the state is, at times, unable to guarantee even the most basic order for citizens.

In order to understand exactly the extent to which groups have deterred democracy in Colombia, it is necessary to first agree on what comprises a democratic society. It is generally agreed that the basis of a liberal democracy is universal adult suffrage in which citizens freely choose between legal opponents in fairly conducted elections. The specific elements of such a system include equality of political rights, majority rule, political participation and political freedom. Diamond, Linz, and Lipset have defined democracy thus:

A system of government that meets three essential conditions: meaningful and extensive competition among individuals and groups (especially political parties) for all effective positions of government power, at regular intervals and excluding the use of force; a highly inclusive level of political participation in the selection of leaders and policies, at least through regular and fair elections, such that no major (adult) social group is excluded; and a level of civil and political liberties -- freedom of expression, freedom of the press, freedom to form and join organizations -- sufficient to ensure the integrity of political competition and participation (Diamond et. al., 1989: xvi).

Added to this is that, once elected, the government is limited in its ability to carry out its policies by a constitution and the rule of law and, as such, is usually held accountable for its actions.

While these are important elements of a liberal democracy, equality and liberty can only be exercised by citizens in the presence of a peaceful social order. In the

Leviathan, Hobbes expressed this sentiment by arguing that in essence human beings are naturally predatory upon one another and in order to avoid the condition in which life is "solitary, poor, nasty, brutish and short", the sovereign power has to maintain a peaceful existence (Hobbes, 1839: Chpt. 17). Put another way, governments without the requisite political will, institutional authority and organized power to protect human rights and to provide socio-economic welfare, are not only deficient but they render a state incapable of being classified a true liberal democracy -- whether or not they were chosen by free and fair elections. Jackson refers to countries which display this lack of empirical statehood as "quasi-states". He argues that while these states may enjoy juridical sovereignty in the international system, internally they not only lack "institutions capable of constraining and out-lasting the individuals who occupy their offices" but they cannot guarantee a stable social order, and therefore freedom, for most of their citizens (Jackson, 1990: 21-22).

Such breakdowns are a death knell for democracy. Government can be the guarantor of the stability of expectations such that human endeavours are possible. When a government is working well, the political process unobtrusively and continuously resolves conflict. However, when government is unable to maintain social order, democracy is virtually impossible and the government begins to fracture along personal or familial lines where persons or parties jockey for position and control over ever-diminishing resources. Such loyalties, in turn, take precedence over the commitment to public policies, and indeed the constitution, diverting the energy and attention of those working in the public realm into a free-for-all. As the activities of the bureaucracy

become suborned by corruption, the administration increasingly fails to respond to public need. Sometimes a virus-like effect occurs in which the corruption of one institution eventually and inevitably begins to spread to those other institutions with which they come into contact. Sometimes the epidemic reaches national proportions in which every public office is afflicted with graft, personal loyalties, waste and serious misallocation in terms of national public policy objectives.

Such a setting is a magnet for private power brokers. It is presumably much easier to operate illegal businesses and bypass a system in which order is lacking and public institutions are rife with patronage and graft. Because a breakdown in institutionalism has occurred, whenever some brave and honest government officials do become involved in trying to stop the spread of illegal activity, broken links in the chain of command make extortion and bribery effective in countering such efforts.

When the instruments of coercion then land in the hands of groups other than the government, communities become subject to still more arbitrary and personally-motivated interests. In some regions of Colombia, a number of groups, including insurgents and drug mafias, have virtually replaced the state as the governing authority. In the city of Medellín, for example, the drug cartels have actually rivaled the government in the provision of housing and other amenities to the local poor. Former Medellín cartel leader Pablo Escobar, prior to his incarceration and subsequent death, was well known for his contributions of housing and soccer stadiums in the poor areas of the city (Cañón, 1994; Thompson, 1996). However magnanimous these deeds have been, the fact remains that these self-appointed leaders were not democratically chosen by the people. Rather, they

insinuated themselves using large quantities of money and have continued to operate with relative impunity like barons of medieval feudal fiefdoms, with the law of the 'jungle' as a guide for the dispensation of their largesse and their justice.

Certainly many of the same conditions apply in these regions, with relations based on a system of almost unchecked power in which there is a pervasive and often precarious reliance on persons rather than institutions. The personal aspect of such relations is plagued with questions of position and control, and as in other arbitrary regimes, are led by a dominant personality. There exists a complex network of personal and familial affiliations and ties in which these 'big men' use their power to dispense favours to their loyal followers -- which unfortunately also includes many people in the government of Colombia. Hence, while the citizens in these regions are subject to a well-written and just Colombian constitution on the formal level, at the informal level they are subject to as much arbitrary rule as exists in any other authoritarian state. The lack of liberty and fear for personal safety that are characteristic of authoritarian government amount to the same thing, but the coercion is simply being employed, in the case of Colombia, by groups other than the government. Hence, it is somewhat onerous to talk about what type of system of government Colombia has when the government does not have an exclusive monopoly of power in the country.

It is perhaps for this reason that academics tend to squabble, rather acrimoniously, about what system of government Colombia indeed has (see, for example: Hartlyn, 1988; Osterling, 1989; Pearce, 1990; Dix, 1989). Hartlyn, perhaps somewhat simplistically, has classified Colombia as a "consociational" democracy which features a grand coalition

among the political élites of the country designed to regulate and channel political conflict via power-sharing arrangements (Hartlyn, 1988). Osterling, even more naively, classifies Colombia as "democratic" because of the constitutionally-mandated separation of powers and "free" elections. He does concede, however, that democracy does not always function in accordance with its formal premises as "power is diluted because the structure permits officials to refuse to accept responsibility by using technicalities to protect themselves" (Osterling, 1989:339). Pearce contends that there are two Colombias -- one that is constitutional and legalistic, "boasting all the trappings of a modern polity", and the other, "real" Colombia, of the people where "the rule of law barely holds, deprivation and poverty are the norm and democracy is just a word on an historic document" (Pearce, 1990: 5). Finally, Dix points out that to call Colombian "politics" democratic "is to stretch the meaning of that word somewhat as the country is a paradox, [and] difficult to classify" (Dix, 1989: 2). He concludes, however, that if political democracy can be understood to have two components: free and fair competition for elected office and the right of all citizens to participate, then historically Colombia has not succeeded and "could, at the very best be called a proto- or partial democracy" or perhaps an "oligarchic or élitist democracy" and thus requires some genuine effort at democratization (Dix, 1989: 206-207, 209).

The Constitution of Colombia expressly sets out the division of power between the legislative, executive and judicial branches of government, guaranteeing their jurisdiction in their respective spheres. It allocates powers to different levels of government, stipulates a procedure for amending the constitution and enumerates the

rights of citizens in relationship to each other and to the government. Yet for all of the initiative and dedication that has gone into making this constitution such a masterpiece of 'fundamental rules' of the state, there is the problem that some of the people, many of whom work in positions of public office, do not believe that these restrictions apply to them (see, Craig in Mabry, 1989: 29-30).

Indeed, the "formal scheme of political organization [in Colombia] is challenged by the presence of a series of sicknesses in the political system" (Lee, 1991(b): 31). One of the more serious 'sicknesses' is the prevalence of corruption. Political corruption is wide-spread in Colombia and accompanies the violence to debilitate the capacity of the state to operate effectively.

The Problem of Corruption

In the extensive 'folklore' of corruption it has been argued that the conditions for corruption and the abuse of power most often lie in countries where an adaptation to a comparatively low level of social and economic modernization exists (Myrdal, in Heidenheimer, 1970: 229-248).⁷ Further, it has been argued that a more pertinent condition for the abuse of public power may be an absence of a relevant and viable institutional tradition in the political life of a state (Huntington in Heidenheimer, 1970: 492-500). Indeed, it is argued that states which have exhibited the features of corruption have often been newly formed and their inhabitants have not shared a common political

⁷ In this essay Myrdal introduces the idea of 'folklore of corruption', stating that it is not limited to any one region or culture, but later contradicts himself by explaining that "corruption is more prevalent in South Asia than in the developed Western countries". p. 237.

tradition or the political culture that inevitably upholds it -- and in conjunction with this, that particular cultures demonstrate more of a propensity for corruption than do others (Jackson and Rosberg, 1982: 21; Myrdal in Heidenheimer, 1970: 237). Finally, there is an ongoing debate about the benefits of corruption -- the proponents arguing that corruption can be beneficial -- economically and politically (Nye in Heidenheimer, 1989: 967-68). It may be argued, as well, that corruption is not exclusive to the developing world, that neither is it a result of people not having shared a common political tradition or political culture, nor is it specific to particular regions or cultures.

In some states, corruption is pervasive throughout all social institutions, from the political system and into the private sphere. In addition, there is increasing realization that corruption is assuming new forms and dimensions, particularly in connection with the increasing transnationalization of criminal activity -- a fact of which Colombia is painfully aware.

This phenomenon indeed knows no boundaries. Every country has its competition for the spoils of office, with favours dispensed to the party faithful. Every country, regardless of political tradition, culture or socio-economic status has experienced bribery, misappropriation of funds and misuse of political position to name but a few of the misdeeds of public functionaries (see, for example: Klitgaard, 1988). In fact, the difference in experiences between countries is perhaps one of degree rather than kind.

Joseph S. Nye defines corruption as:

... behavior which deviates from the formal duties of a public role because of private-regarding (family, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence. This includes such behavior as bribery; use of a reward to pervert the judgment of a person in a position

of trust; nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses) (Nye in Heidenheimer, 1989: 970)

In addition, it is generally agreed that corruption is rooted in human nature -- and its accompanying imperfections and as such, instances of fraud (an act of deception deliberately practiced with the view of gaining unlawful advantage), extortion (extracting money coercively), embezzlement (appropriating fraudulently to one's own use what is entrusted to one's care), violence and other forms of criminal activity can be added to the above definition. The common thread that runs through all of these forms of corruption is their reliance upon secrecy and collusion. Thus, even major exposures of corruption reveal only a part of what needs to be known in order to put a halt to such abuses.

One of the most prevalent forms of corruption in Colombia is *clientelismo* or patron-client relationships where people are placed in positions of authority on a basis other than merit alone (Diaz, 1986). In other words, rather than being agents of government in their official capacities, individuals *are* the government. This is basically a situation in which private-regarding individuals use their public offices for the personal aggrandizement or favourable advantage of themselves and their friends and associates. Francisco Thoumi points out that this is an "illegality and dishonesty trap" in which society's tolerance of illegality and respect for the laws of the country tend to deteriorate as they are increasingly exposed to others' disrespect for the laws. Hence, he argues, "in a society where there is a great amount of dishonesty and corruption, it becomes increasingly costly to behave honestly" and [c]onsequently, a particular individual with a particular set of values could behave honestly in one environment but dishonestly in

another" (Thoumi, 1987: 44). Further, over time an honest individual working in a dishonest environment will adapt and behave in a more dishonest fashion.

It is often the case that it is this ability of those in positions of power to appoint other than on the basis of merit that leaves the neutrality and effectiveness of many government institutions seriously in question. Much opportunity for advancement and prosperity often lies in government jobs. In some states they are therefore a much sought after and highly prized commodity commanding allegiance to those in the position to distribute them (Wills, 1993: 9). Many government offices, therefore, tend to be overstaffed with persons whose particularistic loyalties lie in relationships rather than institutions, causing a precarious reliance on roles and relations rather than on rules and regulations. Thus nepotism, *palancas* (connections), petty bribery, and other means of acquiring private influence and advantage glut the public realm and do little to advance policies that are needed by the state -- indeed, they may only serve to exacerbate an already unstable situation. Hence, the various sources of power lie in the system of clientelism rather than in the constitution.

Thus personalism is the basis for public but, in effect, self-serving policies. In addition, every official function abounds with red tape, requiring seals and signatures for conformance with detailed and archaic legal formalities. This not only slows the process of systems such as justice, but also serves as an additional source of income for many officials who, admittedly are rather underpaid, but who are in the practice of expediting matters for a fee. As well, in Colombia there is the added problem of *Plomo ó Plata* where public officials may be forced by threats that unless they use their position

to bring about a favourable outcome for criminals, they will be killed -- making a bribe the more favourable option.

Such a system only operates to serve criminals who have at their disposal the availability of various channels of informal bureaucracy where charges and evidence may not only be delayed forever but perhaps lost outright. The result is a general lack of trust by the general public in, and cynicism towards, the government in general, and the criminal justice system in particular, as it is the ability of the government to lend legitimacy to its policies that is seriously in question. At their most basic, governmental policies are generally regarded as legal obligations that command the loyalty of citizens. However, if the government is not itself limited by its own laws, or its members or other groups are perceived as being exempt or above the laws, the belief in the 'rightness' of the government -- the legitimacy accorded it by the people, will be seriously lacking. Hence a breakdown in the relationship between the authority of the government and the legitimacy lent it by the people ensues.

Colombian Criminal Justice: Al borde de un ataque de nervios

While corruption exists in all aspects of Colombian life, it is perhaps the corruption in the criminal justice system that has been the most deleterious to the entire country, and that has had the most dire consequences for its international relations. Yet it is not only the presence of corruption alone that undermines the criminal justice system in Colombia, but a variety of factors many of which arise out of the structure and objectives

of the society as a whole (Cepeda, 1994: xix). Many of these objectives conflict with each other and lend themselves to contradictions in the criminal justice system. Duffee et. al. point out in their book Criminal Justice: Organization, Structure and Analysis that the success of a justice system depends a great deal on the methods which a society employs to achieve social control objectives, and whether these methods are compatible with each other (Duffee et. al., 1978: 509). In Colombia, it appears that several strategies have been conflicting with each other, especially with regard to deterrence and retribution. While demand for deterrence has been increasing in Colombia since the 1970's, the demand for retribution, however, has been relatively weak. This might be explained by the fact that retribution involves actively seeking out and punishing those who break the laws of the society. Those Colombians who need to be punished are so efficient at intimidating and suborning members of the judicial system that the fear of violence as well as the prevalence of corrupt personnel tends to divert the system's efforts away from retribution back to the more rhetorical pursuit of deterrence. Ironically, in the long term this is probably not a negative consequence.

Because of the extremes of violence and corruption that undermine the ability of the state to bring criminals to justice, a system that seeks to expose the instances and the perpetrators of such criminal activity will likely continue to be weak -- perhaps only instigating more violence. Hence, a system that continues to stress deterrence (as in enhanced police powers to respond quickly and patrol more widely, or change offenders' or potential offenders environment and therefore behaviour) will aid the criminal justice system in becoming more sophisticated. In other words, a structural plan that alters the

outcomes of criminal acts rather than targeting the specific perpetrators themselves will likely become less influenced by the specific criminal groups. Rather, justice agencies will be increasingly influenced by each other, and particularly by higher-level state and federal decision-making groups and expert staffs (Duffee et. al., 1978: 510). Obviously, all forms of crime cannot be predicted in detail, thus constitutional constraints on the system would have to be changed as society changes.

Indeed, the implementation of retributive techniques, when they have been employed with rigor in Colombia, have only led to the phenomenon of military and para-military death squads that have engaged in outrageous acts of violence. The 1980's witnessed the Colombian government increasingly resort to the use of force and repressive techniques carried out unofficially rather than officially. The repressive techniques mirror those employed by the criminal organizations and include anonymous threats, kidnappings, disappearances, selective assassinations and collective massacres (Palacio, 1991: 31). Clearly, in a country that has demonstrated its propensity for violence through its numerous historical periods of *La Violencia*, pursuing a criminal justice system that is highly dependent on retribution, will only lead to a breakdown of democracy, for example, not unlike the period experienced by Argentina under the *Juntas* in the past three decades.⁸

⁸The Argentinian Junta's "dirty wars" began with a thirst for revenge against the "guerrilla left's" kidnapping of officers and armed attacks on army installations. After the revolutionaries had been decisively defeated, the Junta's campaign only widened into indiscriminate torture, killing, kidnapping and 'disappearance' of anyone who was outspoken against, or might conceivably oppose military rule. Whole groups such as teachers, journalists, militant trade unionists, and priests were classified as likely enemies. Aproximately 9,000 people are said to have 'disappeared' and can be presumed murdered by the military between 1976 and 1983.

(For a more thorough discussion of Argentina see, Crow, 1992: 841-854).

According to the British political scientist Paul Wilkinson, foremost consideration must be given to the preservation of the law (1986). This commitment carries with it a variety of consequences. The first is that violations of the law should be punished, but should be done so within the law. That is, anti-terrorist policies of liberal democracies should not involve reprisals against segments of the population thought to be sympathetic to the outlaws. Thus, if democratic governments react to violence by using indiscriminate force against certain segments of the population, they will not only be resorting to the same practice as the terrorists, but build rather than weaken whatever support the outlaw group may enjoy among members of the population. Declarations of martial law and emergency measures, therefore, do not tend to strengthen the fight against violence. Similarly, security forces and police or military units given the task of combating violence should be closely monitored to ensure that they operate within the framework of the law to whose defense they are committed. This means that civilian control must be retained over their activities through legislative oversight and judicial constraints (Wilkinson, 1986: 125-42).

At this juncture it is useful to introduce the concept of political culture, as norms and beliefs are central to an explanation of stability and change. Generally passed on to succeeding generations through various forms of socialization and providing a unifying societal bond, political culture refers to the general attitudes and values that individuals and societies hold toward such political institutions as the government, political parties, the judiciary and so forth (Almond & Verba, 1963: Chpt. 1). Political culture then, apart

from being a reflection of society, is also an expression of the interaction between the citizens and the government.

At their most basic, governments exist to maintain order through the selective use of force. If this cannot be accomplished, then the law, and therefore, numerous forms of coercion, may be 'taken into the hands' of private power brokers smart or powerful enough to gain control. The results of coercion being used by bodies other than the government is generally a breakdown in order. The result, more often than not, as demonstrated by the attitude of complete disdain toward all government operations by many societies, is a lack of faith in the institutions of government and their ability to fulfill such basic requirements as the maintenance of order in society. In an attempt to restore legitimacy, governments are thus sometimes left in a position of employing coercion in increasing measure to regain their control.

In Colombia, the armed forces under the leadership of General Gustavo Rojas Pinilla, staged a military coup in mid-1953 that ironically brought an end to the endemic violence that had seized the country during the first period of *La Violencia* (1949-53). However, when he announced his intention to remain another four years in early 1957, economic interest groups and the Roman Catholic Church mounted an extensive series of general strikes that culminated in his resignation on May 10 that same year (Sánchez in Berquist et. al., 1992: 110). Thus, a government that is not held to be legitimate by the people cannot remain free of calls for change forever.

Unfortunately however, as Huntington points out, democracy is not easy to attain. Rather, he argues, "non democratic regimes are more likely to be replaced by other non

democratic regimes than by democratic ones" (Huntington, 1991: 35). Thus it is not necessarily a simple regime shift that will bring about democracy, but more sweeping change. Diamond contributes to this point by stating that, "[t]he struggle for democracy must have as one of its primary goals the establishment of a viable and democratic political society...but democracy also requires the construction of a vibrant, vigorous and pluralistic civil society" (Diamond, 1992: 7). Presumably, such a civil society would contribute to the inauguration and tenure of a democratic government by helping to provide the basis for limiting the state in its activities by serving in the various spheres of life as a check to the arbitrary misuse of public office.

Hence, when citizens accept that the government has a moral right to govern, that it is legitimate, there is little pressure for radical change. Put another way, it is due to the chronic inability of some governments to maintain legitimacy that has primarily led to calls by the citizens for significant political, social and economic changes. Thus, it appears to be increasingly the case that what Samuel Huntington terms the "third wave" toward democracy is appearing in revolutionary and quasi-revolutionary surges of popular mobilization. And while these surges do not necessarily ensure a lasting democracy, they have unleashed a tide of popular, social and political forces that had been suppressed under authoritarian rule.⁹

⁹In his book The Third Wave, Samuel P. Huntington argues that the recent manifestation of democratization is the third of three waves of such a process (1991).

An Historical Culture of Violence and Corruption in Colombia?

For many analysts, the eruption of violence in Colombia appears simultaneously as both a cause and an effect of the crisis of legitimation in the criminal justice system (Hoskin, 1988; Martz, 1989; Boudon, 1996). It is generally agreed that instability has resulted from the state's loss of monopoly of legitimate physical force, the incapacity for social reform through legal channels, corruption of epidemic proportions in public office and many state agencies, and in the last decade, the emergence of a 'para-state'. Hence, rather than operating as it should, that is, exerting its monopoly of coercive power to maintain order, the Colombian state multiplies the factors of violence against its own volition.

'The Violence' is a term that is used in Colombia as an expression of a number of complex and intertwined political and social phenomena. It is comprised of partisan rivalry, political banditry, peasant uprising, criminal banditry and state and para-state 'justice'. According to Peñaranda, "[w]ritten with a capital V to denote this specific phenomenon, the Violence has become ... the historical agent that brutally transformed Colombian society..." (in Berquist et. al., 1992:294).

Violence, or the threat or use of physical force to harm or injure someone and/or to intimidate or deprive others of their rights, has often been used indiscriminately in Colombia for political, social and economic reasons. Colombians have suffered two eras of *La Violencia* (1949-53 and 1958-65) where the political culture of 'hereditary hatreds' of official party lines sparked a virtual civil war in which approximately 200,000 lost their lives. Further, the struggle against at least eight guerrilla factions that killed

1,703 people in 1986 alone, has led to its own eruptions of violence (Pearce, 1990: 49-66).

These factors, combined with rapid social change, extensive poverty and high unemployment, that have fostered their own high rates of crime, now also include the meteoric rise of drug mafias that have only amplified the violence. Murder has been cited as the leading cause of death of Colombian males between the ages of 15 and 44 and the second leading cause of death among all age groups (Bagley, 1989: 72). In 1990, the total number of homicides was a staggering 28,475 with a further 2,186 kidnappings for the same time period (Gaviria, 1991(a): 9, 41). By 1995 the total number of homicides had risen to 31,446, with 1,170 kidnappings, 71,461 robberies, and 847 terrorist attacks (El Tiempo 12 February, 1996). The drug traffickers have been particularly deleterious to the peace of Colombia not just because they are so powerful that they virtually form a state within a state in some of the outlying regions of the country, but also for the methods that they use to maintain their power.

Further, as mentioned above, the Colombian political system has a tradition of being less than democratic. Colombian political life has been dominated since the late 1800s by two parties -- the Liberal and the Conservative -- in what can be labeled as 'party hegemonies' in which one or the other has controlled the presidency for long periods of time, limiting democratic competition to intra-party contests. Most Colombians are split by their loyalties along the 'hereditary hatreds' of traditional party lines. Such partisan hatreds which erupted in phases of what is termed *La Violencia* over the past century, usually lacked any central direction although they were at times

promoted by government officials and or politicians in an attempt to intimidate the opposition. The first phase of *La Violencia* is generally acknowledged to have erupted in 1946 and the second in the 1960s. Combined, both periods, while never civil wars, claimed an estimated 200,000 lives in waves of wanton violence and represented probably the greatest mobilization of peasants in the hemisphere, with the possible exception of some periods of the Mexican Revolution (Oquist, 1980: 4-11). The majority of the fighting occurred in the rural regions of the country over land reform and socio-economic balance, although there was a very brutal episode in April of 1948 in Bogotá, thereafter called the *Bogótazo* (Watson, 1990: 26). Thoumi argues that *La Violencia* not only left a legacy that facilitates cocaine operations, but that in fact actually encourages the activity (1992). He further argues that *La Violencia* left people with a low value for human life: "Colombians are quick to resort to violence in dealing with conflict -- a very useful attribute in a high-profit, high-risk, and conflict-prone business" (Thoumi, 1992: 50).

The two party system in Colombia has therefore meant a great deal of divisiveness and even conflict. This has been true especially in terms of the ability of any Colombian administration to devise a workable and sound justice policy. In addition, the party affiliations in most major areas of political life tend to be further clouded by a rather entrenched system of patron-client relationships. Clientelism exists at all levels of government in both rural and urban areas between the so-called political bosses or patrons (*caciques políticos*) and their "clients". The patrons are most often in a position to distribute favours and resources to their faithful clients (for a more thorough discussion of

this relationship, see Martz, 1997). While there has been a decline in such polarization, paternalistic relationships of *cacique* and peasant have survived in many rural areas (Pearce, 1990: 183). And despite great party strife and industrialization, the traditional oligarchic order, based on family patrimonies and the dominance of the two-party system has managed to survive, albeit in a much weakened state since the 1980s, due to pressure placed on society by the emergence of guerrilla organizations and the corruption of institutions by the cocaine mafias (Pearce, 1990: 184-186).

Yet another factor contributing to the endemic violence in Colombia is the guerrilla movement with approximately 12,000 to 15,000 members (Bagley, 1989: 72). Nine guerrilla factions have been identified that exist mainly in the isolated regions of the country in which there is minimal government control. Evident especially at the height of the Cold War, a number of these groups were allegedly backed by Cuba and the Soviet Union that sought to pursue Cold War policies in many of the states of Latin America (Osterling, 1989: 276-325). As of 1996, unofficial estimates of the numbers of people involved in these groups indicate that the FARC-EP (*Fuerzas Armadas Revolucionarias de Colombia Ejército del Pueblo*) had 7,700 members distributed in thirty-three groups called *Frentes* (Semana September 24, 1996: 48); the M-19 (*Movimiento 19 de Abril*) had some 1,400 distributed in ten militias and four battalions; the ELN (*Ejército de Liberación Nacional*) had 2,500 members (Semana September 24, 1996: 48); and the EPL (*Ejército Popular de Liberación*) had 600 people distributed in ten rural and five urban bands (*cuadrillas*) (Lleras Restrepo cited in Osterling, 1989: 266).¹⁰

¹⁰ These figures appear in a report published by former President Lleras Restrepo in Nueva Frontera, 16 February, 1987.

The largest of these groups, the FARC, although not officially established until 1966, originated during the first era of *La Violencia* in 1948 as the armed wing of the Colombian Communist Party. Its current Marxist-Leninist ideology includes a nationwide land reform scheme as well as a redistribution of wealth to the poor. The Second largest group, and probably Colombia's most active, the pro-Castro ELN has similar goals but emphasizes the nationalization of natural resources and as such foreign oil pipelines, mainly in the north of the country, especially in Norte de Santander, have been the targets for their attacks (Watson, 1990: 26). Probably the most famous guerrilla group in Colombia is the M-19. This fame arises from the seizure of the Palace of Justice in Bogotá in 1985 in which more than 100 people were killed, including eleven of the twenty-four justices of the Supreme Court and apparently all of the guerrillas (Dix, 1989: 49; Gugliotta and Leen, 1990: 417; Carrigan, 1993). The casualties of guerrilla attacks have been high and while there is no real consensus on the actual numbers, in 1986 approximately 339 terrorist incidents occurred with a loss of 1,703 lives (Osterling, 1989: 267). By 1988, the total number of armed guerrilla actions was estimated at 770, and dipped to 667 incidents in 1990 (Gaviria, 1991(a): 30).¹¹

During the periods of *La Violencia*, both political parties, the Liberal and the Conservative, supported their own guerrilla groups, although the ruling Conservatives often augmented their forces with both police and army personnel to combat the Liberal-backed guerrillas. "The roots of this protracted conflict originated in differences among

¹¹This figure includes: Armed contacts; ambushes; terrorist acts; assaults on the public; attacks on state institutions; assaults on organizations; land piracy; and hostage-taking incidents. (The country's total homicide figures of 25,738 for 1988 and 28,475 for 1990 are not broken down by source).

the ruling élites over the adoption, and implementation, of measures designed to introduce more progressive labor relations and reform land tenancy practices" (Thoumi, 1992: 48). In essence, it was a struggle by the 'old guard' (the Conservatives) to maintain the status quo and retain power in a rapidly modernizing society in which new groups were emerging with demands for reform (sponsored by the Liberals).

By 1953, the country welcomed a military government in the hopes that some semblance of order would be restored and that *La Violencia* would come to an end. To that end the military government granted all guerrilla groups amnesty in exchange for laying down their weapons. However, many groups were not content to do so and continued their activities against the state. In addition, both parties feared that they would lose power to the military and their differences became blurred in an attempt to regain control. In 1958, these 'fears' led them to form the "National Front" which was a power-sharing agreement between the warring parties that lasted sixteen years. This fraternity not only resulted in the elimination of the use of violence between the two traditional parties but an arrangement in which most government jobs were divided between the parties so that a "sort of political "cartel" (sic) was established, which not only held a monopoly on power, but at the same time, foreclosed the entry of any new groups from either the extreme Left or Right" (Thoumi, 1992: 49). This, however, only served to fuel the frustration of numerous guerrilla organizations that were in almost complete control in a number of the more isolated regions of the country such as the Magdalena Medio and the Urabá. There they had established "independent republics" in which they not only gained support from the local peasant populations and payments from the large

landowners, but they provided the schools and health care that the Colombian government could not. "As time went by, these movements became more class-oriented, providing the base from which Marxist guerrillas emerged in the last two decades" (Thoumi, 1992: 49).

A deadly offshoot of the left-wing violence was the emergence in the 1980s of paramilitary death squads. Some 138 organizations have been officially identified whose targets are peasant and labour-union leaders, journalists, leftists and guerrillas. "At least some of these death squads have included active or retired military and police personnel in their ranks, conjuring up visions of the 'Salvadorization' or 'Argentinization' of Colombia" (Bagley, 1989: 72). The high incidence of extrajudicial 'justice' has led to as many as 800 unofficial executions between 1982 and 1985, and during 1988 and the first nine months of 1989, (presumably) political assassinations carried out by paramilitary death squads averaged 228 and 169 respectively (Guggliotta and Leen, 1989: 18; Americas Watch Report, January 1986: 114).

All of this partisan activity and violence only served to set the stage for clientelistic practices in which government workers became the brokers and intermediaries for government services. As the economy grew, the number of bureaucrats that were doing their jobs badly, also grew, along with a general disregard for the law. Heightened inefficiency and arbitrariness spawned a high degree of corruption in many public and private sectors and led the state to lose almost complete control over a number of areas of the country. Pearce, in a particularly scathing appraisal of the Colombian system, states:

The relationship of the state to the people is therefore one of neglect and, in many areas, abandonment...In these circumstances people have sought a means of survival outside the orbit of the state, which often means outside the law... there is a culture of violence in Colombia that exceeds that of other poor areas of Latin America, it is historically as well as socially rooted (Pearce, 1990: 115-17).

Thoumi echoes this sentiment by saying, "[t]hus, the delegitimation of the state was revealed by a widening gap between the written laws and socially acceptable behaviour" (1992: 50). From there the underground economy flourished practically unhindered and hence,

[t]he state has not acted as an arbiter of the different economic and political interests at play. It is thus not possible for these interests to express themselves thoroughly through legal channels. The state, in its various manifestations, has seemed rather to be an institutional entity of very low legitimacy, beside which, or in relation to which, organized groups operate, taking over state functions (such as providing security and justice). A social world thus is erected where multiple systems of law and justice reign, a world where official insitutional government and the noninsitutional coexist ("Commission for the Study of Violence" in Berquist, 1992: 264).

According to Thoumi, this combination of factors, coupled with a very isolated and mountainous topography, is what eventually and inevitably led the illegal drug industry to gain such a strong foothold in Colombia (1992).

DRUG TRAFFICKING IN COLOMBIA

*Virtue itself turns vice, being misapplied;
And vice sometime's by action dignified.
Shakespeare, Romeo and Juliet, II, iii*

Background -- Cocaine Politics

In the late 1970s, the economic importance of drug money began to be evident in Colombia. Prior to this, in the 1940s, there had been some problems with domestic drug consumption among the younger members of the upper classes which led to the government of President Mariano Ospina Pérez passing Colombia's first anti-narcotics law (Dégree No. 896, March 11, 1947). This law prohibited the cultivation, distribution and sale of coca and marijuana, and ordered all local and regional governments to destroy all coca and marijuana plantations (Osterling, 1989: 326). However, the Popayan-based coca plantation owners were outraged and lobbied extensively against the law (Osterling, 1989: 326). The result was that on April 30 of that same year, the law was overturned with Decree No. 1472 -- a political decision that was to foreshadow future confusion and confrontation in Colombian drug policy (Bagley, 1989: 73).

During the 1970s the drug industry began to take on a more criminal nature with the marijuana boom in Urabá. At that time the expression "Drug Mafias" began to be used to describe traffickers who were beginning to demonstrate their political and economic influence and who were not afraid to use intimidation and bribery to circumvent the law. Originally the drugs were transported by banana boats with the alleged complicity of the Colombian police and customs (Osterling, 1989: 327). As the

United States began to monitor the shipments from Turbo, the cultivation moved to La Guajira where the business flourished between 1974 and 1978. However, by the late 1970s the United States had exerted enough pressure on the Turbay regime for the government to take on a costly eradication project. In addition, the U.S. government began to voice its displeasure with the lack of Colombian policy to deal with the drug issue and Colombia was beginning to acquire an international reputation for not only being a centre for drug trafficking, but for corruption and lawlessness as well (Watson, 1990: 28). In an attempt to demonstrate that drugs could be eradicated, Turbay's project involved the substantial use of the military in some of the outlying regions with one result being that reports of human rights abuses and illegal detentions were frequent (Dix, 1987: 50). Another unfortunate result of the army's involvement in the region was that many of its members became corrupted by the drug business -- with many actually becoming directly involved in the drug trade (Lee, 1989: 215). When this became public, the Minister of Defense handed over the eradication campaign to the police in an effort to distance the army from the new problem.

Over time, marijuana came to be replaced by cocaine which is much more lucrative, easier to conceal and lighter to transport. The volume of cocaine exported to the United States was estimated to have risen from fifteen tons in 1978 to 270 tons in 1988.¹² In addition, in 1988 a further forty tons were smuggled to new European markets (El Espectador October 4, 1988). In Colombia, the highly addictive basuco, a form of

¹² As these are illegal imports it is virtually impossible to know exactly how much cocaine was imported during that time. Authors vary widely in their estimates. (For a discussion of these numerous estimates and the conclusion that may be drawn from them, see for example, Thoumi in Smith, 1992: 57-71).

crack in which cocaine paste is mixed with marijuana and/or tobacco, emerged as a favorite for young people to smoke with the Health Ministry estimating that over 400,000 Colombians smoked it regularly (Craig, 1987: 24).

The cocaine industry has garnered substantial economic, political and military clout in the Andean countries of Colombia, Peru and Bolivia. The majority of coca comes from Peru, the world's largest producer (accounting for about sixty-five percent of all coca produced). This comes from just twelve producers and is in the form of cocaine base which is often carried out of the Upper Huallaga Valley and the Amazon Basin by Colombian airplanes to be processed by Colombian refiners in remote regions of the Colombian jungle (Palmer in Bagley and Walker, 1994: 181). In fact, coca is Peru's most important export, generating the equivalent of one third of all other exports combined to total approximately \$US 1 billion annually (Alvarez in Smith, 1992: 72). But of the roughly fifteen percent of the Peruvian workforce who are tied to the coca trade, only a few Peruvian traffickers (such as Reynaldo Rodríguez López) produce cocaine hydrochloride and manage to smuggle it to the United States. For the most part Peru's cocaine industry is a supplier of raw materials and basically an appendage of Colombia's trafficking syndicates (Lee, 1989: 106-110).

While producing less than Peru, Bolivia is the world's second largest exporter of cocaine base and hydrochloride (Gamarra in Bagley, 1994: 217). A large number of *campesinos* in the Chapare and Yungas regions of the country have formed six regional coca-growers unions and have met the government's attempts to eradicate coca crops with increasing violence (Collette Yungers, LASA Drug Panel, April 17, 1997). Between

ten and thirty percent of the workforce in Bolivia is involved in the cocaine economy and the coca growers have a vanguard position in the growers unions which means that their strikes affect not just coca but the entire economy. The size of the Bolivian cocaine industry was estimated by the mid-1990s to be roughly five percent of GDP. This amounted to approximately twenty-three percent of the country's exports in 1994 which was a substantial drop from some ninety percent in 1988 (Clawson and Lee, 1996: 13-14).

Hence, the cocaine industry in both Bolivia and Peru tends to benefit large segments of the rural population. While the Colombian drug mafias are, for the most part, engaged in refining and trafficking, their counterparts in Peru and Bolivia are mainly in the business of supplying the crude coca to Colombian middlemen, although Bolivian groups have recently found buyers in Brazil and Mexico (Clawson and Lee, 1996: 13). Because Peru and Bolivia are involved primarily in coca production and basic processing, rather than the more profitable smuggling and retail distribution, their income from the cocaine business is not as high as it might appear from the large volumes of coca leaf they grow (Clawson and Lee, 1996: 12). Generally, Peruvian and Bolivian trafficking organizations are less sophisticated than the Colombian mafias and tend to be more representative of rural peasant organizations attempting to find a cash crop more lucrative than traditional ones.

Meanwhile, the cocaine industry in Colombia is a very different story. The benefits of the industry tend to accrue to a disproportionate number of wealthy traffickers, although large numbers of people in society tend to benefit indirectly from the illicit

trade. Most of the value-added in the Colombian phase of the trade is as a result of the smuggling to the United States and European markets. The so-called Colombian cocaine cartels, similar to other mafia syndicates in that they are made up of coalitions of crime families, were first established in Medellín and Cali. They are dominated by five major syndicates that handle approximately eighty percent of Colombia's cocaine exports (Lee, 1988: 95). These are headed by Medellín traffickers: Pablo Escobar Gaviria (killed in 1993), Jorge Ochoa Vásquez, and José Gonzálo Rodríguez-Gacha; and by Cali traffickers: Gilberto Rodríguez Orejuela and José Santa Cruz Lodoño. They have often challenged the authority of the central government in Colombia and are known to have performed quasi-government functions in remote regions where the authority of the state is weak or nonexistent (Cañón, 1994; Thomson, 1996; A. and L. Cockburn, 1992).

The Colombian cocaine mafias are chiefly involved in the downstream phases of the cocaine industry, refining and trafficking. Their strength lies in their financial and logistical resources (Lee, 1989: 106-110). These groups, acting as international regimes, are described by Bagley as "vertically integrated underworld multinational corporations that account for approximately seventy-five percent of the refined cocaine entering the United States" (Bagley, 1989: 70). They have built an international network of thousands of specialized employees and associated individuals or businesses which has put them in the position of outperforming most Fortune 500 companies with an estimated \$US 6 - \$US 20 billion profit annually from drug sales worldwide (Godson and Olson, 1995: 23).

In Colombia, by working with the polarized Colombian political party system, the cocaine mafias were able to exert influence rather rapidly. It was reported that at a mafia meeting in Cali someone stated: "we have to finance the campaigns of the politicians and keep them on our side. We can participate in business without causing a scandal in family businesses, so that they get used to dealing with us. In the end, they receive innumerable benefits"(Castillo cited in Pearce, 1990: 192). Generally, ideology has little room in the cartels' massive efforts to enhance their already immense wealth as well as to legitimize their *nouveau riche* status by attempting to break into the ranks of the Colombian bourgeoisie. While their attempts at social climbing have been firmly and plainly sneered at by Colombia's upper social circles, no one has been able to dispute the evidence of their wealth and the way that wealth has helped the Colombian economy. "The wealth of the traffickers has trickled down into all areas of Colombian commerce, people who own furniture stores for example, are not involved in the drug trade, but traffickers who have lots of money buy lots of very distasteful furniture and pay big money for it. Just about everyone benefits, either directly or indirectly". (Interview with the Jaramillos, May 1996).

Narco traffickers have been socially accepted or rejected because they represent the values, aspirations, hates, fears and envies of large segments of the population. To stop being poor in one coup de grace or with one audacious move; to be able to ride the city streets in shiny, expensive automobiles; to parade with current or former beauty queens; to be able to hand out favors to members of the intelligentsia, the church, the worlds of politics, show business, and finance; all these actions contrast with the arrogance, the arbitrariness, and the efficiency in ordering assassinations and terrorist acts (Camacho in Bagley, 1994: 107).

Despite these attempts to gain legitimacy, the drug cartels have also been responsible for seriously threatening the stability of Colombia. They have engaged in extensive use of violence and corruption in order to protect their interests and carry on their operations with impunity. In so doing, they have contributed to the virtual state of anarchy in some regions of the country, and have often replaced official state institutions by dispensing their own justice and carrying out public works projects. They have helped to undermine the integrity of official institutions through threats and bribery, bringing about the virtual collapse of the judicial system. Former President Barco of Colombia perhaps best described the drug traffickers: "... [they] operate as untouchables. They threaten judges, and if the judges won't give in they threaten their families ... they can do as they will" (cited in Hoskin, 1988: 11).

Coinciding with the emergence of wealthy narcotics traffickers, came the corruption of many members of the army, the legal system and much of the Congress. Due to inefficiency and its ineffectiveness, however, the judicial system was already susceptible to corruption and Congress functioned on the basis of party-affiliated patronage. Finally, the army and the police had been in the position to abuse power for a number of years and had often not been held accountable for arbitrary use of force (Griffith, 1993: 25).

The United States Government has continued to exert increasing pressure on the Colombian Government to stop the drug traffickers. The corner-stone of U.S. Colombian anti-drug strategy, extradition, is no longer a possibility since 1991 when the Supreme Court of Colombia ruled it unconstitutional as a result of the new 1991 Colombian

Constitution that prohibits the extradition of Colombian nationals. This issue has been a major area of contention between the two countries and has led the United States to increase pressure in other areas in an attempt to convince Colombia that the War on Drugs should be fought at the source.

The Colombian government has attempted to comply with U.S. demands and to fight the drug war investing millions of dollars as a counter-part to U.S. funding; with most of the funds slotted for military anti-drug operations (Ward, 1992: 5). However, from the point of view of the U.S., these efforts have been largely insufficient. In the eyes of Washington, Colombia has participated in the War on Drugs "without the proper resources, training, equipment and necessary enthusiasm" (U.S. General Accounting Office, 1992:1). Further, the results of attempting to halt drug trafficking in Colombia have been fatal for many Colombian officials and extremely deleterious to the country's political system and international relations.

An added complication is the fact that in 1989 illicit drugs accounted for US\$2.5-5 billion in trade capital repatriated to Colombia, outranking coffee (US\$2-2.5 billion) as the country's principal foreign exchange earner (Bagley, 1989: 70). Colombia's licit economy has, therefore, been increasingly at risk while the economic and enforcement costs of the drug war have been estimated as high as \$2 billion (or five to six percent of Colombia's GNP) (Lee, 1991(b): 37-38). Thus, the efforts of the Colombian government toward eradicating the illegal drug trade have been less dedicated than its attempt to end violence, and from the economic point of view, at least, such efforts may not be so urgent.

Drug Violence

One of the primary reasons that the drug trade has become so violent is that since the Colombian mafias turned their attention in 1978-79 toward gaining control of wholesale distribution in the United States (as well as contributing to the chronic drug consumption problem there), the United States has fought back by pressuring the Andean countries of Peru, Colombia and Bolivia, among others, to take measures to put an end to the drug trade and to bring the traffickers to justice. These countries, for their part, have attempted to curtail the activities of the traffickers with little success as they lack the necessary resources and some of the political will to do so. As mentioned above, the biggest problem from the Colombian perspective has been the uncontrolled violence that has at times paralyzed the country and which is "the principal threat against our democracy"; ending the violence has constituted a much higher priority than halting drug trafficking which Colombians defensively define as an international problem that will subside only when the consuming countries lower their demand (César Gaviria in El Tiempo August 8, 1990; López-Michelsen, 1988: 35). The now infamous "War on Drugs" has, thus, primarily been a war to combat so-called 'narcoterrorists' rather than actual narcotics trafficking (Andreas and Sharpe, 1992: 24). And the attempts made by Colombian authorities to put an end to this narco-violence have only been met with very strong resistance from the drug mafias and from this, the 'war' has escalated.

In order to safeguard their interests, and keep their members out of jail, the drug mafias have developed a complex system of protection. This includes an intelligence network that is said to extend to enforcement agencies, the military, high levels of the

bureaucracy and even to U.S. embassies operating in drug producing countries as well as customs officials, police and even air traffic controllers in the United States (Lee, 1989: 192). Not only do the Colombian mafias have sophisticated methods for intercepting all of the US Drug Enforcement Administration (DEA) and U.S. embassies' communications but it is contended that the mafias pay their own agents more (as much as three times) to inform against the DEA than the DEA pays Colombians for information on the mafias (Mabry, in Perl, 1994:107; Nadlemann, 1988). Their systems include state-of-the-art radio equipment, often replete with scramblers and digital encryption devices (Lee, 1989: 40). In this way the mafias can track the movement of the armed forces and aircraft and ships. In addition, the Colombian police believe that the traffickers are better equipped than either themselves or the army (General Serrano at IADC, September, 1996). Indeed, the traffickers possess impressive arsenals including Uzis, Ingrams and Urus, which they use mainly for protecting their airstrips, warehouses and cocaine laboratories (Lee, 1989: 104).

Violence, or the threat of it, has been used rather effectively to combat the Colombian government in its efforts to end drug trafficking. It has been used by the drug cartels for three general purposes: firstly, to discipline their own employees, enforce contracts with business partners, and to exterminate rival traffickers; secondly, to attack members of state institutions and journalists (acts of violence against these groups often have indiscriminate effects on the general populace); and finally, violence has been used against leaders of popular movements such as unions and peasant movements as well as against members of guerrilla organizations.

The first purpose requires little explanation and might simply be called the enforcement of the 'code of conduct' of drug mafias, although there has been a certain amount of violence in recent years between the rival Medellín and Cali cartels. The dispute has centered mainly around their 'territory' of New York City. Shoot-outs, bombings and murders between the rival syndicates killed some 150 people during 1988 alone (Smith in Smith, 1992: 12; Lee, 1989: 111-112).

For the second purpose, violence is often used in conjunction with bribery. For example, the *plomo ó plata* option given to judicial personnel attempting to bring about the successful prosecution of mafia members. In recent years mafia-sponsored hits have been made against uncooperative judges, and public officials. The Medellín cartel, in Colombia, has largely been responsible for the assassinations of judges, so much so that persons of probity are now reluctant to accept that position. Some three-hundred and fifty judicial personnel are estimated to have been murdered since 1980, including seventy judges (Bagley, 1989: 73). And while the numbers of people who have accepted bribes is difficult to track, it has been estimated, that eighty percent of the Medellín police are on the mafia's payroll (Pearce, 1990: 273). One of the more notorious forms of violence used by the traffickers in Colombia has been the use of *sicarios* (hired assassins). This has proved to be a very useful and anonymous method for getting rid of real or potential opponents in that, generally, the mafias offer rewards with pre-established payment rates, to kill generically-defined opponents. Thus, for example, the Medellín police are a generic target for an unknown number of *sicarios* and have been killed at a rate of sixty

or seventy per month -- hence the estimate of eighty percent choosing the *plata* option (Goldsmith lecture, 1995).

To realize the third purpose, the cartels have tried to cultivate a 'Robin Hood' image. However, they sometimes clash with the local public in the remote regions in which they maintain their laboratories and airstrips. This has arisen, for example, when the peasants have formed growers' unions in order to get a fair price for their coca crops from the cartels. As well, the Medellín cartel has been especially ruthless against those peasants who collaborate with guerrillas by forming political support networks. They have used MAS (*Muerte a los Secuestradores* -- Death to Kidnappers, originally formed to retaliate against guerrillas who kidnapped and extorted cartel members), a right-wing para-military organization. MAS reportedly has numerous members of the Colombian military as its members, and has been used as an instrument for the indiscriminate persecution of leftists, union organizers, civil rights activists and members of the *Unión Patriótica* (the civilian arm of the guerrilla group FARC -- *Fuerzas Armadas Revolucionarias de Colombia*) (Lee, 1989: 117-118).

Many of Colombia's cocaine dealers have acquired huge tracts of land (estimated at about one million acres) in remote regions of the countryside which were traditionally considered strongholds of guerrilla groups such as the FARC and the EPL (*Ejército de Liberación Popular*) to whom local landowners were forced to pay 'taxes' (Semana November 29, 1988; Lee, 1988: 99). Not only have the new landowners refused to pay 'taxes', but they now view communism as a threat to their business interests and have thus

set about to rid large sectors, such as parts of the Middle Magdalena Valley, of guerrilla influence (Osterling, 1989: 325-332).

An additional complication have been allegations, especially by various administrations of the United States, that the drug cartels have aligned themselves with the various guerrilla organizations that exist in Colombia (see, for example, Zackrison and Bradley, 1997). The reverse is more often true, however, with the exception of 'alliances of convenience' on occasion. Despite the cultivation of this "association" for mainly post Cold War political expediency, the reality is that there is no narco-guerrilla 'conspiracy', as the goals of the guerrillas and the mafias are largely incompatible (Thoumi, 1995: 216). The guerrillas are revolutionaries seeking to overthrow their systems; the traffickers are 'robber-baron' capitalists seeking to protect their riches and avoid prosecution by the state. The limited instances of some temporary arrangements that have been made between the traffickers and the guerrillas, for example, have been between the M-19 and the Medellín cartel in Colombia (see, for example, Collett, 1988). In these cases, the guerrillas have allegedly been known to be paid in weapons or cash for co-operating with drug mafias in remote regions where the mafia prefer to carry out drug cultivation and refining activities (Watson, 1990: 31).

However, as Lee points out, "in fact, mafia organizations have good reasons for not funding arms to guerrillas -- why would the mafia enhance the guerrillas' power to extort?" (1989: 156). Indeed, cocaine traffickers and guerrilla groups alike, vehemently and indignantly disavow any connection with each other and have clashed more than they have co-operated in Colombia. For example in 1981, M-19 guerrillas kidnapped drug

baron, Jorge Luis Ochoa's daughter and demanded US\$1 million in ransom. In response, Ochoa met with 222 other leading traffickers outside of Medellín. Recognizing that their extreme wealth made them targets for extortion, each reportedly contributed US\$4.5 million to form the right-wing militia *Muerte a los Secuestradores* (MAS) (Lee, 1989: 162). From that point, criminal and political vigilantism became a notorious feature of Colombian life, with MAS's targets being communists, kidnapers and guerrillas. In the following ten weeks after its formation, MAS was responsible for 100 assassinations, numerous public hangings, and in one instance the chaining of a woman to the gates of a Medellín newspaper, El Colombiano, with a sign identifying her as an M-19 militant and wife of one of Marta Ochoa's kidnapers (Miami Herald, February, 1987: 8). Ochoa's daughter finally re-appeared unharmed without a ransom ever being paid (Pearce, 1990: 270).

MAS did not stop after this, however, but rather, grew into a quasi-political organization whose members were right-wing rural élites, businessmen, police and military personnel. It continued to target left-wing party leaders, university professors, civil rights workers and union organizers (Watson, 1990: 33). In turn, this activity spawned approximately 128 copy-cat organizations with similar objectives to MAS. Included were groups such as the Colombian Anti-Communist Alliance (AAC), the Colombian Anti-Communist Youth (JACOC), the American Anti-Communist Alliance (AAA), and Death to Kidnappers and Communists (MASCO) (El Espectador October 1, 1987). Thus, rather than a narco-guerrilla alliance, the association that did develop from

this was one of military and police groups that had contact with drug traffickers in many of these para-military organizations.

In 1984, as a result of intense pressure from the United States government to 'do something about the drug problem', and in retaliation for the killing of the Minister of Justice, Rodrigo Lara Bonilla by the Medellín cartel, former President Belisario Betancur (1982-1986) decided to re-enact the 1979 Extradition Treaty with the United States. In an attempt to force the central government to nullify the Treaty, the Colombian cartels retaliated by killing twenty-five judges, twelve of whom were in the Palace of Justice in 1985 when it was attacked by M-19 guerrillas, allegedly in complicity with the Medellín cartel (Bagley, 1989: 84). In 1986, Guillermo Cano, the editor of El Espectador was killed after publishing a US report on the mafias. Further, the mafias mounted an extensive political campaign against the Extradition Treaty, backed by a number of congressmen, on the basis of national sovereignty (Pearce, 1990: 193). While Betancur had managed to resist U.S. pressure for more than two years to sign the Treaty (it was supposed to come into effect in 1982), when Lara Bonilla was assassinated it quickly became law. However, while a few extraditions were carried out, in reality little changed for the traffickers and the Colombian authorities continued to evade the extradition question in their relations with Washington (Lee, 1991(b): 245-246).

In 1986, U.S. pressure resulting from President Reagan's declaration of 'War on Drugs', forced the administration of former Colombian President Barco (1986-1990) to begin a renewed offensive against the drug barons, confiscating property, destroying cocaine laboratories, and arresting lower-level dealers. In response, the mafias made

clear their resolve to meet the government head on and indiscriminate violence perpetrated by traffickers and government forces ensued. Next, 1,600 of the country's 4,500 judges received death threats from the mafias and were forced to travel everywhere with armed escorts in armoured cars (Pearce, 1990: 273). The mafias placed bombs in every major city in Colombia leaving hundreds of innocent civilians wounded, and killed the Attorney General, Carlos Mauro Hoyos Jiménez, during an attempted kidnapping in January of 1988. That same evening, President Barco invoked a 'state-of siege' and announced emergency measures in which the 70,000 man national police force was increased by 5,000 and 5,000 new judges were appointed. Additionally, rewards were offered to informers to counter rising violence by drug traffickers and "left-wing rebels".

On August 19, 1989 President Barco announced that he would validate by administrative decree Colombia's 1979 Treaty of Extradition with the United States, in order to extradite suspected drug traffickers to jurisdictions less subject to intimidation or bribery, following the assassinations of prominent Colombian officials, politicians, and members of the judiciary. The only major drug trafficker to be extradited, however, was Carlos Lehder, who prior to his arrest by Colombian authorities, purchased Norman's Cay in the Bahamas and turned it into a storage depot and refueling point for airplanes transporting hundreds of tons of cocaine destined for the United States (see, for example, Kirkpatrick, 1991). "Lehder, sometimes labeled 'the Henry Ford of the cocaine business,' was regarded as the symbol of the drug-busting collaboration between Colombia and the United States" (Martz, 1989: 128). He was convicted in 1988 by a

Jacksonville court on eleven counts of narcotics smuggling and sentenced to life in prison plus one hundred and thirty-five years and a \$350,000 fine (Lee, 1989: 14).

Indiscriminate lawlessness involving bombings, massacres and general chaos ensued as a result of the enactment of the Extradition Treaty. Commercial centres such as banks and schools soon became a favoured target for the Medellín cartel's bombs as were the newspapers -- the building that housed El Espectador was completely destroyed. When the Colombian government reinforced its crackdown on the Medellín cartel, confiscating bank accounts, seizing traffickers' estates, laboratories and aircraft, after the August 1989 assassination of the Liberal party's leading candidate, Luis Carlos Galán, the cartels stepped up their use of violence. In late 1989 an Avianca jet was blown up killing all 107 people. This was followed closely by a car bomb killing fifty-nine and wounding five hundred when it exploded outside the Bogotá headquarters of DAS (The Administrative Security Department or Security Police) in an attempt to kill one man, General Maza Márquez, who escaped unhurt (Pearce, 1990: 273). By this point, many Colombian people felt that the Barco government should negotiate with the traffickers to end the violence, and about sixty percent of Colombians were in favour of granting them amnesty just to bring peace to Colombia (Lee, 1991(b): 237).

In an attempt to reverse the cycle of violence begun as a result of Barco's war on drugs, the Gaviria government (1990-1994) decided to take a different approach with the Colombian traffickers. Gaviria spoke firmly against extradition and attempted appeasement with the traffickers, going so far as to claim that drugs are an international problem of consumption, rather than solely a Colombian problem of supply. A formal

peace accord between the Colombian government and members of guerrilla groups and drug cartels was signed in Caracas, Venezuela on June 3, 1991 -- twenty-four hours after two commissions of a desperate Constituent Assembly resolved to support a proposed constitutional amendment prohibiting the extradition of Colombian nationals abroad. Gaviria then asked for, and got, the surrender of Medellín cartel leader Pablo Escobar on June 19 the same year, after lengthy negotiations regarding his surrender terms. The Ochoa Vásquez brothers also surrendered in return for a constitutional guarantee that Colombian nationals would not be extradited (the United States had offered US \$500,000 for Ochoa's arrest and conviction) (Lee, 1989: 125).

However, Escobar's subsequent escape from jail in July of 1992, was reportedly aided by several highly-placed officials in the Colombian government and did not help convince the United States that Colombia was attempting to combat drug trafficking.¹³ Thus, while Gaviria attempted to demonstrate to the Colombian public that the state, for its part in the drug war, was renouncing the use of torture, assassination and violence against traffickers and their employees, in the eyes of the United States it was tantamount to backing down and giving in to the drug lords (Reyes in Bagley, 1994: 128). This soon posed a practically irreconcilable problem for Gaviria in that he was attempting to appease the public at home while at the same time demonstrate to the United States that he was earnest in his battle to end drug trafficking.

¹³The government finally charged fifteen guards and five prisoners with helping Escobar escape, but there has been no official mention of pursuing higher-placed authorities. Similarly, on two previous occasions, in August 1984 and December 1987, allegedly corrupt and inexperienced judges allowed Jorge Ochoa, one of the leading members of the Cali cartel, to simply walk out of their courtrooms ("Account and History of the Events of Tuesday and Wednesday, July 21 and July 22, 1992", 1992).

Drug Corruption

The other method used by the drug cartels for operating with impunity in Colombia has been the corruption of state officials. Briefly, corruption as defined for the purposes of this dissertation, is the misuse of public office for private-regarding interests. Bribery of officials has long been one rather successful method of operating in many spheres of political life in Colombia in what Francisco Thoumi aptly calls the "dishonesty trap" (Thoumi, 1987). Now it is being used to pay for immunity from criminal prosecution by the cartels as well as to distort the workings of a wide array of public offices. The mafias now appear to have a complex network of compliant officials whom they pay to leave them alone, to facilitate their operations, and to supply them with information on government plans. Most of these institutions were already vulnerable to corruption and known to be ineffective. Mafia payments, for instance, have been made to the police or military not to raid laboratories, not to make arrests and to block investigations. In the 1970s, for example, this was alleged to be especially the case with the Colombian DAS. Despite efforts on the part of President Alfonso López Michelsen (1974-1978) to rid these special forces of corruption, the linkages between them and the drug traffickers remained strong, culminating in the 1975 shoot-out between DAS and other Colombian anti-narcotics units (Bagley, 1989: 78).

The mafias, furthermore, bribe prosecutors not to prosecute, judges not to convict and penal officials to release those traffickers that do end up in jail. In fact, many people have allegedly made fortunes from drug connections and for protecting traffickers. As mentioned above, in the 1980s, it was estimated, for example, that eighty percent of the

Medellín police were on the mafias' payrolls (Pearce, 1990: 273). Even the Congress in Colombia is known to be affected by the ambitions of the drug bosses who have won seats by vote buying and rigging. Members of the press as well as candidates for public corporations and for mayoral and departmental positions have also been cited as being on the payroll of cocaine mafias (McRae, 1993: 15).

The great trouble with such corruption, especially since it goes hand in hand with extreme violence, is the difficulty in separating fact from fiction. Stories of corruption range from the surprising to the bizarre -- and none can be completely substantiated. However, some of the stories claim that: in a 1994 police raid of the Cali cartel's properties, over one hundred names of police officials and influential members of government circles, including the chief of operations, Lieutenant Colonel Julio César Rodríguez, Eduardo Mestre, a former Conservative senator, a former auditor general, Rodolfo González, a former president of the Chamber of Deputies, Norberto Morales and a list of nineteen army officers were all listed as being on the cartel's payroll (Strong, 1995:313). Further, three ministers of defense have become involved in drug scandals; the former prosecutor general allegedly turned out to own an airline company with members of the Cali Cartel; a Colombian diplomatic pouch destined for the New York Colombian Consulate (illegally opened by the DEA and required to be resealed under international law) was allegedly found to contain twelve leather-bound volumes of Colombian Congress journals sent from the Ministry of Foreign affairs each containing one kilogram of cocaine (Strong, 1995: 45). Some prominent politicians too have had

their names linked with drug traffickers. In 1978, a 60 Minutes¹⁴ documentary implicated two cabinet ministers in the López administration and a presidential candidate, Turbay Ayala, with drug trafficking. The grandsons of former president Mariano Ospina Pérez were also allegedly caught trafficking cocaine, reportedly shipping the drugs in boxes of flowers from their grandfather's estate (Strong, 1995: 45). "In 1983, an élite army corps, using airforce planes, transported an entire cocaine laboratory from the Colombian to the Brazilian jungle" (Pearce, 1990: 193). Evidently, while some of the middle-ranking officers were punished, the general involved was promoted (Lee, 1989: 193).

The Colombian judiciary has been a particular target for narco-corruption and has, in fact, been the principal victim of the War on Drugs. Because judges are subject to both bribery and threats, the infamous *plomo ó plata* option, Colombia has been unable to convict drug traffickers and guerrilla terrorists. And "because of '*plata o plomo*' the traffickers have few concerns within the Colombian justice system" (Rosenberg, 1991: 24). This is not surprising because being a judge in Colombia is not only dangerous, it is difficult. Seventy judges and three-hundred and fifty judicial personnel have been killed in the past decade. They have been particular targets of vicious cruelty and revenge making it "hard to imagine why an honest man would want to become a judge in Medellín" or any other city in Colombia (Rosenberg, 1991: 13). This danger is compounded by a justice system that is highly inefficient. Judges must not only attempt to try violent offenders, but must also contend with an ineffective or counter-productive

¹⁴ 60 Minutes is a popular weekly American television documentary show that airs on the CBS network.

bureaucracy and lack of resources. And in the end, the courts are largely blamed for the fact that no major drug trafficker has been prosecuted. Thus, a series of judicial reforms were brought about by the Colombian government in 1991 some of which entailed establishing anonymity for judges trying drug trafficking and terrorism cases, not unlike the British Diplock Trials for alleged Irish terrorists.¹⁵

One of the Colombian government's more visible reform successes was the design of the Courts of Public Order. A group of Colombian officials (FES - Foundation for Higher Education) was sent to Italy to study that government's actions in its attempts to deal with organized crime.¹⁶ Their recommendations included a new court system comprised of ninety-two judges who remain anonymous throughout the proceedings (one way mirrors are used to keep the identity of the judges and the prosecutors secret during the proceedings) and are provided additional protection, such as police escorts and protection at undisclosed quarters away from their families, while investigating and hearing 'dangerous' cases. Since the court's inception in January 1991, seventy percent of the approximately 800 individuals tried for drug and terrorist-related crimes have been convicted -- while the conviction rate for similar offenses is only twelve percent in other courts (GAO, 1992: 4).

Another form of drug corruption has actually been solicited by a number of politicians themselves; it is thus hypothesized that the use of cocaine money has become

¹⁵ The Diplock courts are named after Lord Diplock to try alleged terrorists in Northern Ireland. These courts employ relaxed rules of evidence and are known for the use of one-way mirrors behind which prosecutors and judges sit -- not allowing the accused to face his accusers (see, for example, O'Mahony, 1993; Jackson and Doran, 1993).

¹⁶FES was founded in Cali in 1964 as a non-profit organization modeled after some U.S. philanthropic organizations.

an easy way for many politicians to buy votes and influence (Lee, 1989: 11). Sometimes, the traffickers themselves occupy important government positions and posts within law enforcement agencies. The U.S. program 60 Minutes in 1993 once again revealed the alleged connections between several important Colombian cabinet ministers including Gustavo de Grieff (the former prosecutor general) with the Cali cartel. Even more startling are the allegations that the new Colombian President, Ernesto Samper Pizano, received SUS 3.6 million from the Cali cartel for his campaign (Serrill, 1994: 16). It has also been revealed that there exists a 'black list' of at least nine Colombian officials who have lost their right of entry into the United States due to their drug trafficking connections (Serrill, 1994: 16).

Not only do the mafias make a point of fostering relationships within local governments, often they replace governments in order to gain allies in society. For example, Pablo Escobar, the former head of the Medellín cartel (killed in 1993) was well known for his 'Robin Hood' image: Famous for his campaign called "Medellín without Slums" he built public housing (about four-hundred and fifty houses), installed electricity and running water in some of the poorer areas of Medellín, built eighty sports stadiums for underprivileged children, gave money to widows (usually wives of men who had worked for him) and other poor people, and finally, created a zoo on one of his estates where entry was free of charge (Osterling, 1989: 331). In short, he accomplished some of what the state should have, but did not. He even managed to 'legitimize' his work by entering the political arena by being elected to the Colombian Congress as an alternative deputy from Antioquia. His various 'public works' not only made him a hero, but ensured

him of the protection of the local populace for his narcotics-related activities in general and, specifically, when he spent fifteen months in hiding from Colombian authorities after his escape from prison (Lee, 1991(b): 236-237). Upon Escobar's death, thousands of grief-stricken mourners flooded the streets of Medellín, almost causing a riot against the central government -- people kept opening his coffin disbelieving that he had been killed, all-the-while cursing the Colombian authorities ("The Kingdom of Cocaine", 1993).

The sum total of these dual phenomena -- drug violence and drug corruption -- is that in the end, the national security of the Colombian state is compromised. The drug trade has essentially compounded the problem of corruption by committing its vast resources "with a frightening ability and willingness to use deadly force" (Millett, 1993: 5). "[D]rug corruption not only undermines the credibility of governments, it also impairs the ability of politicians and bureaucrats to define and defend the national interest adequately" (Griffith, 1993: 25).

The Political Economy of Illegal Drugs in Colombia

Part of the key to resolving the drug 'problem' means addressing the economic question of poverty and dependency in producing and trafficking countries such as Peru, Bolivia and Colombia. In paying less than adequate attention to economic matters, the United States government is as much to blame for the drug problem within its borders as anyone.

President Reagan's projects to promote political and economic stability, and to control illegal immigration and drug traffic, have been affected by the continued restrictions in sugar quotas since 1982... US policy toward

sugar has cost the region more than 130,000 jobs since 1984. These people have had no other recourse than to become illegal immigrants or marihuana growers in order to survive (del Olmo, 1990: 41).

In addition, coffee, as well as being the source of the fortunes of numerous élite landowners, is a national industry and is Colombia's largest licit export (Pearce, 1990: 28). In 1989 the collapse of the International Coffee Agreement crippled the thousands of Colombian coffee growers. That year Colombia's coffee earnings fell by approximately SUS 200 million or by forty percent and from there declined steadily by thirty percent in the ensuing years (Martz, 1991: 81; Pearce, 1990: 95; Mares, 1993: 459). Oil revenues have also been jeopardized by ELN (*Ejército de Liberación Nacional*) guerrilla sabotage and bombings of foreign oil company pipelines and installations. Coal production at *El Cerrejón*, Colombia's largest coal mine, have fallen off due to strikes by miners. Because of such setbacks, in order to survive, many people have been forced to the cultivation of coca, or at the very least, to work in some part of the cocaine processing and trafficking business. The drug industry is estimated to employ approximately one-half a million Colombians directly in some aspect of the production, smuggling and sale of illegal narcotics. An untold number are also hired in the 'spin-off' areas and work as bodyguards, assassins, chauffeurs and other 'staff' positions for mafia bosses (Pearce, 1990: 114).

Drug money has clearly made an impact on the Colombian economy in general. Not only has the national bank benefitted from the influx of illegal money, but by accepting this money, Colombian banks (as well as banks in the United States and elsewhere) have been able to launder the proceeds of criminal activities by investing in

legitimate businesses including banks, soccer teams, and so forth. "[T]he influx of narcodollars has been so great that Colombia is one of the very few countries in which black market dollars are worth less than the official exchange rate" (Craig, 1987: 26).

Craig outlines the sources of illicit incomes from narcotics sales as having:

1) Contributed substantially to inflation and growth in money supply; 2) jeopardized Colombia's financial institutions and rendered precarious all forms of government economic planning; 3) diverted large sums to suppress drug trafficking which were sorely needed elsewhere; 4) shrunk the pool of money available for legitimate lending and raised credit rates; 5) grossly inflated the value of land, property, goods, and services in trafficking zones in such major cities as Cali, Barranquilla, Medellín, and Bogotá; and 6) raised the level of corruption throughout the entire economic system to unimagined heights (Craig, 1987: 26).

Such economic clout readily transforms itself into political power and in the case of Colombia, in some ways lends itself to the existing power structure of élitism and in other ways classes. In the first instance, specific cases have been cited that support the theory that drug traffickers have suborned members of the government, as mentioned above. In the second instance, while the traffickers have not been accepted into the circles of élite society, they have gained a certain amount of respect from the poor for having broken out of the cycle of poverty. While derogatorily called *lobos* by the upper classes, no one denies that the traffickers represent an emerging 'class' in society that has money, but lacks social position and 'finesse' (Interview with the Jaramillos, May 1996).¹⁷ Members of the country's two main cartels have purchased huge tracts of land, estimated to be 4.3 percent of all agricultural land or three percent of Colombia's total

¹⁷ *Lobo* literally means wolf, but its meaning as used in this context refers to a person who lacks class and is crude and perhaps uneducated.

rural area where they have established cattle ranches and agricultural industries (Camacho in Bagley, 1994: 106). They have further bought their way into the financial sector, sports clubs, hotels, race horses, mass communications media, the arts and real-estate -- despite the concerted efforts on the part of some of the members of the élite to keep them out of traditional Colombian business circles (Pearce, 1990: 112).

However, despite such heavy investment in the Colombian economy, fighting the drug war has taken its toll on Colombia with heavy expenditures in the 'defense sector', Colombia's largest importer, growing by approximately 300 percent between 1988 and 1989 alone (Lee, 1991(b): 237-238). Foreign investment fell by 50% of the 1989 figures in the first four months of 1990 (Colombia Information Service, 1990/91: 1). The rate of growth fell from more than 5 percent in 1987 to 3.7 percent in 1988 and 3.1 percent in 1990. Although low by Latin American standards, the annual inflation rate of 28 percent was too high for Colombians. This was due, in part, to the fact that drug trafficking brought in needed foreign exchange which helped to balance the external trade deficit. Hence, while other Latin American states were forced to pursue rather draconian economic measures to satisfy the terms of International lending institutions such as the World Bank and the International Monetary Fund (IMF), Colombia fared somewhat better (Kryzanek, 1995: 95).

Modernization and expansion of the economy has been taking place, haphazardly because of the great upheaval in Colombian society and thus, regardless of the rights and needs of the majority of the Colombian population. The traditional relationship of the state to the people has been one of general subordination to vested interests and therefore

one of neglect. While the private sector has pushed ahead, the marginalized poor have sought a means of survival. As elsewhere, this means outside the control of the state, but in Colombia it also means in the drug business. Thus, economic reform does little good if it only aids the middle and upper classes, especially if desperate (poor) people are still resorting to illegal enrichment for their very survival. It is thus that the political order must be altered. The old system of the political ruling class continuing not only their dominance over the governance of the country, but over the economy as well, does not bode well for peace in Colombia. The poor have few options and as long as the élites are unwilling to relinquish their monopoly on the access to wealth, not only will economic reform be useless to solve Colombia's political ills, but conflict will continue to be resolved through an archaic system of violence.

At the beginning of his presidency, perhaps seeing the writing on the wall, or perhaps simply as a part of an international trend of democratization, Gaviria felt that institutional modernization would have to be brought about in order for the state to internationalize its economy (Huntington, 1991). With a determination similar to that of former president Carlos Salinas of Mexico, Gaviria set out to change Colombia's economic circumstances, and advocated opening the economy to foreign investment, offered new incentives for exports, and privatized state enterprises. He further promised to work closely with his team of economic technocrats to develop what was called by some a "New Right" approach to national problems. There was a general movement away from import substitution, regarded by the government as promoting inefficiency and high prices, to an export and foreign investment driven economy. Thus, communications

and rail, ports and many public services were privatized, in addition to five of the nation's national banks (Time, June 18, 1990). Economic agencies were also decentralized and agriculture was released from traditional regulation by way of official price supports. The line of reasoning for this change in economic strategy was not only to come into line with world trends, but because Colombia is highly susceptible to the vagaries of international markets for its economic well-being.

For its part, despite its concern about the cultivation of illegal drugs such as coca, the United States has been very ineffective in encouraging a workable crop substitution program in Colombia. On July 3, 1989, for example, the United States refused to vote for the continuation of an international trade agreement that had for twenty-seven years maintained high price levels for coffee. As a result, coffee prices plummeted overnight by approximately fifty percent and the crop threatened to cost Colombia more than \$400 million (Chicago Tribune, November 11, 1989). Meanwhile, coffee, accounting for approximately half of the country's (licit) export earnings has been one of the main crops that the United States has promoted farmers to cultivate to replace coca (Colombia Today, 1992: 2). This led former president Gaviria, and Barco before him, to embark on policies that would not only diversify Colombia's economy, but develop new long term strategies toward an industrial and service economy.

Unfortunately, or fortunately, depending on the observer, the drug industry remains a steady source of revenue for Colombia. It is estimated by The Economist that Colombia grossed as much as \$1.5 billion in drug sales during 1987 alone (cited in Latin American Monitor October, 1988: 589). Furthermore, roughly half of these earnings

were repatriated to Colombia, compared with official export earnings of \$5.5 billion (Pearce, 1990: 47). Indeed, one method used by the Colombian drug mafias for securing at least the indirect support of the public, has been through helping the Colombian economy. As opposed to many other Latin American élites who prefer foreign banks for their money, foreign schools for their children and have homes in the United States and European countries, the narcotics traffickers have remained firmly nationalistic and have insisted in investing heavily in the Colombian economy. Even though it is estimated that the cartels have between US\$ 10 to US\$20 billion stashed in foreign banks, "in Colombia they repatriate between \$1 billion and \$2 billion annually" (Lee, 1991(b), 247; Collett, 1988: 130). They are Colombia's "largest capitalists and the largest landowners" and in order to cultivate good relations and in return for amnesty, they have twice offered to pay off the entire national debt of Colombia (MacDonald, 1988: 151).

While such great floods of money have contributed to inflation by adding some fifteen to eighteen percent to the growth of the money supply, and to delays in rescheduling foreign debt, it cannot be denied that the traffickers have also brought a better standard of living for Colombia's poor (Lee, 1988: 90). However, the illegal nature of the booming drug trade has lowered the citizenry's respect for the law while at the same time raised the expectations for quick wealth. Additionally, dedication to the drug business has slowed the expansion of other sectors engaged in the production of internationally tradeable goods.

International pressure, especially from the United States with regard the drug industry, has led the Colombian government to step up its effort to combat the illegal

activity. However, if the allegations leveled at the current President Ernesto Samper Pizano, (originally by his Conservative opponent Andrés Pastrana Arango) that he received US\$3.6 million from Cali cocaine baron, Gilberto Rodríguez Orejuela, for his campaign are true, then Colombia faces some immediate challenges (Time July 25, 1994: 16). In addition, increasing urban unemployment, particularly among middle class college graduates with high income expectations, and the continuing saga between the rival party factions for the government's spoils of rents and privileges, are but some of the factors that are likely to lead to increased social tension and put stress on the political system. Unfortunately, as is often the pattern with quasi-democratic governments, the temptation to resort to repressive tactics to stem the tide of discontent is ever present.

THE INTERNATIONAL DIMENSIONS OF DRUG TRAFFICKING

*The mafia is a power system, an articulation of power,
a metaphor of power and a pathology of power.
There is no doubt that the political aspect of the mafia's
activities represents an alternative system to democracy.
Padovani in Falcone, 1992: xvi*

International Drug Trafficking

In what has been characterized by some as the New World "Disorder", the 'war against drugs' is being increasingly viewed as replacing Cold War tensions in many states of the world.¹⁸ Perceived drug-related problems have reached a crisis level in many consuming states where numerous crimes are committed by those engaged in the drug business and by users who commit crimes to support their habits. Producing countries, once simply the sources of many illicit drugs, have also recently begun to experience problems associated with drug consumption in their own populations. One recent example of this is in Russia, where the Russian Ministry of Internal Affairs estimates that there were 1.5 million regular drug users in Russia in 1993 and some 53,000 related crimes (UK Government FCO Background Brief, 1995: 6). More importantly, however, the international pressure for producing states to stop the cultivation and trade of illegal narcotics is slowly exporting the battle against drugs from the streets of countries such as

¹⁸This is the partial title of an article by Valentin Falin, Regis Debray, Abolhassan Bani-Sadr, Vyautas Landsbergis, Octavio Paz and Li Xianglu "New World Disorder? The Collapse of Eastern Europe: Moscow's View" (1990).

the United States to new fronts in South America, the Middle East and Asia -- often with disastrous consequences (Balsiger, 1988: 149-151).

It is precisely the nature of global issues such as narcotics trafficking that makes it so difficult to combat. Narcotrafficking is a global problem which means that global policies are required to combat it. Such activity or behaviour originates from within sovereign states, and each state deals with problems of an internal nature through independent policy choices. The great difficulty lies in attempting to reconcile these various policy choices with global objectives.

The international society of states, various international organizations, and individual states, have over the years attempted to address the problem of international crime through a number of instruments ranging from interventions to the use of international law and more recently, international criminal law. These measures have at times collided with perhaps the most basic principle of the international system -- the sovereignty of states -- that has existed at least since 1648 when the Treaties of Westphalia were concluded. In an attempt to secure some form of order in an anarchical system, these treaties established, through the doctrine of sovereignty, the legal foundation for the current world system. This legal recognition of the inviolability of sovereign states has survived the centuries and remains not only the foundation of world order, but often the obstacle to the resolution of a variety of global problems such as environment, health, human rights and transnational criminal activity, to name but a few.

In his book The Underground Empire, James Mills observes that drug-trafficking has become an "underground empire" sustained by a structured and powerful

multinational political base (Mills, 1986). He further observes that drug-trafficking involves numerous actors, often employing a high level of violence, organized into private and public economic networks that engage in production and distribution systems on a national and multinational level. Further, Mills argues, such systems involve a complex set of relationships with governments of various states, that are often related to, and profit from, the traffic in illicit drugs both advertently and inadvertently (1986).

Since the end of the Cold War, organized crime, and particularly drug trafficking, has come to be viewed as a universal 'security threat' by states such as the United States. While no uniform definition of organized crime exists, it is most often described as "any group of individuals organized to profit by illegal means on a continuing basis" ("World Crime Trends and Justice", 1991: 1). Added to this is that "this phenomenon is usually understood as a relatively large group of continuing and controlled criminal entities that carry out crimes for profit and that seek to create a protective system against society by illegal means such as violence, intimidation, corruption and large scale theft" (Report of the UN International Seminar on International Crime Control, 1991: 3). The gravity of the problem lies in the increasing complexity of these organizations and the serious challenge they pose in their ability to penetrate and operate with relative impunity in sovereign states. In fact, organized crime groups closely resemble international business. The increasing globalization and interdependence of world trade has not been without its consequences as the literature on multinational corporations amply illustrates (see for example: Gilpin, 1985; Kapstein, 1991-1992; Huntington, 1973; Barnett and Müller, 1974). However, as global markets have developed in licit goods, so too have they

exploded in illicit goods -- with the traffic in arms, narcotics and nuclear materials being the most notable. Money laundering, smuggling of embargoed commodities, industrial and technological espionage, financial market manipulation, and corruption of groups within and outside of legal state systems are also included in these groups' activities.

While there is no one global crime cartel, there is evidence of an increasing interdependency of crime groups, which Claire Sterling refers to as a *pax mafiosa* (Sterling, 1994). While the links between many of the crime groups have occurred, competition has also been characteristic of their relations. Thus, for example, the Colombian Medellín and Cali drug cartels have actually clashed more than they have collaborated, with rival dealers and distributors waging campaigns of attrition against one another on the streets of New York and in South Florida on behalf of their respective mafias (Smith in Smith, 1992: 12; Lee, 1989: 111-112). In another instance, Shelley cites the violence in many Western European cities, particularly Berlin, as being evidence that there is strong competition amongst organized crime groups (Shelley, 1995: 465).

Organized crime groups fall into several categories. One type is the traditional or the Mafia-type families where structured hierarchies, complex internal rules and discipline, and diversity in illegal activities are common practice. Another type is the professional crime organization. Members of these organizations join together for certain criminal enterprises and are less rigidly structured than the traditional type (U.N. International Seminar on Organized Crime, 1991: 2-3).

One of the larger enterprises conducted by organized crime groups has been narcotics trafficking. In fact, few areas of the world have been untouched in recent years

by the growth in production, consumption and the trafficking of illicit narcotics. Hand in hand with this problem has been the rise in levels of crime, violence and corruption. The multinational character of the drug trade has recently been revealed by law enforcement to involve criminals in vast networks. One network involved criminals from Pakistan, Africa, Israel, Eastern Europe and Latin America (Labrousse and Wallon, 1994: 252). In this case, the drugs (hashish) originated in Pakistan and were delivered to the port of Mombasa (Kenya) where they were added to a cargo of tea and reshipped to Haifa (Israel) by way of Durban (South Africa). The drugs were then transferred to a ship that transports cargo to Constanza (Romania) every two weeks. From there, it was directed to Italy via Bratislava (Slovakia). The head of the network was a German citizen of Ugandan origin who worked for a Romanian company. The network was only revealed when some of the perpetrators were apprehended in Constanza (Labrousse and Wallon, 1994: 252). In 1995 another, almost bizarre, scheme was uncovered that was masterminded by a Spanish citizen, Antonio Carballa Magdalena (who is an Adolf Hitler look-alike). The Greek-based operation included the use of a oil tanker, inappropriately named the *Archangel*. With a capacity of 600 tons flying under a Panamanian flag that began its trip in Greece, shipped to Gibraltar and then around the tip of South America to the west coast of Colombia where it picked approximately 4,000 kilos of plastic-wrapped cocaine bundles out of the water and loaded it into the ship's hull. From there the tanker was to proceed to the Canary Islands to drop the cocaine once again into the water which was to then be picked up by small planes and then flown to destinations in Europe. However, prior to its arrival in the Canaries, a Spanish patrol boat apprehended the tanker

some 900 miles off the coast of the Island of Ascensión, boarding it at 7.30 in the morning during a fierce tropical storm that obscured its radar, and while most of its fourteen member crew still slept (El País January 29, 1995: 16).

Thus, the end of the Cold War has brought greater freedom of movement for the people and goods not only from the former Soviet Union and Iron Curtain Countries, but world-wide. However, such liberalization has also been the source of greater ease with which drugs can be grown, processed and smuggled across international borders. South Africa, as well, with its already active market of heroin, cocaine, marijuana and mandrax (a powerful tranquilizer) has been boosted by the increase in international commerce brought about by the end of apartheid (Grové, 1995).

Further, in recent years traditional production areas and transit routes have maintained or raised production levels (UK Government FCO Background Brief, March 1995: 1). Opium for the European market is primarily produced in the Golden Crescent region of Southwest Asia, which includes parts of southern Afghanistan, northern Pakistan and eastern Iran. In 1994, Afghanistan is estimated to have surpassed Burma (Myanmar) as the world's leading producer of illicit opium, producing an estimated 3,400 tons (UK FCO Background Brief, March 1995:1). For the North American, Australian and Japanese Heroin markets, opium is produced mainly in the Golden Triangle -- an area in the highlands of northern and eastern Burma and northern Thailand and Laos. The total annual estimated production of opium from this region is 2,500 tons (Falco, 1996: 130). Mexico, Guatemala, and more recently Colombia, are also producers of heroin for the North American markets. This occurred when the producers and traffickers of

cocaine diversified their products in order to obtain a greater share of the international drug market.

Cocaine is produced almost exclusively in the Andean region of South America. Peru accounts for approximately 56 percent of the total global production of coca leaf, while Bolivia accounts for about 20 percent and Colombia 11 percent (UK FCO Background Brief, March 1995: 2). The majority of the raw coca is processed and refined in Colombia and the some 900 tons a year of pure cocaine is from there trafficked to North America and Europe (GAO, 1995: 13). As the United States, for example, has increased its ability to detect, monitor, and interdict drug trafficking aircraft moving from South America to Central America and the United States, traffickers have turned to more evasive and complex methods of air delivery and to less detectable highway and sea transportation. Originally, one of the principal methods of smuggling cocaine to North America was in small planes by way of the Pacific coast of Central America, or alternatively through the Caribbean where the plastic-wrapped bundles of narcotics were dropped into the water and then recovered by small boats. However, as the U.S. Department of Defense (DOD) set its resources to detecting these small planes with radar and other methods, the traffickers were forced to become more sophisticated and bolder. The U.S. National Narcotics Intelligence Consumers Committee reports that cocaine has been hidden in the walls of cargo containers, in bulk cargo such as coffee, inside concrete lamp posts, in live animals and of course in the stomachs of 'mules' who swallow up to fifty "fingers" (condoms full of hard-packed cocaine) at a time (CBC, "The Connection",

February 23, 1997).¹⁹ One of the more famous large-scale smuggling operations was carried out by Carlos Lehder, a Colombian trafficker. In an almost bizarre scheme, Lehder bought Norman's Cay in the Bahamas in the mid-1980s and turned it into a transshipment point for DC-10 cargo planes to pick up hundreds of tons of cocaine and fly them successfully to the United States (Kirpatrick and Abrahams, 1991).

Despite evidence of such large-scale operations, arguably, one of the most socially damaging activities of these criminal organizations is the corruption of public officials and political leaders through the use of bribery, graft, collusion or extortion. This is so because public officials and political leaders are normally the policy makers and the ones who plan the maintenance of order in society, not to mention the people responsible for eradicating crime and bringing criminals to justice. Hence, their subornation is an attack on the very order of society.

Corruption can also include the infiltration into political parties and the various offices of government as well as the staffs and politicians of local administrations. Many states report that members of their police forces and armed forces have been corrupted by drug traffickers. The effects of drug corruption can also be felt in legitimate businesses, usually in an attempt to launder illicit profits. Because the illegal narcotics business is estimated to be the second largest industry in the world, the glut of profits that flow from it not only rivals the gross national product of many countries, but it is sufficient to undermine legitimate commerce and affect a country's balance of payments, the monetary

¹⁹ The National Narcotics Intelligence Consumers Committee is a multiagency U.S. government panel that was established in 1978 to co-ordinate foreign and domestic collection, analysis, dissemination, and evaluation of drug-related intelligence.

system and bank co-operation (Report of the UN International Seminar on Organized Crime Control, 1991: 5). In fact, drug traffickers are known to weigh money, rather than count it, their profits are so immense (CNN, "The Kingdom of Cocaine", 1993). The retail transactions of drugs are mostly in \$5, \$10 and \$20 bills such that some distributors accumulate 1,000 to 3,000 pounds of bills on a monthly basis (Smith in Smith, 1992: 11). This necessitates the constant search for a safe place to store the money as well as discreet bankers to help with investing the money in licit ventures. Finally, the transportation of the bulky money from country to country poses more of a difficulty than transporting the drugs as such volumes of cash often need to be moved by cargo containers (Time, 1991: 29-33).

The case of the Bank of Credit and Commerce International (BCCI, the world's seventh largest banking institution) is so far the biggest case involving a vast illegal financial network. It is estimated that \$US 300 billion in drug money alone was laundered through the manipulation of money in the BCCI for which the bank received only a moderate fine (Godson and Olson, 1995: 19; McRae, 1993: 17). In 1984 BCCI bought one of several debt-ridden Colombian banks, *Banco Mercantil*. Renamed the *Banco de Crédito y Comercio de Colombia* (BCCC), it allegedly operated a parallel bank, or a bank within its bank, on the second floor of its building. There 'back to back' dollar transactions between the *Banco Mercantil Nassau* (a BCCI subsidiary) and BCCC were conducted until the banking superintendent suspended operations in 1987. BCCC and its managers were fined for allegedly facilitating complicated banking networks transactions

from Colombian drug trafficker Gonzalo Rodriguez Gacha's accounts in Luxembourg (Latin American Weekly Report, August 1991: 5).

It has been the rather insidious ability of narco-traffickers to manipulate sovereignty and the comparative slowness with which governments have attempted to combat such activity that has enabled the traffickers to gain significant power both at the state level and internationally. Indeed, narcotics growing, trafficking in narcotics, terrorism, international money laundering, bartering of drugs for arms, arms trafficking, guerrilla movements and covert activities by governments themselves, are all mechanisms that undermine states and destabilize their governments. Even more troubling is the violence used to win protection for their expanding industries. Peter Lupsha considers the term narco-terrorism to best describe the symbiotic relationship between international criminal organizations that exist largely for profit and terrorists who seek to destabilize the international system (Lupsha, 1988: 19). Bruce Zagaris also refers to 'narco-terrorists' as being so powerful and organized as to exert an inordinate amount of influence and power over many governments in certain countries, ostensibly through a combination of criminal acts and terrorist methods (Zagaris, 1991: 704). Indeed, narco-terrorists have not only conspired to commit crimes such as fraud and loan-sharking in addition to drug trafficking, but have also resorted to such sophisticated activities as money laundering, computer manipulation, planned bankruptcy and land fraud.

However, it is not always the case that narcotics traffickers merge with, or engage in, the activities of terrorist groups. Indeed, their goals are often at odds, for while the narcotics traffickers seek profits, many terrorist organizations denounce capitalist

tendencies preferring, rather, ideological or religious motivation. For example, the *Sendero Luminoso* (Shining Path) guerrilla organization in Peru claims that its members engage in the cultivation and trafficking of narcotics such as cocaine in order to raise funds to fight their revolution. Their aim, rather than being one corrupted by greed, is idealistic and involves the destruction of the current Peruvian state in favour of a Maoist-style agrarian society (Trujillo, 1992: 160-61). Meanwhile, as U.S. Senator John Kerry noted, for international organized crime the motivation "is not ideological. It has nothing to do with right or left, but it is money-oriented, greed-based criminal enterprise that has decided to take on the lawful institutions and civilized society" (cited in Godson and Olson, 1995: 19).

The concern over the issues of transnational crime in the post-Cold War era, have led to the arguments for a change in thinking that basically amount to altering the basic principle of sovereignty -- nonintervention in the domestic affairs of states. This theory has tended to hold that if there exist certain matters that tend to affect or involve the global community, then they are not exclusively matters of national jurisdiction (Specter, 1990: 172). Thus, it is felt that in the face of these anomalies, a revision of the concept of absolute sovereignty must be made. A principle of a "new right of interference", while not a specific proposal, has been the trend of thought espoused for several decades by human rights advocates who argue that human rights concerns must take precedence over the rights of sovereigns (Donnelly, 1989; Jackson, 1990; Chpt. 6). Former U.S. President Bush demonstrated his thoughts on this 'right of interference' at least on the issue of international drug trafficking, with the U.S. invasion of Panama in 1989 to arrest

the notorious drug trafficker and dictator of that country, General Manuel Noriega. The current U.S. President, Bill Clinton, also appears to recognize that the boundaries between domestic and foreign policy are becoming increasingly blurred for the United States, at least when it comes to the war on drugs (Falco, 1996: 130-131).

International Law

An alternative to intervention, is of course, co-operation. Perhaps one of the most traditional and workable forms of international co-operation occurs when states enact their sovereignty to enter into treaties under international law. International law is composed of a body of rules that has evolved from the necessity for states to interact with one another, governing and delineating their rights and obligations in these relations. In essence such rules contribute to order in a system of anarchy, or perhaps more accurately, a condition of "governance without government".²⁰ Hedley Bull proposes that "[i]nternational law may be regarded as a body of rules which binds states and other agents in world politics in their relations with one another and is considered to have the status of law" (Bull, 1977: 127). Hence, international law may be more precisely considered a system of rules and principles that has been distilled chiefly from the practice, tradition and habits of states all with a view to regulating their relations and moderating their conflicts.

²⁰This is the title of a book by James Rosenau and E.O. Czempiel in which they discuss various aspects of international society (1992).

The most common source of international law is treaties for which states must enact their sovereignty to enter *pacta sunt servanda*. Such acts of good faith bind states using the general principles applicable to private contracts. The premise is that once entered into, these treaties are binding upon the signatories. Hence, to breach a treaty is to break faith with other states in the system. In an increasingly interdependent world, states cannot afford to be considered a 'bad risk' when it comes to striking deals, hence it is in the best interests of each state to uphold treaties or simply not enter into them in the first place. The second most important source of international law is custom. Customary laws have the sanctity of tradition and as states have related with one another over the centuries, practices such as flying the flag of the state in whose port your vessel is entering to demonstrate such entrance is not a belligerent or hostile act of war, now have the status of law in international society largely because they have resulted from the adoption of a given practice over a period of time (von Glahn, 1996: 14).

Other sources of international law include Judicial Decision and Scholarly Legal Writing, the General Principles of Law, and finally, pronouncements and acts of international representative assemblies such as the U.N. General Assembly. Judicial Decisions and Scholarly Legal Writing help to add to the system of international law chiefly through the legitimation of its principles. For example, whenever domestic courts apply international law they are legitimizing its principles and underscoring the importance of its application. Much of the case against Panamanian General Manuel Noriega in U.S. federal court was based on his violation of international criminal law. Additionally, work by famous legal scholars such as M. Cherif Bassiouni, who has

written extensively about matters of international criminal law, or Jack Donnelly whose excellent work is dedicated to questions of international humanitarian law, serve to underscore international public opinion about the importance of international law as a tool of co-operation in an anarchical world system.

The General Principles of Law serve as another reflection of international public opinion or perhaps more accurately, a standard of international morality. The International Court of Justice, for example, applies "the general principles of law recognized by civilized nations". Added to this might be the principle of 'equity' or what is 'fair' when no legal standard exists for a given circumstance and generally allows for morality to be considered in the absence of any agreed upon rules (von Glahn, 1996: 18). Although such language is vague, it has its benefits for the purposes of promoting international law.

The final source of international law, acts and pronouncements of international organizations, has been particularly contentious for some states. The legal effect of U.N. General Assembly resolutions has been that they are generally recognized as binding insofar as states are already obliged by treaty to uphold and abide by the acts of the United Nations. However, where the issue becomes uncertain is when states attempt to assert that resolutions made by the U.N. are legally binding upon even non-signatories. For example, it has been argued that because the *1948 Convention on the Prevention and Punishment of the Crime of Genocide* was ratified by over 100 states, it has been "legitimized" or "codified" in practice, and as such has acquired the status of international law and is thus binding upon signatories and non-signatories alike. In

general. resolutions of such bodies are considered "soft law" which is a term that describes a non-legally binding international instrument (Wallace, 1992: 30). However, "[s]oft law is intended to mould conduct on the international scene..." (Wallace, 1992: 30). The question inevitably arises in a world of unequal power distribution: by whose standards should states be guided? More specifically: who is doing the 'moulding' of whom and is that process selective?

One of the weaknesses of international law is that it is slow to react to a dynamic international system. Bilateral treaties usually take states from two to four years to negotiate, conclude, ratify, and exchange instruments of ratification. Multilateral treaties such as the *U.N. Convention on Narcotic Drugs and Psychotropic Substances* have undergone a much more lengthy process. In the face of rapid travel and communications, highly organized drug traffickers may easily alter their methods of carrying out transactions to avoid the obstacles that states may attempt to negotiate with such treaties. Multinational criminal organizations, as non-state actors, are able to circumvent obstacles such as sovereignty, territorial boundaries and resource problems more easily and efficiently than can sovereign states.

Further, sovereign states are effectively bound by their own rules of law, or system of international morality, forbidding violations of sovereignty even if they are carried out for humanitarian purposes, on the grounds that such transgression will only serve to undermine the very order of, an albeit anarchical, international society. Indeed, it was these general principles that Iraq's aggression in 1990 violated. Former U.S. Secretary of State James Baker's dramatic statement that "[i]f might is to make right, then

the world will be plunged into a new dark age" catches something of the international reaction (New York Times August 12, 1990). Hence, international law is generally adhered to and is regarded as binding so that just as a national government exists to maintain order in a state, the governance system embodied in international law may serve to preserve international order.

Further, international practice is not uniform when it comes to jurisdiction, especially in criminal matters. The international community generally agrees that each state may deal with offenses committed within its territory, without regard to the nationality of the offender as it sees fit. As well, there is general agreement that states may assume jurisdiction over offenses committed by their own nationals abroad, although not all states choose to exercise that option. However, the question of jurisdiction becomes murky and much disagreement has arisen on the subject of under which circumstances a state may punish a foreigner for an act committed outside its territory, and therefore at a time when the act was not subject to a state's criminal laws. Furthermore, while states are not normally adverse to applying foreign law to civil disputes that contain a foreign element, they generally, "refuse to apply the criminal laws of other states in their territories" (Cameron, 1994: 6).

It is as a result of this lack of flexibility of international law that it has come under attack by more dynamic organized criminals. Indeed, it may take longer than four years for multilateral treaties such as the *U.N. Convention on Narcotic Drugs and Psychotropic Substances* to be ratified by the states party to it, while criminals with the use of high tech machines such as modems and facsimiles can conclude a business deal in days if not

hours --altering their methods for delivery or laundering money from the proceeds of a crime quickly and efficiently. In addition, the absence of effective co-operation in extradition and mutual legal assistance in the fight against narcotics traffickers, allows criminals to proceed with relative impunity. Despite these problems, definite obstacles to organized global criminals in the form of international criminal law, especially with regard to jurisdiction and the definition of international crimes, do exist and are being more readily applied as states recognize their need to co-operate in an ever-interdependent world system.

International Agreements

The Hague Conference held in 1912 was the first meeting of international experts to bring attention to the problem of trafficking in opium, cocaine and their derivatives and resulted in the first concrete act of international co-operation in drug control. At this time a number of general principles were established that have served as the template for subsequent conventions and policies. The following are some of the more noteworthy points:

- the limitation of the production, trade and use of opium-based substances;
- the enactment of laws and regulations for the control of the production and distribution of raw opium, as well as its exportation and importation;
- the establishment of illicit possession of raw opium and opiates (morphine and its derivatives) as a specific criminal violation of law (von Glahn, 1996: 592).

International co-operation regarding illicit drug-related activities increased when the League of Nations came into being in 1920. The following year the League established the *Consultative Commission on the Trafficking of Opium and other Harmful Drugs*. Between 1920 and 1939 three more international agreements were concluded in Geneva, the most notable of which was the *1936 Convention* in which the signatory states agreed to apply the sanction of imprisonment in cases of violations to its provisions on cultivation, production, despatch, sale, transportation, exportation and importation of narcotics (Bruno, 1991: 12).

The *1944 Protocol of Lake Success* amended the conventions drawn up by the League of Nations and transferred competence on international drug control to the United Nations. Three major international conventions have been drawn up and ratified by the majority of the member states of the United Nations. As mentioned above, one of the sources of international law is arguably derived from the pronouncements and conventions of international representative assemblies. It has, therefore, been claimed that because a majority of the states of the world participated in these conventions, they are considered to be law even for non-signatory states. The significance of this in terms of current world politics cannot be underestimated.

The *Single Convention on Narcotic Drugs*, signed in 1954 and amended in 1972, and the *1971 Convention on Psychotropic Substances*, introduced new control systems and international procedures. These conventions specifically annulled all prior treaties with the exception of the *1936 Geneva Convention*. Both of the new Conventions laid the foundation for international policy aimed at ensuring the control on the supply and

trade of licit drugs as well as the prevention of the diversion of these drugs for illegal purposes.

In 1987 the United Nations convened an *International Conference on Drug Abuse and Illicit Trafficking* (ICDAIT). One-hundred and thirty-eight signatories agreed to increase co-operation based on a multi-disciplinary approach. The Conference identified four main objectives for international and inter-regional co-operation.

These objectives are:

- a) Prevention and reduction of demand through the establishment of institutional structures to evaluate the trend of the drug phenomenon by means of unified methodologies as well as implementation of adequate measures to reduce drug demand by means of suitable programs;
- b) Control of supply through encouraging contributions from international financial bodies and national governments to encourage crop substitution and well as the establishment of specific legislation to eliminate illicit supply of the chemicals used in the manufacture of narcotics as well as to prevent the diversion of licit pharmaceuticals for illegal purposes;
- c) Suppression of illicit traffic through bilateral and multilateral instruments for mutual legal assistance and co-operation in the areas of extradition, rogatories, freezing and confiscation of assets acquired through illegal methods as well as improved information exchange among law enforcement agencies especially with regard to international trafficking organizations.
- d) Treatment and rehabilitation of drug dependent individuals through the development and implementation of new techniques for treatment and rehabilitation as well as in-service training for health personnel (Bruno, 1991: 13).

In 1988 these principles were strengthened by their incorporation into the *International Convention on Illicit Trafficking in Narcotic Drugs and Psychotropic Substances*. The major points of this Convention concern the identification and seizure of proceeds of illicit trafficking (Art. 5); extradition (Art. 6); improved mutual legal assistance and judicial co-operation especially, but not exclusively, for the purposes of

providing and accepting evidence (Art. 7); and co-operation and training in law enforcement (Art. 9) (Sproule and St-Denis, 1989: 265).

The United Nations General Assembly further debated the drug problem in 1990 at a Special Session in New York at which time it adopted a political declaration -- a *Global Plan of Action* -- that provides guidelines for the United Nations' action against drug abuse and narcotics trafficking. Further, the Assembly declared that the period from 1991 to 2000 be the *United Nations Decade Against Drug Abuse*.

The UN International Drug Control Programme (UNDCP) has the lead role in co-ordinating international efforts against illicit drugs, with an annual budget of US\$ 100 million (Bruno, 1991). Its programme includes projects to eradicate cultivation, support alternative development, reduce demand, improve law enforcement, and help with legislation and institution-building. Other organizations for the co-operation on illegal drugs are the Organization of American States and the Council of Europe's (CoE's) Pompidou Group. Set up in 1971, this latter organization examines the problems of drug abuse and illicit trafficking from a multi-disciplinary perspective. As with the Organization of American States, its activities include reviewing member States' drugs legislation, implementing international drug conventions and improving law enforcement against illicit traffic by air and sea. The European Union also convenes special meetings within the framework of the Justice and Home Affairs Third Pillar of the Maastricht Treaty of 1993. The EU drug initiatives include an annual European Drug Prevention Week, the establishment of a European Drugs Monitoring Centre in Lisbon, and a proposed *European Global Action Plan to Combat Drugs and Drug Abuse*.

The United States formed its own organization in 1990 called the *Dublin Group*. Comprising EU states, Australia, Canada, Japan, Norway, the US, the UNDCP and the European Commission, it provides a forum for informal discussion of drug issues between major aid donors to combat drugs. Local, embassy-level mini-Dublin Groups have been established in producer and transit countries, to co-ordinate assistance and engage in a dialogue with host governments and authorities on drug control issues. Adding to this initiative is the *Customs Transport Co-operation Initiative* (CTCI) which was developed by the Customs Co-operation Council following the London Summit of the Group of Seven leading industrialized states. It aims to improve co-operation between commercial carriers and customs authorities against narcotics trafficking.

International Criminal Law

It has been argued that modern international criminal law began with the efforts to abolish slavery at the Congress of Vienna in 1815 (Bassiouni, 1991: 356). Around that same time were the concerted efforts of the United States and a number of European powers to eradicate piracy (an armed act of violence at sea which is not a lawful act of war) from the high seas, not with the use of international law so much as with military might. International criminal law may be thought of as a movement toward the internationalization of law enforcement that calls upon law rather than force to solve global crime. Indeed, terrorism and drug trafficking are not unlike the problem of piracy in the 19th century, however, the advantages of legal co-operation outweigh combined military effort -- not only on the grounds that a civilized system of states cannot solve

mutual problems through violent methods, but also for simple economic reasons -- military adventures are very costly.

International criminal law may be thought of as a convergence of the criminal aspects of international law and the international aspects of national criminal law (Bassiouni, 1987: 1). There are currently some three hundred international treaties on substantive points of international law that could be considered as falling in the area of criminal law. The criminal aspects of international law consist mainly of a variety of international prescriptions with penal characteristics that deal basically with substantive international crimes. In other words, as mentioned above, a state's jurisdiction is usually limited to its own territory, but in terms of prescriptive jurisdiction, a state can criminalize conduct that occurs outside its territory and prosecute the perpetrators should they enter that territory. In this way a state's assertion of jurisdiction may be called "extraterritorial criminal jurisdiction" (Cameron, 1994: 12).

International crimes most often contain one or both of the following elements identified by M. Cherif Bassiouni, one of the leading experts on international criminal law in the world:

- i. An international element which evidences that the violative conduct affects world peace and security or significantly offends the basic values of humanity; and
- ii. A transnational element whereby the offense affects more than one state, or the citizens of more than one state, or is committed by means involving more than one state (Bassiouni, 1991: 358).

Bassiouni identifies twenty-two international crimes: War Crimes, Aggression, Unlawful Use of Weapons, Crimes Against Humanity, Genocide, Apartheid, Slavery and

Slave-Related Practices, Unlawful Human Experimentation, Torture, Piracy and Crimes on Board Commercial Vessels, Aircraft Hijacking and Sabotage of Aircrafts, Kidnapping of Diplomats and Other Internationally Protected Persons, Taking of Civilian Hostages, Mailing of Explosives and Dangerous Objects, Illicit Drug Cultivation and Trafficking, Destruction and Theft of National and Archaeological Treasures, Environmental Damage, Bribery of Foreign Public Officials, International Traffic in Obscene Materials, Interference with Submarine Cables, Falsification and Counterfeiting, Theft of Nuclear Weapons and Materials (Bassiouni, 1986: 1).

While definition of the specific crimes is rather straightforward, the fact that international crimes are often committed within the borders of sovereign states by individuals who are citizens of the particular state, possess the biggest obstacle to bringing criminals to justice. The effective enforcement of international criminal law largely depends on the development of national legislation embodying international crimes. It also involves the state acting beyond its territorial limits. The question of how far states may go with extraterritorial jurisdiction is limited by international law, but whether they have equal significance for all states remains the question. Presently, there are eight principles under which states make claims based on jurisdiction in international criminal law. The United States is one of the front-runners in applying these principles in its domestic courts, thereby legitimizing them, it might be argued. The first six were set out in the *1935 Harvard Draft Convention on Jurisdiction with Respect to Crime* and the last two have been adopted by states after being incorporated into a number of multilateral

treaties (Cameron, 1994: 18). States may claim extraterritorial criminal jurisdiction based on the following criteria:

- 1) the place the offense was committed, or part of it -- the *territorial principle*;
- 2) the nationality of the offender -- *the active personality principle*;
- 3) those states which took jurisdiction over extraterritorial crimes committed against certain state interests -- *the protective principle*;
- 4) those states which took jurisdiction over extraterritorial crimes committed against the interests of nationals of that state -- *the passive personality principle*;
- 5) the nature of the crime, its commission being seen as a matter for every state -- *the universality principle*;
- 6) the flag/registration flown on board a ship or aircraft where a crime was committed-- *the flag principle*;
- 7) the instance in which a state acts on behalf or represents another state in prosecuting a criminal present upon its territory (sometimes called "the vicarious administration of justice") -- *the representation principle*;
- 8) where the state of the place of the offense waives the right to prosecute and/or punish an offender and permits the state of which the offender holds nationality or domicile to prosecute and/or punish him -- *the principle of distribution of competence* (See for example: Meyer in Cameron, 1994: 18; Bassiouni, 1986: 4-5; Wallace, 1992: 107-108).

The *territorial principle* is one of the more widely recognized principles for claiming jurisdiction over international criminal offenses. It is based on the authority of individual states to establish jurisdiction over acts that are committed within their own territories. This principle is normally uncontested in international law, and is generally accepted as the most substantial basis for exercising criminal jurisdiction. It is derived from the premise that by their very definition sovereign states may govern their internal affairs as they see fit, free from outside interference. However, while there seems to be a fairly universal agreement on what constitute most international crimes, there is still the question of interpretation by individual states.

In many cases an offense is considered to have occurred in a place where even a small part of the crime was committed. Some states, however, treat the offensive act itself as determining the place of commission while others look at the effects of the offense to determine the place of the commission. One result of this difference in interpretation between action and effects is that several states can claim territorial jurisdiction. However, the idea of considering a crime to have been committed where the consequences are felt does not have universal acceptability. Many of those states that do accept the so-called effects doctrine require that the offender intended the effects of the crime to occur in the territory of the state claiming jurisdiction (Hyde, 1945: 798).

The elements of criminal acts that are generally recognized by states for the purposes of claiming jurisdiction based on the *territorial principle* are : 1) participation; 2) procuring the commission of an offense; 3) attempted offenses; 4) planning an offense; 5) offenses of omission; 6) continuous offenses, 7) a series of offenses that violate several legal interests, and; 8) connected offenses (Council of Europe, 1990: 441). The most common justification for jurisdiction in territorial questions is that if in a single crime one or more crimes occur together in the same territory, the crime is considered a unified whole with clear jurisdiction and procedure. Thus, the opportunities for states to claim jurisdiction are low when, for example, no part of an act was committed in the complaining country. This principle tends to bend the concept of territorial jurisdiction but has been used by the United States, for example, to justify claiming jurisdiction over crimes such as the manufacture of illegal narcotics. Most illegal narcotics are not manufactured in the United States but in other states. Because of the stretching of the

territorial principle by the effects doctrine, the United States claims jurisdiction over people who manufacture drugs that end up on U.S. streets, even if their production occurred in another state.

The issue begins to cloud when for example, an offense was not entirely committed within the territory of one state. A crime may be commenced in one state and finalized in another leading to the standard example: a person standing on one side of the border shoots a person on the other side. Which state can claim jurisdiction? The state from which the gun was fired can claim jurisdiction under the *subjective territorial principle* while the state where the injury was sustained can claim jurisdiction under the *objective territorial principle*. Hence, both states may legitimately claim jurisdiction. The one that will in all likelihood try the offense will be the one that has custody of the offender, unless it relinquishes such custody to the other state.

Jurisdiction exercised on the basis of the nationality of the offender refers to the claiming of jurisdiction in respect to an offense committed by any of a state's nationals abroad. A majority of states claim jurisdiction for only the more serious crimes under this principle. The United States, for example, has restricted prosecutions based on the *nationality principle* to such crimes as treason, drug trafficking, and crimes by or against the armed forces (Bassiouni, 1986: 25-26).

The *protective principle* is sometimes referred to as the *security principle* because the assertion of jurisdiction is often based on an act that is considered a threat to the 'national security' or 'vital interests' of a state. While claims to jurisdiction based on this principle may clearly be abused, in general, acts such as the planning to overthrow the

state's government or to manipulate or counterfeit its currency are thought to be a threat to the vital interests of that state (see, for example, Cameron, 1994).

States may claim jurisdiction under the *passive personality principle* based on the nationality of the victim. A state may thus exercise jurisdiction over an alien in respect to an act which occurred outside of its territory against one of its nationals. While it is a controversial grounds for establishing extraterritorial jurisdiction, there have been instances in which it was applied. The United States Congress in 1984 made the taking of American hostages abroad a criminal act, and in 1986 further passed legislation extending the reach of U.S. criminal jurisdiction to extraterritorial acts against American nationals.²¹ One of the more famous 'test' cases in which the United States attempted to claim extraterritorial jurisdiction based on passive personality is the *Mohammed Hamadei Case*.²²

²¹ Any person who, for example, "performs an act of violence against" a person on any civil aircraft is subject to prosecution and imprisonment in the U.S., as is anyone who "destroys a civil aircraft" if the offender is later found in the U.S.. Similarly, anyone who, in order to force a third person or governmental organization to perform a certain act, "seizes or detains and threatens to kill, to injure, or to continue to detain another person" is subject to criminal prosecution in the U.S. even if the act occurred outside of the U.S., provided the offender or the person detained is a U.S. national, the offender is found in the U.S., or the governmental organization sought to be compelled is the U.S. (18 USC: 32(a)(5) and (b)(1); 1203(a) Supp. V. 1987).

²² On June 14, 1985 a TWA flight was hijacked en route to Rome by two hijackers, Mohammed Hammadei and Hasan 'Izz-al-din, who ordered the plane to fly to Algiers and then to Beirut. U.S. citizens and military personnel were separated from the rest of the passengers and interrogated and beaten over the course of two days. A navy diver, Robert Stethem was ultimately shot in the head and thrown onto the tarmac in Beirut. The hijackers subsequently escaped, but Hamadei was later captured in Frankfurt. The United States immediately requested his extradition based on the *passive personality principle*. In the meantime a number of West German citizens were taken hostage in Beirut in an attempt to blackmail the German government to not extradite Hamadei to the U.S. Under international law, the German government was bound to try or extradite Hamadei (*aut dedere aut iudicare*) and thus opted to try him, arguing that the United States would likely impose the death penalty which violated German constitutional law. Hamadei received life in prison in Germany. The German hostages were released (Kennedy et. al., 1990).

One of the more controversial principles of extraterritorial jurisdiction is the *universality principle*. In general, international criminal law provides that there are certain offenses for which any state with custody over an accused may assert jurisdiction. Such offenses are considered so heinous as to offend the international "community". The idea of a universal crime over which all states could assert jurisdiction began with piracy. Piracy has long been recognized as a crime over which all states could exercise jurisdiction under customary international law, provided that the pirate was apprehended either on the high seas or within the territory of the state exercising jurisdiction. The arresting state may further assert jurisdiction and punish pirates. Bassiouni cites several other crimes that may be assigned to the category of "universal interest". These include slave trade, war crimes, hijacking and sabotage in civil aircraft, apartheid and genocide (Bassiouni, 1986: 31-32).

There has been a great deal of debate over whether narcotics offenses fall in the category of the *universality principle*. The *1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* for example, has tended to move the international community in the direction of universal jurisdiction over drug offenses (Zagaris, 1990: 340). Zagaris, in fact, notes that because 106 states of "diverse composition were involved in the negotiations provides enormous clout to the document" (Zagaris, 1990: 340).

The *flag principle* is the applicability of international criminal law to offenses committed on board ships or aircraft flying the flag of the prosecuting state. This

principle is more theoretical than practical, however.²³ Hence, for all intents and purposes, states may assert jurisdiction based on the *flag principle*, but the outcome will depend largely on where the vessels are at the time of the offense, the persons involved and so forth. There is no general international law rules for allocating competence among states, one of whom claims flag jurisdiction.

The *representation principle* usually has the prerequisite of 'double criminality' which requires that the offense in question is classified as criminal under both the laws of the requested state and the laws of the state where the offense was committed. More specifically, it refers to cases in which a state may assert jurisdiction when it is deemed to be acting for another state which is more directly involved. In general, the requirement is that there be a request from another state to take over criminal proceedings, or either the refusal of an extradition request from another state and its willingness to prosecute, or confirmation from another state that it will not request extradition. This differs from the *universality principle* in that the decision to prosecute is not taken in isolation by the state claiming jurisdiction. Rather, it requires an understanding by the state more directly concerned, for example where the offense was committed.

This principle was embodied in the 1972 *European Convention on the Transfer of Proceedings in Criminal Matters*. Member states party to the convention have adopted

²³ One of the most famous cases was the *S.S. Lotus: France v. Turkey*. The *Boz-Kourt* which was a Turkish flag vessel that was rammed on the high seas by a french vessel, the *S.S. Lotus*. Upon limping into port in İstanbul the *Lotus* was seized and the officer of the watch Lt. Demons was arrested by Turkish authorities for causing the deaths of several Turks. The French argued that the law of the flagship state must govern the captain of the vessel and that Demons should be returned to France for trial. The Permanent Court of International Justice found for Turkey, however, rendering this principle largely defunct (The *S.S. Lotus, France v. Turkey*. Permanent Court of International Justice 1927).

national legislation in order to implement the convention. While double criminality is generally a prerequisite for proceeding with criminal proceedings, some states are content to examine only whether the act is a criminal offense under the laws of the other state (Council of Europe, 1990: 452).

In addition, states must also be prevailed upon to enter into bilateral and multilateral treaty arrangements for interstate co-operation in regard to the prevention, prosecution and punishment of such crimes. The very fact that the international system is an anarchical one means that even international investigation, prosecution, adjudication and punishment of international crimes is dependent on the good will of sovereign states. In addition, the principles of jurisdiction may overlap and even conflict to the point where states may disagree over who has jurisdiction in some cases. To avoid such problems, many states have chosen to enter into bilateral treaty arrangements for extradition under certain circumstances.

These, and other, obstacles, have led observers to propose solutions that differ markedly in their possible long-term effects. One solution, proposed by scholars such as M. Cherif Bassiouni, has been for the formation of an international criminal code as well as an international criminal court (Bassouni, 1992). Some precedents exist, for example, with regard to war crimes trials such as the Nuremberg and Tokyo War Crimes Trials after the Second World War, and more recently, efforts have been made to bring some of the perpetrators of genocide in the former Yugoslavia to trial. In the latter case, however, attempts have met little success, firstly because of the very obstacle of sovereignty -- that is indicted criminals such as Radavaan Karadich and General Milosivic cannot be tried

unless they choose to leave Bosnia. Hence, short of violating the sovereignty of Bosnia, the hands of the international community are effectively tied by their own rules. Further, it has been theorized that there is a general lack of political will, especially in the United States, to try these criminals. The question as to why this particular mood has been adopted is less important to this dissertation than is the question: Given the reticence on war criminals, why such a dedicated effort to eradicate the evils of drug trafficking in Colombia? One simple answer might be found in another question or set of questions: What is in it for the United States to push for the prosecution of people who have committed acts of genocide half way around the world? Has it had any direct impact on United States domestic or foreign policy goals? Even with regard to the promotion of international solutions to criminal breeches there must be some political will to do something. Unfortunately, this becomes a selective process depending on who is affected and how.

Other solutions have come in the form of the claim to new right of interference as discussed above. Clearly, if choosing whether or not to prosecute the perpetrators of war crimes can be selective, so too can be the decision to invade another state for the purposes of bringing a criminal to justice. In this case, however, the solution becomes less 'civilized' as it would amount to the breaking of the sacrosanct law of sovereignty in order to uphold a different law. However, if the obstacles of the interests and egos of sovereign states and their statesmen can be set aside for a time, the first solution is to use existing international criminal law to try criminals. This is the more 'civilized' of the options and works within the existing framework of the state system and international law. The

second option, outlined above, would only serve to undermine the existing state system and is a direct breach of international law in that it advocates the violation of sovereignty.

THE UNITED STATES DRUG POLICY

*For nothing can seem foul to those that win
Shakespeare. Henry VII*

In his first year in office in 1980, former U.S. President Ronald Reagan was faced with increasing pressure to do something about the 'drug epidemic' that was destroying the 'American way of life'. By way of response he dramatically declared "war" on drugs and launched an attack against drug use and dealing on the streets of the United States, while simultaneously targeting production, processing and trafficking abroad. This move was given strong support in the United States Congress and a number of tougher domestic anti-drug bills were passed in conjunction with expanded federal drug enforcement budgets and a stepped-up role in the drug "war" for the U.S. military. In addition, drug interdiction efforts were expanded in the border regions of the U.S. and in foreign locales as were increased levels of U.S. economic assistance to source and transit countries in Latin America and the Caribbean.

These measures were coupled with intense diplomatic pressure and economic sanctions against "unco-operative" states. By April 1986, despite US authorities' claims that some headway was being made in the "war on drugs", Reagan declared that drug production and trafficking constituted a security threat to the hemisphere. This had the effect of catapulting the drug war into a more serious dimension. Until this time Reagan's war on drugs tended to have had a somewhat rhetorical bent, matching the rest of his Cold War rhetoric, however, by 1986 drug abuse, rather than having diminished as some authorities claimed, had escalated to alarming proportions on the streets of the United

States and there were numerous demands from both the public and the Congress to put an end to it (Sharp, 1994: 55). By turning his attention from consumption problems on the streets to one of national security, Reagan effectively turned the war on drugs into a foreign rather than domestic policy problem. In effect, the new U.S. policy was to compel foreign states to rethink their 'commitment' to the United States' way of thinking about the war on drugs and hence their respective antinarcotics policies. A failure by any of the target states to do so would amount to a threat to the national security of the United States. By way of underscoring US policy on the issue, a campaign of strict control at the source as well as heightened interdiction was implemented (Walker, 1989: 197-223).

When former President Bush assumed office in January 1989, he reiterated the U.S. government's dedication to eradicating drugs from America's streets. Under his vice-Presidential drug strategy, between 1983 and 1988 "illegal drugs entering the country tripled" (The Boston Globe, August 15, 1989). Bush's Presidential administration continued to emphasize supply-side problems by budgeting 70% on interdiction in source countries as opposed to 30% on demand reduction domestically (Bagley, 1992: 4). Despite the Defense Department's apparent resistance to broader U.S. military involvement in the drug war, Bush's Secretary of Defense, Dick Cheney, proclaimed that detecting and stopping the trafficking of illegal drugs into the U.S. was a "high priority, national security mission" for the Pentagon (Bagley, 1992:4). In addition, faced with major cutbacks after the collapse of the Soviet Union and more importantly the end of the Cold War, the Pentagon undoubtedly struggled to protect some endangered programs and thereafter not only embraced the drug war but reclassified the programs as

"drug-related". For example, over-the-horizon radar systems designed to guard against Soviet missiles flying over the DEW (Distance Early Warning) line were redirected southward to detect drug-smuggling aircraft (Falco, 1996: 122). AWACS at the cost of one million dollars per flight were also used to detect small drug planes as were radar balloons, blimps and space satellite technology (Bullington in Pearce and Woodiwiss, 1993: 46). By 1991, the Defense Department had the largest share of the drug-interdiction budget (Falco, 1996: 122). Indeed, the United States military involvement in the drug war from there expanded rapidly as did the pressure by the Bush administration for Latin American states to step up their national forces in the drug war.²⁴ Between 1980 and 1990, funding for the United States military anti-drug campaign rose to US\$450 million and by 1992, the budget reached US\$ 1.2 billion (Bagley: 1992:5). This amounted to a virtual "cash cow for Cold War agencies in search of a new mission" (CNN "Kingdom of Cocaine", December 1993). The Pentagon's anti-drug budget soon became a bloated \$868 million which was more than the budget of the entire DEA while the CIA's anti-drug budget was classified "top secret"; "but insiders say their counter-narcotics centre has become a public works program for out of work spies" (CNN "Kingdom of Cocaine", December 1993).

Another very public display that U.S. policy had shifted from the Cold War, with its communist threat to national security, to the Drug War with its attack by organized foreign criminals on the heart of America, was the December 20, 1989 invasion of

²⁴ Prior to 1981, the U.S. military had been prohibited from engaging in civilian law enforcement by the Posse Comitatus Act passed during the Civil War. In 1981 the Posse Comitatus Amendment was passed which allowed the use of the military to support civilian law enforcement activities.

Panama. In his address to the American nation on the eve of the invasion, Bush cited Noriega's trafficking and related activities as posing a security threat to the United States and therefore the United States armed forces had been justified in the invasion in order to bring the Panamanian dictator to American justice (Hartlyn et. al., 1992:1). This event represented an important ideological departure from the last invasion in which U.S. troops had participated, namely the 1983 invasion of Grenada. President Reagan too had cited the threat to the U.S. national security. However, at that time the threat was that Grenada had become a 'colony' of Cuba and its mentor, the Soviet Union. As the Cold War still raged, the enemy was cited as a communist one, lodged in the U.S. sphere of influence and readying Grenada "as a major military bastion to export terror and undermine democracy"(Hartlyn et. al., 1992: 1). Seven years later, with the Cold War over, the emphasis on who the "enemies" to U.S. national security were had altered radically.²⁵ When Bush explained why U.S. forces had entered Panama, no mention of communism or Soviet aggression was made.

The pressure by the Bush administration for the militarization of the drug war was augmented by a substantial increase in drug-related military aid to cocaine-producing states: from US\$ 5 million in 1988 to \$US 150 million in 1991 (Bagley in Smith, 1992: 132). A number of strategies were also implemented to complement these military expenditures. For example, in 1989 the U.S. constructed a "Vietnam-style" fire-base for DEA operations in Peru's Upper Huallaga Valley, and at the same time it deployed a

²⁵ The end of the Cold War can be dated to the fall of 1990 when Germany was re-unified on October 3 and when on November 18 the NATO Alliance and the Warsaw Pact signed The Conventional Arms Reduction Treaty at the meeting of the thirty-four-member Conference on Security and Co-operation in Europe (CSCE).

sophisticated 'spy' satellite over Mexico without the authorization of the Mexican government (Riley, 1996: 236). In addition, not only did U.S. Drug Czar William Bennett state that US Special Forces could possibly be sent to the Latin American drug-producing states if requested, but the Bush administration expressed support for the creation of an international strike force. Both ideas were met with considerable vehemence on the part of the majority of Latin American heads of state who feared that their sovereignty would be violated by American hegemonic efforts to eradicate the illegal narcotics industry (Bullington in Pearce and Woodiwiss, 1993: 34).

Partially as an attempt to counter these fears, the Bush Administration announced its "Andean Strategy" in August 1989. This strategy emphasized military aid packages for Latin American armed forces to fight cocaine trafficking. The first "aid" package in the amount of \$US 65 million was sent to Colombia to support former President Virgilio Barco's August 18th declaration of "total war" against drug traffickers (Bagley and Tokatlián, 1992: 231). While the Barco Government requested mainly police equipment, electronic intelligence-gathering devices and technical assistance for the judicial system, the U.S. sent conventional military equipment including twenty-one military helicopters, patrol boats, and ammunition (The Reuter Library Report, August 27, 1989). Furthermore, "intelligence aid" consisting of radar, electronic sensors, secure communications equipment, and computers accompanied twelve U.S. military advisors sent to train the Colombian army in the use and maintenance of the American equipment (The Reuter Library Report, August 27, 1989). However, while considering "low intensity" covert attacks, these Special Forces advisors were overtly forbidden to

accompany Colombian forces on anti-drug missions so as to avoid American involvement in local political conflicts, and more importantly to avoid whipping up anti-American sentiment among local populations (Mabry, 1994: 108; Reuters, August 27, 1989). Indeed, Newsweek citing unnamed U.S. government sources, claimed that among the options being considered to support Colombia in its war on drug cartels, were interceptions of drug planes by the U.S. Navy and "surgical strikes" by commandos against drug-producing laboratories along with kidnapping leaders of drug cartels (Newsweek August 19, 1989). Attorney General Dick Thornburgh also proposed that this attack against the cartels be treated like an attack against a multinational corporation: "If for some reason you wanted to destroy the Chrysler Corporation, you wouldn't start one LeBaron at a time, you would try to incapacitate (president Lee) Iacocca or some of the top managers... or you would go to their bank accounts and siphon off profits" (Newsweek, August 19, 1989).

The second phase of the Andean Strategy provided Colombia, Bolivia and Peru with US\$ 261 million dedicated almost exclusively to military and police anti-drug activities (Bagley and Tokatlián, 1992: 231). However, the decision to invade Panama in order to overthrow Noriega and try him in U.S. Federal Court for his drug-trafficking and money-laundering activities did not build confidence in the Latin American states for the ultimate motivation behind U.S. aid and assistance to combat drug trafficking. Rather, what appeared to be underscored by the invasion of Panama was the United States' willingness to use military power to prosecute the war on drugs if programs of cooperation and 'assistance' failed.

In an attempt to buttress the position that drug trafficking poses a threat to national security, the United States began to re-introduce the view, conceived during the Reagan era, that promotes the so-called link between drug traffickers and communist revolutionary groups. This link was made more effectively during the Cold War as U.S. reaction, and subsequent aggression, to communism in the Western Hemisphere has been amply demonstrated for example in Grenada, El Salvador, and Nicaragua. Hence, the United States has contended that there are links between drug traffickers and Latin America's oldest revolutionary movement, *the Fuerzas Armadas Revolucionarias de Colombia* (FARC), the armed wing of the Communist Party in Colombia. Indeed, shortly after the March 1984 raid of the Colombian processing lab, *Tranquilandia*, U.S. Ambassador to Colombia Lewis Tambs made the announcement that Communist rebels, "narcoguerrillas", had worked as guards at *Tranquilandia* (Collett, 1988: 129). Despite General Miguel Antonio Gomez Padilla, the former head of Colombia's antinarcotics police, subsequent statement to the press that the police neither encountered Communist guerrillas, nor their uniforms nor even Communist propaganda at *Tranquilandia*, the United States continued to pursue this link (Collette, 1988: 129). In 1985 the U.S. State Department and Defense Department report on Soviet influence in Latin America warned of an "alliance between drug smugglers and arms dealers in support of terrorists and guerrillas", and a "1986 presidential directive raised drug smuggling to the level of a national security threat because of what then Vice President Bush George Bush called 'a real link between drugs and terrorism'" (cited in Collette, 1988: 129). Another link between the drug mafias and Communist revolutionaries, the U.S. claims, is with the M-

19 that allegedly have ties to Cuba (The Washington Post February 24, 1988). The net effect is that Colombia is threatened by the unholy alliance of communist subversives and drug traffickers in what is termed the "narcoterrorist" nexus.

This stance has served to open the door for increased U.S. military participation in the Andean states, as the "narcoterrorism argument provided the rationale for using military resources to stifle the drug business" (Mabry, 1994: 110). No matter how unfortunate for Colombians, fortunately for U.S. policy makers, a political crisis ensued in Colombia as a result of President Barco's declaration of war against the traffickers. In a very short period of time the traffickers directly and violently challenged Colombian authority and began a terrorism campaign in an effort to force the Barco government to reverse its decision to extradite Colombian traffickers to the United States. The reality was, however, that it was not leftist guerrillas perpetrating this violence, but *nouveau riche* 'businessmen' who were motivated by profit and greed. This is not to say that there are no 'alliances of convenience' for while the two groups rarely agree, there are examples of some temporary arrangements made between the traffickers and the guerrillas (Rudolph, 1992: 123-125). For example between Sendero Luminoso and traffickers/growers in Peru, or the M-19 and the Medellín cartel in Colombia: guerrillas have been known to be paid in weapons or cash for co-operating with drug mafias, for example, in remote regions where mafia prefer to carry out drug cultivation and refining activities (see, Lee, 1989: Chpt. 4).

Despite these rare instances, drug mafias and guerrilla organizations have clashed more than they have co-operated in Colombia which led, at one time, to the development

by traffickers of MAS (*Muerte a los Secuestradores* -- Death to Kidnappers). From that point, private criminal and political justice became a notorious feature of Colombian life, with MAS's targets being communists, kidnappers and guerrillas (Pearce, 1990: 270). Generally, the goals of the guerrillas and the mafias are incompatible in that the guerrillas are revolutionaries seeking to overthrow their systems. Meanwhile, the traffickers are 'robber-baron' capitalists seeking to protect their riches and avoid prosecution by the state. Indeed, the former have ideological motives while the latter are mainly dedicated to making money (Dr. Martha Crenshaw, IADC Symposium, September, 1996).

Indeed, at the height of the Cold War, United States foreign policy was directed at containing communist aggression and was used as a rationale for numerous forms of U.S. involvement ranging from propping up corrupt and abusive Third World governments for 'strategic' purposes to military intervention in states such as Vietnam. Ironically, in the instances during the Cold War when drug trafficking financed anti-Communists in Colombia, Peru, the Golden Triangle, Vietnam and even Afghanistan after the invasion of the Soviets, the United States has been accused of having conveniently closed its eyes (L'Actualité, April 15, 1994: 41-43; Kwitny, 1988: 52). This political expediency was even confirmed by a U.S. Senate sub-Committee to have extended to the friends and collaborators of the Central Intelligence Agency (CIA) in Central America, especially but not exclusively, with the example of the U.S.-backed Contra rebels who used drug money to finance their fight against the Nicaraguan government (Committee on Foreign Relations, 1989: 36). However, with the end of the Cold War, the traffickers and all forms of guerrillas, including Communist ones, were conveniently lumped together in the

so-called narco-guerrilla alliances: "[t]he language is in line with a familiar vision of the United States besieged by foreign devils, but it obscures the essential difference between drug traffickers and Marxist insurgents" (Collette, 1988: 130).

Even prior to the end of the Cold War, when the writing was already on the wall about the impending demise of the Soviet Union and therefore the lack of a continued bipolar rivalry, groups in the United States began to build the case for the collusion of guerrillas and drug traffickers. Testifying to U.S. Senate sub-Committee in February 1988, retired Army General Paul Gorman, former commander of the U.S. Southern Command (in Panama) stated:

If you want to move arms and munitions in Latin America, the established networks are owned by the cartel. It has lent itself to the purposes of terrorists, of saboteurs, of spies, of insurgents and of subversives. Drug trafficking constitutes a clear and present danger to the very survival of democracy in certain countries which have long been friends and allies of the United States (The Washington Post, February 24, 1988).

During that same week, Ramón Milian Rodríguez, allegedly a former chief money launderer for the Medellín cartel, also testified (obviously plea bargaining for a reduced prison term) before a U.S. Senate sub-Committee to warn the United States about communist infiltration of the cartel. He stated that not only had Panamanian dictator Manuel Noriega received \$320 million from Colombian traffickers between 1979 and 1983 in exchange for the run of Panama's airports and ports as well as the names of U.S. drug agents and the schedules of U.S. Coast Guard and Navy drug-surveillance vessels, but that Medellín cartel members had dealt with the Sandinistas in Nicaragua, and had aligned with the "pro-Cuba" M-19 in Colombia and above all, with Fidel Castro of

Cuba. Milian even went so far as to claim that Cuba's involvement was part of a 'master plan' aimed at the eventual take-over of the cartels so as to be able to have a strangle-hold on the United States via its millions of drug addicts (The Washington Post, February 24, 1988).

However, closer to reality, and accounting for the changes in the discourse about drugs, might be the serious economic and political difficulties that were evident in the United States in the 1980s. Factors such as the Cold War, the energy crisis, the falling dollar, spiraling inflation, increasing unemployment and the costly Sandinista Revolution in Nicaragua, might be said to more realistically account for the heightened anti-drug campaign than simply matters of national security. Indeed, "[t]he central concern became drugs originating from abroad -- and especially the economic and political aspects of the cocaine traffic" (del Olmo, 1990: 28).

In fact, the economic aspects of the U.S. policy against drugs cannot be downplayed. In 1980, for example, the DEA identified a significant flight of capital from U.S. bank accounts to foreign locales, most transactions being in excess of \$2 billion (Cuevas, 1986: 30). From banks in Switzerland, the Bahamas and Panama the money was then 'laundered' and reintroduced into the United States through legitimate investments. It was charged that a number of the banks in Miami not only facilitated these transactions, but were owned by the drug traffickers. Indeed, "[b]anks, most noticeably in Florida, have boomed in recent years by laundering vast amounts of drug money...Since 1970 the city has become an international banking centre, rivalling London and New York, and no one seriously disputes that dollars generated by the trade in

marijuana and cocaine account for this rapid rise to prominence (Woodiwiss in Pearce and Woodiwiss, 1993: 26). Senator William Proxmire summed up the true situation by stating: "Many banks are addicted to drug money, just as millions of Americans are addicted to drugs" (cited in Lernoux, 1984: 198). The amounts of money being moved through the U.S. economy every year were estimated to be a staggering \$50 to \$70 billion which had a significant impact on the United States economy (Clayton, 1985: 14-15). In addition to this was also the argument that the cost of treatment for drug addicts and loss of profit to the economy for absenteeism and illness was substantial. Furthermore, the Internal Revenue Service (IRS) complained that \$222 billion, or 7.5% of the gross national product, was being concealed and thus being shielded from taxes (del Olmo, 1990: 30).

Domestic solutions to this underground economy were not readily available since climbing inflation and unemployment were already a problem politically. Hence, the Reagan and later, Bush Administrations, looked for a way to end this problem beyond the borders of the United States. The methods used to legitimize this course of action were to firstly, take a realist stance in terms of U.S. foreign policy, not difficult during the Cold War but more so once it had ended, and in the second instance, by using international legal arguments.

Realism and U.S. Foreign Policy

In the first instance, the United States has traditionally designed its foreign policy based on realist assumptions about the international system. The fact that the Cold War

global power configuration has changed since 1989 has not meant a substantive shift in realist analysis of the role of the U.S. in world politics.²⁶ The realist paradigm makes a number of general assumptions:

- 1) States are the major actors in world politics;
- 2) As such states have differing and often conflicting interests;
- 3) National security thus ranks as a top priority in a system of potential conflict;
- 4) Threats to national security therefore warrant the use of the full range of national power resources in order to achieve the desired outcome from both hostile and friendly states (Holsti, 1995: 4).

This conception of the place of states in the world is based on the fact that the international system is anarchical. The United States has traditionally viewed itself, and has been, one of the major hegemonic powers in world politics and as such finds itself in the unenviable position of acting as the enforcer of the 'rules of the game' of international affairs. That is, the preservation of international order -- the current states system -- in an anarchical international system requires the use of coercion if not at times, the resort to war when attempts at co-operation fail. Thus, it follows that if the United States views drugs as a threat to national security of the United States, then they are also ultimately a threat to international order. It is U.S. policy therefore to compel lesser powers, by whatever methods, to co-operate on issues such as the war on drugs. This point of view has led to the myopic conclusion that drugs are a wholly supply-side issue, rather than the fact that consumption constitutes much of the problem.

²⁶ This refers to the concept of the bipolar balance of power configuration in which during the Cold War (1945-1989) the world was roughly divided into two spheres of influence "controlled" by the two superpowers -- the United States and the Soviet Union. The 1962 Cuban Missile Crisis is an example of the United States defense of its vital interests against Soviet 'aggression' in the 'U.S. sphere of influence'. Since the end of the Cold War the arguments as to whether the international system is now unipolar or multipolar rage on.

A major problem with this view of the world lies with the assumption that states are the major actors in world politics. Interdependency and globalization are increasingly meaning that non-state actors are playing a more important role on the world political stage. Transnational and subnational actors such as multinational corporations and indeed, international criminal organizations, while they do not have the legal status of states, by virtue of their economic clout they wield as much, if not more, power than many sovereign states. In addition, the fact that they are not states means that they are not bound by the same international rules that states are subject to. Hence, in many cases they may operate in a number of states simultaneously and not only be virtually unregulated in their behaviour, but be in direct defiance of the national laws of entire hemispheres. Further, many of these actors are so well integrated in their activities that they actually rival the states primacy in terms of ability to adapt or circumvent states' efforts to impede their industry. Hence, the realists' state-dominance assumption ignores reality and in following this course in terms of foreign policy, states underestimate the importance and relative autonomy that transnational and subnational actors, criminal and non-criminal alike, have in world affairs.

US Legal Arguments

In the second instance, the United States has consistently applied international criminal law in order to prosecute offenses for which parts of the crime or the results of the crime impacted the United States. Extraterritorial jurisdiction has been applied in a number of drug cases and has served as the basis for several extradition requests by the

United States. The only question has been as to whether in dealing with narcotics issues, an act done to further the progress of a controlled substance destined for the United States falls within the *Objective Territorial Principle* because that substance will have a detrimental effect in the United States or whether it falls within the *Protective Principle* because drug smuggling compromises the control of the country's borders. In either case, however, extraterritorial jurisdiction is applied. When the United States has been unable to secure the extradition of a particularly 'evil' person, it has resorted to simply abducting them from foreign jurisdictions. Indeed, the Justice Department authorized the FBI and the DEA to make arrests in foreign states without the authorization of the foreign government in 1989. The most notable case was the 1990 DEA-sponsored abduction from Guadalajara of Mexican doctor, Humberto Alvarez Machain, who had been involved in the torture and murder of DEA agent Enrique (Kiki) Camarena in 1985.²⁷ Tensions reached a new high between Latin American states and the United States when the U.S. Supreme Court ruled in 1992 that such abductions did not violate the Constitution. This decision essentially upheld the Ker-Frisbie Doctrine in which the Court refuses to examine the means by which a person has been brought before it.²⁸

²⁷ Camarena was a DEA agent stationed in Guadalajara who was abducted, tortured and murdered by Mexican drug traffickers and corrupt police officials in 1985. When U.S. efforts to investigate the incident not only were met with resistance by the Mexican government but there was also evidence that there was an attempt to cover-up the complicity of Mexican officials in the affair, the DEA and the Justice Department agreed to track down and bring to trial the perpetrators. While the majority of the traffickers involved were arrested by Mexican authorities and tried in a Mexican court, a number of others were taken by one method or another to the United States for prosecution. Dr. Alvarez Machain was abducted by unknown agents and taken to the United States. Mexico filed a formal complaint requesting Alvarez Machain's return stating that the abduction constituted a violation of the Mexico-U.S. Treaty of Extradition. Alvarez Machain was subsequently acquitted on all charges. The Mexican Attorney General's Office then filed a request for the extradition of the two DEA agents who reportedly had arranged for the abduction (Washington Post December 15, 16, 1992).

²⁸ This is known as the Ker-Frisbie Doctrine which was derived from two cases, *Ker*, 1886 and *Frisbie*, 1952. In these cases the U.S. Supreme Court ruled that regardless of how it was carried out, with the

One of the greatest obstacles to extradition came from within the United States itself, however, with its hard-line Drug Czar, William Bennett. His public statement that drug traffickers should be beheaded Saudi-style as a "morally plausible" but "legally difficult" option did not serve to convince the Colombian government to turn over Colombian nationals (Reuters, Thursday June 15, 1989).

Part of the dilemma with such a point of view as well, is the fact that the actors who engage in the traffic of narcotics are non-state. Hence as mentioned above, they operate from within and across state boundaries -- indeed often with little regard for state boundaries -- and often at odds with the government of the state/s in which they operate. Thus, attempting to coerce governments of states such as Colombia to end drug trafficking simply shifts the blame and the costs away from the country of demand to the country of supply -- with no net change of results in the United States. While, it is true that the United States has attempted to use international law to combat such non-state actors, the consequences for taking this stance are still ultimately felt within sovereign states. In addition, for all of its vehemence about extradition, it was not until 1980 that the United States ratified the 1961 U.N. Single Convention of Narcotic Drugs and likewise the 1971 Convention on Psychotropic Substances (del Olmo, 1990: 30).

exception of proof of acts of torture, an illegal arrest does not void a subsequent conviction and thus U.S. officials must meet only the barest standards of conduct for a court to acquire jurisdiction (see for example, Henderson, 1991).

U.S. Post Cold War Foreign Policy

The dual phenomena that have largely dictated the face of U.S. foreign policy since the election of President Bill Clinton in 1992 were the disappearance of the threat of a hegemonic superpower, the former Soviet Union, and the emergence of a domestic economic and social problems in dire need of government attention. The advent of the former phenomenon has in addition, led to a sharper focus being placed on the latter. Thus, numerous groups in the United States have tended to favour the approach that concentrates resources on domestic problems (See, for example, Drug Policy Forum News). However, while this is an important issue, others feel that the United States should continue to maintain its predominant rôle in world politics as the sole superpower. Hence, these two conceptions have led to a rather mixed imperative for U.S. foreign policy -- that is to at once maintain physical survival while at the same time promote national interests abroad. Hence, some of the issues that have plagued the domestic political agenda, such as the decay of the inner cities, have tended to take on an almost adversarial stance when backed up against such issues as foreign aid to developing states. The national interest too has come to be defined in 'neo-isolationist' terms which are narrow, territorial and undervaluing global involvement for the United States beyond those issues that directly promote the protection and enhancement of American society. Thus, while at the height of the Cold War such concepts as democracy were highly valued at least from the ideological perspective, their promotion fell into the realm of the national security, as communism (Soviet hegemony) was seen as the preminent threat and hence the antithesis of democracy. In the post Cold War era, national security is still

a very high consideration; it is just the nature of the threats that have changed. An additional problem for U.S. foreign policy is also the fact that those same people that were engaged in combatting the Cold War for the national security of the United States, have not simply disappeared. A cynical, yet realistic, hypothesis would be that those same people are still attempting to engage in projects that strengthen their job security.

"U. S. success in the Cold War, however, undermined the assumptions that had guided American national security policy for 'nearly half a century', by removing from the American military-political strategic equation the perceived fundamental threat to U.S. national interests" (Dorman and Otte, 1995: 86). This posture, as a consequence, left the U.S. political and psychological psyche with a protectionist sense of national security that has outlasted the demise of the Cold War, surviving in a time, it might be argued, where a redefinition of national security is needed. George Bush's rhetoric during the Gulf War was one of the first indications that the United States would continue to think of itself as the protector of a peaceful international order: the protector of the status quo in which the United States reigns supreme. However, the Cold War served its purpose for containing not only the Soviet Union, but small regional conflicts and other threats to world "order" such as international organized crime. With the end of the Cold War, both superpowers were no longer willing or able to suppress regional ethnic, nationalistic and religious tensions.

Hence, Bush, perhaps naively, predicted that the New World Order would herald a situation in which states co-operated on important issues -- with the United States being the leader in what was needed and when, he did not foresee that in actuality, the end of

the Cold War would leave a power vacuum in which a 'free-for-all' would reign in certain regions and situations. The great strides that international organized crime made in this era cannot be understated. Indeed, such crime groups did not even appear to be a threat except to the law enforcement officials that already worked in the areas of narcotics trafficking, money laundering and so forth. It was not until many of the people who worked in the U.S. military industrial complex (as well as the CIA and the FBI) began to see that without the Cold War they had no jobs that such crime groups likely came to be viewed as a 'threat' to national security. Hence, the easiest way to view the problem would be to look at the new threats to the United States security and set yourself to the task of defending against those threats as a way of ensuring your job security. In addition, of course as the DEA was already surely aware, "[b]laming foreigners for America's recurring drug epidemics provides convenient if distant targets for public anger that might otherwise be directed toward elected officials" (Falco, 1996: 126). The two main threats that came to be identified were: terrorism and drug trafficking. However, in both cases, but especially with drug trafficking, there is a constant blur between a domestic and a foreign threat.

U.S. Policy Toward Colombia: Appearances vs. Reality

In practical terms, U.S.-Colombia narcorelations have been determined largely by the American drug scene and the U.S. government's interpretation of Colombia's role therein. The relationship tends to be determined by Washington's perception of Colombia's share of the U.S. illicit drug market. The greater the perceived contribution

that Colombian criminals make to the U.S. drug market, the greater the pressure by Washington to eradicate, dismantle and interdict. As the pressure mounts, however, the more confrontational the relations between the two states become. Conversely, when the market share is perceived to be smaller, the less the pressure, and the less the confrontation. Hence, narcorelations between the two states since the early eighties might be characterized as cyclical in nature (Craig, 1990: 224).

With regard to Colombia, U.S. policy has been to employ a multi-dimensional and rather complicated campaign alternating between periods of co-operation in which a substantial amount of foreign aid money has been injected, and coercive pressure tactics when the co-operation scheme does not seem to be working. There are a number of areas in which U.S. policy may be seen to be at work: Firstly, the United States contends that the Colombian government is rife with deep-seated drug corruption. While some of the corruption is evident, much is also virtually impossible to substantiate. Allegations of corruption seem to arise when military and police forces who are the recipients of a great deal of US military aid show only marginal improvement in anti-drug operations. Indeed, there is a conceptual problem in this regard between the U.S. and the Colombian view of what is urgently needed for Colombia. The Colombian armed forces have long been a very conservative group that sees as its highest priority the preservation of internal order and suppression of "communist" or revolutionary anti-government insurgency activities. "In fact, U.S. military aid is far more likely to be used to combat rebel forces than drug traffickers" (Bagley, 1992: 8). The way that the United States has attempted to

circumvent this particular problem has been to promote the contention that drug traffickers and guerrilla groups work hand in hand in Colombia, as discussed above.

A second area where U.S. policy may be impacting Colombia is over the issue of extradition -- an issue that might be characterized as more of a political struggle of 'wills' than a true legal issue anymore. The United States has placed increasing pressure on the Colombian government to surrender Colombian traffickers for prosecution in the United States. Each time the United States attempts to force the Colombian government to extradite drug traffickers, the drug mafias begin a campaign of violence against the Colombian officials in order to 'persuade' them not to. The Colombian government thus tends to become caught in the middle of a U.S. 'proxy' war: the United States vs. international drug traffickers -- with Colombian officials and institutions as the casualties. This tends to leave the Colombian government in a very precarious position regarding fighting the drug war. If the Colombians fail to comply with the United States call to action, the country will be de-certified for foreign aid for 'failing to do everything necessary' to win the drug battle, as the Clinton Administration decided in the spring of 1996. On the other hand, if Colombian authorities do comply with U.S. extradition demands, the drug traffickers will begin a terrorism campaign until Colombian authorities disallow Colombians to be surrendered to the United States for prosecution. Ironically, the only respite from this quarrel came during the Gulf War, shortly after the 1990 Colombian Constitution came into effect banning extradition. The Bush administration barely commented when the Constitution appeared, simply because in the fall of 1990 it was concerned with garnering support for an attack on Saddam Hussein. At that time

Colombia happened to have a seat on the U.N. Security Council and voted 'accordingly', in agreement with the United States, reversing a previous position for war in the Gulf. At the same time it announced that it would no longer be extraditing Colombians to the United States. There was only a *pro forma* protest from Washington and as one Colombian politician jokingly commented: "The Gulf War brought peace to Colombia" (Vanity Fair, December 1992: 106). In this atmosphere drug policy in Colombia is made tentatively and tenuously -- at best.

EXTRADITION: THE BONE OF CONTENTION BETWEEN COLOMBIA AND THE UNITED STATES

*The age of virtuous politics is past,
And we are deep in that of cold pretence.
Patriots are grown too shrewd to be sincere:
And we are too wise to trust them.*

William Cowper, The Task

Extradition may be defined as the surrender by one jurisdiction (the requested state) to another jurisdiction (the requesting state) of an individual accused or convicted of an offense outside of its own territory (the requested person), and within the territorial jurisdiction of the other, which demands his surrender in order to try and punish him.

Belgium was the first state to establish an extradition treaty in 1833 (Act of October 1, 1833, Pasinomie 1833, vol.3., 239). The United States quickly followed suit and since the mid-1800s, has concluded some ninety treaties. Many of these treaties have been renegotiated over the years to reflect the changing nature of international crimes. Thus for example, aircraft hijacking and the international transfer of funds did not exist as crimes when the original extradition treaties were negotiated and had to be added later.

Extraditable offenses must be crimes in both countries which is the rule of double criminality that requires simultaneous jurisdiction in two states for an individual to be extraditable. Further, the alleged crime must be punishable by a minimum prison term of one year; the accused may not be detained, tried, or punished for crimes other than those for which extradition is being sought; and extradition is typically denied if the individual has already been prosecuted in the requested state for the same offense charged by the requesting state (prior or double jeopardy) or if the offense has exceeded the statute of

limitations of the requesting or requested state. Further, most treaties include a political offense exception (POE) that precludes a state from surrendering an accused person if the requesting state charges political offenses against the government of the requesting state (C. Van den Winngaert, 1980: 27-89).

Any request for extradition must be made through the appropriate diplomatic channels and may derive from state or local jurisdictions that have accumulated evidence against a person suspected of criminal actions. In the United States each extradition request is sent to the Office of International Affairs in the U.S. Justice Department, which then forwards the documents to the U.S. State Department. The extradition request must be accompanied by an indictment (or its equivalent) or a conviction, with either an arrest warrant or a copy of the sentence imposed. The documents, signed by a judge or other judicial authority, authenticated by the official seal of the State Department, and certified by the diplomatic or consular office of the requested state in the United States, are sent to the requested state for processing through its court system. While a number of countries may authorize extradition with or without an extradition treaty in force, the United States can request an accused person or fugitive only when an extradition treaty exists with the requested state. Further, while the extradition of foreign nationals to the United States has been negotiated, most countries retain the right to decline the surrender of their own citizens ("Inter-American Convention on Extradition", OAS, 1981: 3-16).

Once the requested state receives the request for extradition, the amount of time it takes to process the extradition varies depending on local judicial arrangements. Often, if the individual in question is already in detention, the amount of time to process the order

may be short, however, if the person must be found and arrested, a number of years may elapse. This was the case with Colombian drug trafficker Carlos Lehder Rivas, for example. Once in custody his extradition was processed (while the U.S.-Colombia Treaty of Extradition was in force) in a few hours, however, it took the Colombian authorities several years to locate him as he spent a great deal of time outside of Colombia in the Bahamas and the United States (see for example, Kirkpatrick, 1991).

Policy regarding extradition has been a volatile subject in Colombia since the first extradition treaty for drug trafficking with the United States was concluded on September 14, 1979 (it came into force on March 4, 1982). For Colombian traffickers the sentiment has been that it is "better to be in a Colombian grave than in an American jail" (Miami Herald, 26 January, 1988: 1A). Their concern resulted in a significant escalation of violence and intimidation and involved the assassination of judges and judicial personnel so much so that persons of probity began to decline positions. Political officials and journalists who had spoken in favour of extradition, also became targets of the drug mafias. By the end of the 1980s, twelve Colombian Supreme Court justices, a dozen other judges, numerous politicians, a justice minister and the attorney general had been murdered by the traffickers. The traffickers further warned that for every Colombian extradited to the United States, five American citizens would be murdered (U.S. News and World Report, 16 February, 1987: 12).

The 1979 Extradition Treaty that replaced the U.S.-Colombia Convention for Reciprocal Extradition of Criminals of 1888 and the Supplementary Convention of Extradition of 1940, made explicit a list of thirty-five crimes, including the possession,

production, or manufacture of narcotic drugs, cannabis, hallucinogenic drugs, cocaine and its derivatives, and other substances that produce physical or psychological dependence; offenses against public health, such as the illicit manufacture of or traffic in chemical products or substances injurious to health; violations of the laws relating to the importation, exportation, or transit of goods, persons, articles, or merchandise, including violations of the customs laws; offenses relating to the willful evasion of taxes and duties; receiving or transporting any money, valuable securities, or other property, knowing they were unlawfully obtained; and any offense against the laws relating to international trade and transfers of funds. (Treaty of Extradition with the Republic of Colombia 140. S.1 14 September 1979):

, As soon as the 1979 Treaty came into force in 1982, and following closely on the inauguration of President Belisario Betancur, the United States Department of Justice began requesting the extradition of Colombian drug traffickers indicted in U.S. courts for various drug-related offenses. President Betancur's resolute commitment to Colombian sovereignty made him a strong opponent of the Treaty. The Treaty's validity was also in question because during the ratification process, several technical legalities had not been observed. The Attorney General, Rodrigo Lara Bonilla, went so far as to express the opinion that the treaty was unconstitutional. However, on October 26, 1982 the Supreme Court upheld the Treaty's constitutionality. While the newspaper El Espectador and Virgilio Barco (later president) publicly expressed support for the Treaty, President Betancur remained unconvinced and finally failed to sign the papers to extradite the first individual requested by the United States under the new treaty. The United States then

requested a second extradition that was also declined (Tokatlián, 1990: 315-316, cited in Thoumi, 1995: 212). Through the Justice Minister, Rodrigo Lara Bonilla, the Betancur regime argued that some of the Extradition Treaty's articles needed to be revised because Colombia needed to act independently.

In November 1983, the United States responded with the Hawkins-Gilman Amendment in which the U.S. Congress approved the establishment of an annual certification requirement for states to access U.S. aid funding. This linkage of strategies made it clear that the United States had set narcotics issues as one of the most important on the international agenda and that the evaluation of other countries' performances was a method by which they would force the drug issue. The certification process conditions U.S. financial assistance, positive votes in multilateral lending agencies, and trade preferences on co-operation against drug trafficking. The process is clearly based on 'political judgement' rather than any quantifiable technical evaluation.

While the Betancur regime did not agree with enforcing the Extradition Treaty, it was nonetheless active in attempting to end the illegal narcotics industry in Colombia. On March 10, 1984, in collaboration with American authorities, Colombian government agents located and destroyed one of the largest cocaine processing complexes ever, *Tranquilandia* (Tranquil Land). In retaliation, for the *Tranquilandia* operation and his outspoken attitude against the illegal drug industry, on April 30, 1984 the Medellín cartel (allegedly) assassinated Justice Minister Rodrigo Lara Bonilla. President Betancur responded quickly by authorizing the extradition of five jailed drug traffickers requested by the United States and signed the order requesting fugitive Carlos Lehder's extradition

as well. Further, invoking his presidential powers under the Constitution, Betancur imposed a state of seige which not only launched a strong military campaign against drug traffickers, but which included the order that all drug-related crimes would henceforth be judged by the Military Penal Justice system that was ostensibly more impervious to bribery and extortion than the regular justice system.

While the dragnet only caught two 'extraditables', the first successful extradition case occurred in 1985 (Gugliotta and Leen, 1990: 304-305). Until the Treaty was invalidated by the Colombian Supreme Court one year later, a total of sixteen alleged traffickers, including Carlos Lehder Rivas, were extradited to the United States from Colombia on drug-related charges (Denniston, 1987: 4).

On December 12, 1986 the Colombian legislation regulating the Treaty (Law No. 27 of 1980) was declared invalid on the grounds that Article 120-20 of the National Consitution was violated. Article 120-20 held that only the President of Colombia was authorized to direct diplomatic and trade relations with other countries. Since the Extradition Treaty had been signed by the Minister of the Interior, German Zea Hernandea, and not the then President, Julio Turbay Ayala, the Supreme Court of Justice recommended that Law No. 27 be declared unconstitutional. Two days later President Virgilio Barco approved the law by executive fiat under a new establishment number, Law 68 of 1986, thereby renewing the Extradition Treaty (El Tiempo, 16 December 1986: 4A). However, by June 1987 the Colombian Supreme Court had declared the new law invalid because the President had approved it without the required ratification by the legislative branch of government and they further found the Extradition Treaty itself

invalid because its elaboration and ratification had not followed the requisite legal procedures (Denniston, 1987: 4).

It may be argued that the reason that the Supreme Court of Colombia upheld the rule of law so strictly in this matter was due to the use of intimidation and bribery by drug traffickers against members of the Court. Indeed, the option of *plomo ó plata* was by this time a famous vehicle for the traffickers to achieve their aims. U.S. sources endlessly cite such examples of not only how the Supreme Court buckled to the pressure of the traffickers on this occasion but that judges and government officials have repeatedly been paid to release indicted or convicted drug dealers or have been murdered when they failed to comply (see, Specter, 1990; Time, March 21, 1988: 25-46). Indeed, there are documented cases such as the one involving one of the main players in the Medellín cartel, Jorge Luís Ochoa Vasquez, who was released twice after reportedly paying off prison and judicial officials some \$3 million and the escape of Pablo Escobar who reportedly paid off prison guards to let him simply walk away from prison in July of 1992 (Strong, 1995: 1-6).

However, while the evidence of violence and intimidation is overwhelming, it is perhaps spurious to deduce that judges upholding the rule of law are being intimidated and suborned. Just as plausible an explanation for the Supreme Court decision might be the extreme opposition to extradition that came from the Colombian establishment itself. People critical of resolving an 'American consumption problem' felt that, for the President, extradition was the way to at once fight the drug war and keep the American government at bay. "Lacking other imaginative options, and prisoner of a repressive

logic. President Virgilio Barco worked until the end of his period with an instrument that does not provide any realistic solution to the Colombian drug trafficking problem" (Tokatlián, 1990: 353 cited in Thoumi, 1995: 221).

On August 18, 1989 President Barco established an extradition system as an administrative measure rather than as a judicial one. Unfortunately, that same evening the leading presidential candidate for the Liberal party, Luis Carlos Galán was assassinated. Galán had been an outspoken proponent of the Extradition Treaty and was thus, "...killed not for something he had done, but for something he might do" (Gugliotta and Leen, 1990: 559). The following day, President Barco announced the new extradition decree signed the previous day and issued a series of new ones that included the arbitrary confiscation of cartel properties and made the "shadow ownership" of these properties a crime (Gugliotta and Leen, 1990: 559-560). He made this move on the grounds that the very survival of Colombia was at stake. Numerous properties were immediately seized, some 'extraditables' were arrested and their extradition processed within days.

Whether or not the justices of the Supreme Court of Colombia were intimidated into making their rulings on the constitutionality of the Extradition Treaty with the United States, extradition is a process that is fraught with limitations. For example, as mentioned above, many extradition agreements contain articles restricting the extradition of nationals. Article 8 of the 1979 U.S.-Colombia Extradition Treaty addressed this contingency:

Neither Contracting Party shall be bound to deliver up its own nationals, but the Executive Authority of the Requested State shall have the power to deliver them up if, in its discretion it be deemed proper to do so (Treaty of Extradition with the Republic of Colombia, S.140.5).

If extradition is denied due to nationality, the requested state is obligated to submit the case to its own authorities for prosecution *aut dedere aut iudicare*²⁹ -- extradite or prosecute. This is the principle of the vicarious administration of justice which provides that if a state refuses to extradite an accused individual, that state shall be obligated to prosecute him as long as the conduct involved is serious and punishable behaviour in the state in which the conduct occurred (Mayer, 1990: 115-116). This principle is thus primarily a crime prevention tool that implicitly recognizes that for criminal sanctions to be effective, there must be a high probability of punishment. There is always the risk, of course, that the requested state will be excessively lenient or even acquit traffickers. In order to avoid the problem of double jeopardy in such a case, the United States has attempted rather unsuccessfully to characterize the transport of drugs through several states as separate offences in each country (Sproule and St. Denis, 1989: 277). Hence, "[u]nfortunately, perhaps because of zeal, frustration, or impatience, the United States sometimes resorts to abduction as a solution to unsuccessful extradition", if not flagrant violations of other states' sovereignty (Blakesley and Lagodny, 1991: 9).³⁰

²⁹ This is a latin maxim which essentially means that one either (*aut*) has to extradite or return (*dedere*) or (*aut*) to punish/adjudicate (*iudicare*, initiate prosecution).

³⁰ The most glaring example of this is perhaps the invasion of Panama in 1989 in order to capture General Manuel Noriega who was believed to be engaged in drug trafficking. In two U.S. federal indictments in Florida, Noriega was charged with receiving payoffs of up to \$4.6 million from Medellin cartel leaders including Pablo Escobar Gaviria and Jorge Ochoa. The indictments linked Noriega to the importation of more than a ton of cocaine into the United States and 400,000 tons of marijuana and the laundering of millions of dollars in profits. U.S. government officials argued that his support for drug cartels had not diminished since the indictments were made in February 1988 and that they had likely increased. They further claimed that his strategically-located country provided an ideal transshipment point and that Panama's strict banking secrecy laws made money laundering easy. They further alleged that the 'corrupt' Panamanian Defense Forces offered protection from international law enforcement while Noriega himself amassed a personal fortune worth \$200 million from drug proceeds.

The United States commonly asserts jurisdiction over offenses consummated outside the United States when a constituent element of the offense occurs in the United States. As discussed in Chapter Six this is the *subjective territorial principle* that supports prosecution of a conspiracy occurring partly within the United States. Furthermore, United States law considers the crime to have occurred where the effect or result impacted, which is the *objective territoriality principle*. Thus, in an extradition case, concurrent or conflicting jurisdiction would exist, and the issue of extradition would depend on determining a hierarchy of jurisdictional principles (Blakesley, 1984: 685).

Another impediment to extradition is the *political offense exception* (POE) (Van den Winngaert, 1980: 27-89). Extradition treaties may not require extradition for any act or crime that constitutes a 'political offense' against the requesting state. Often the limits of the POE are subject to interpretation as the definition of political offenses vary from state to state, indeed "[t]he political offense exception is a mysterious and controversial composition of very different interests (Blakesley and Lagodny, 1991: 46). Hence, some judicial branches of government have had difficulty in consistently determining what separates a crime such as drug trafficking from a political offense. Often it is used as a grounds for refusal of extradition when the requested state does not wish to reveal its reasons for not doing so -- implying that the civil liberties or human rights of the requested individual are necessarily being safeguarded. However, this also raises the question as to whether the requested state should be allowed to refuse extradition in a case in which human rights are not in question, but rather the requested state does not support the requesting state politically. Indeed, states may invoke the traditional 'state

interest clause' in the political offense exception in which extradition may be denied if the requested state declares that the surrender of the requested individual would be contrary to its vital national interests (Van den Wijngaert, 1990: 27-89).

The case of General Manuel Noriega of Panama was a good example of this exception to extradition. Prior to indicting him for complicity in cocaine trafficking, the United States had openly condemned his regime and had expressed a preference for a more democratic form of government. In light of this, Panamanian authorities could have easily used the political offense exception to deny Noriega's extradition. He was eventually extradited, however, but this was only accomplished after U.S. troops invaded Panama in late 1989.

Thus, there are a number of obstacles to extradition, one of the most important being the lack of political will by the requested state to deliver up the requested individual. Further, unless the requested state has the ability to exercise its own laws and take the traffickers into custody, then the possibility of extradition and its effectiveness is severely challenged.

Seven weeks after Galán's assassination, the Colombian Supreme Court upheld the legality of Barco's executive fiat, now basing its decision on the premise that, while administrative decrees could only be used where countries requesting extradition had no extradition agreement with Colombia, an earlier Colombia-United States Treaty of 1888 could be used instead of the 1979 Extradition Treaty previously declared unconstitutional by the same Court. However, by this time the public was weary of the chaos created by the government's crackdown and the traffickers' violent retaliation (Miami Herald,

October 4, 1989: 4A).- Perhaps reflecting this sentiment, on December 5, 1989 the Colombian House of Representatives passed a bill by 119 to 4 approving a national referendum on whether to continue extraditing suspects to the United States. By the end of 1989 only six additional traffickers had been extradited to the United States and none of them were considered to be key leaders of the cartels.

As President Gaviria began to prepare to assume power in early 1990, it became clear that he did not agree with extradition as a policy for bringing peace to Colombia and that his mandate was to end domestic narcoterrorism rather than to combat international drug smuggling (Bagley and Tokatlián, 1990: 4). The idea to allow voters decide on the policy of extradition came to be considered once again since it was often expressed by many segments of the population that extradition was not only a violation of Colombian sovereignty but an affront to Colombian nationalism -- in short extradition only served to exacerbate traditional anti-U.S. feelings. Indeed, the implications for Colombians were that:

It implied an almost total lack of confidence in Colombian law enforcement; assumed that it would decisively contribute to reducing drug trafficking and consumption; it gave the United States government the opportunity to use an enormous discretionality to determine which citizens and for which crimes the extradition could be requested; it suggested that only the United States laws were correct and effective to judge those linked with the narcotics business; it established a unilateral measuring parameter to verify the Colombian authorities' commitment to fight drugs; it increased the law enforcement logic's priority to deal with drug issues; it *de facto* internationalized all aspects -- external and 'domestic' -- of the narcotics problem, reducing the 'domestic' margin of action of the Colombian government in these matters; it implied the acceptance of the United States 'prescription' to fight narcotics; and questioned the extent of Colombia's national sovereignty in the 'war against drugs' favoring a rationality which *de facto* implied the notion of limited sovereignty in dealing with these matters (Tokatlián, 1990: 390 cited in Thoumi, 1995: 211).

In mid-August, 1990 Gaviria announced that his administration would not extradite Colombian drug traffickers if they abandoned violence and terrorism and allowed the disposition of their cases in the criminal justice system of Colombia. The implicit message to the United States was that extradition meant violence in Colombia and thus Colombia was no longer willing to sacrifice civil order for American justice. In light of this, several days before Gaviria's inauguration the "extraditables" declared a 'truce'. Washington attempted to greet the Colombian policy positively but in reality felt that extradition was the key to fighting the drug war, and was hence dismayed by Gaviria's announcement (Washington Post, December 17, 1990; December 19, 1990; January 22, 1991).

On July 5, 1991 the new "Political Constitution of Colombia" went into effect replacing the 1886 Constitution. In 'honour' of the new constitution, Gaviria lifted the state of emergency that had been in force since 1984. "Gaviria's primary goals for the new constitution were to strengthen the judiciary system, to guarantee economic and human rights, and to decentralize power and decision-making to promote real democracy" (Thoumi, 1995: 226). Furthermore, under Article 35, the 1991 Constitution banned the extradition of nationals:

Native-born Colombians may not be extradited. Aliens will not be extradited for political crimes or for their opinions. Colombians who have committed crimes abroad, considered as such under national legislation, will be tried and sentenced in Colombia (Heller, 1991: 5).

Gaviria's anti-extradition attitude was also clearly reflected in his drug policy early in his term. His main policy was one of "using plea bargaining to face the problem of drug trafficking" by offering reduced sentences to traffickers along with the promise that they would not be extradited to the United States for prosecution if they surrendered and confessed to at least one crime (Gaviria cited in The Washington Post December 22, 1990). Former president Gaviria described his policy, announced in September 1990, as a solution to the drug problem within the framework of Colombian justice stating: "I felt there had to be a solution based on Colombian justice. One cannot indefinitely face terrorism and have the only defense be the judicial system of another country" (The Washington Post, December 22, 1990). On June 19, 1991, even before the new Constitution went into effect, but hours after the Constituent Assembly overwhelmingly approved the ban on the extradition of Colombian nationals (by a vote of 51-13-10), Pablo Escobar Gaviria, the head of the Medellín cartel, surrendered. Several days later other members of the cartel announced that they were ending their campaign of violence against the government.

While extradition of drug traffickers served as one of the cornerstones of Colombian antidrug policy, its effectiveness was severely hampered by a number of factors. The most important of these was that extradition of Colombian drug traffickers was a policy that largely originated from an analysis of costs and benefits to the United States, rather than for Colombian society. Further, it only served to weaken the autonomy of the Colombian criminal justice system in particular, and the Colombian state, in general. One of the problems for Colombia has been the pressure placed by successive

American administrations to 'do something' about the drug problem. The United States has increasingly shifted its foreign policy away from anti-communist Cold War rhetoric to the evils of the War on Drugs and illegal immigration that are serving to threaten U.S. vital national interests. The new rhetoric is startlingly reminiscent of that of the Cold War except that the enemy is now international organized crime and those governments that will not follow U.S. policy for combatting it. For instance, Colombia is depicted by American analysts as a "narcodemocracy" in which "[t]he economic wealth and political influence amassed by Colombia's drug cartels not only buys elections and political influence, it also affects the crafting of legislation, distorts the Colombian economy, and suppresses the open competition of the marketplace, because criminals are not bound by the normal rules of civilized market behaviour" (Sweeny, 1996:2).

Further, these decidedly 'un-American' activities were perceived in 1989 by the head of the Office of National Drug Control Policy, William J. Bennett, as a threat to U.S. national security:

The source of the most dangerous drugs threatening our nation is principally international. Few foreign threats are more costly to the U.S. economy. None does more damage to our national values and institutions and destroys more American lives. While most international threats are potential, the damage and violence caused by the drug trade are actual and pervasive. Drugs are a major threat to our national security (Bennett (a), 1989: 61).

This attitude has changed little in the last several years in that foreign sources of drugs pose "a major threat to vital U.S. economic interests in Latin America, and that America's national security is also threatened" (Sweeny, 1996: 4). Hence, not only is decertification for U.S. foreign aid being proposed (and has been used since Colombia was decertified by

President Clinton in February 1996), as a form of policy leverage, but blocking Colombian access to international financial and technical assistance from multilateral agencies and trade sanctions are also being suggested all in the same speech that criticizes Colombian political and legal institutions for their structural weaknesses (Sweeny, 1996: 2). That these measures are somewhat reminiscent of the U.S. administration's successful attempt to destabilize the Allende regime in Chile in 1973 via destroying the economy through trade sanctions and embargos, does not go unnoticed by former Cold War analysts.

Indeed, the failure of U.S. foreign and domestic policy is as much to blame. Since President Ronald Reagan declared the 'war on drugs' in February 1982, the ability of the U.S. administration to combat their domestic drug problems was not proven. Rather, "[i]llicit drugs of all types were more readily available and cheaper in the United States in January 1989 than they had been at the outset of the Reagan Presidency in 1981" (Bagley 1988: 190). The exportation of a domestic policy problem into the international sphere via the vehicle of extradition will unlikely resolve the domestic drug problem in the United States. In attempting to shift the blame, the U.S. government has doggedly imposed their problem onto Colombian society. When the Colombian government has attempted to counter by extraditing Colombians for drug offenses, the violence and opposition in Colombia has only escalated. In the end about fifty traffickers were finally extradited to the United States but the cost to Colombian society ranged in the hundreds of murdered and wounded officials as well as innocent civilians. Of the number extradited, three were returned to Colombia from the United States because the U.S.

Congress disallowed illegally gathered evidence to be presented in court. The question as to whether the U.S. Congress was corrupted and extorted by the traffickers to make that decision does not arise in the literature.

THE EVOLUTION OF COLOMBIAN DRUG POLICY

*I think our country sinks beneath the yoke. It weeps, it bleeds;
and each day a new gash is added to her wounds.*

Shakespeare, Macbeth Act V

In order to appreciate the complexity of making drug policy in Colombia, it is necessary to consider each of the presidential eras separately to understand how each successive Colombian government attempted to deal with the escalating problem of drug trafficking. This analysis thus, cross-cuts much of the information previously described under different topic headings bringing it together at another level of meaning for the thesis. Not only have Colombian governments been subject to internal pressure to end the criminal activity and violence that surrounds the drug business, but the international community, with the United States as the front-runner, has placed increasing blame on the successive Colombian administrations for being unable or unwilling to "do something" about the drug problem. Much of the dilemma for Colombian policy makers has been, in fact, attempting to appease two very divergent interests. The Colombian people see the problem as one of drug consumption and feel that countries such as the United States are only attempting to blame Colombia for an American internal policy problem. This results in attempts to impose American justice on the streets of Colombia. Hence, when the drug cartels have answered the Colombian government's attempts to satisfy American justice with outrageous acts of violence, Colombians explain that this is because the United States is interfering in the internal sovereignty of Colombia and besides there would be no supply problem if there were not a consumption demand.

For its part, the international community claims that due to the obstacle of sovereignty, its hands are tied when the Colombian government does not stop Colombian traffickers from smuggling illicit narcotics onto the world's streets. The United States has gone even further, claiming that because these crimes have been escalated by Colombians who wish to expand their U.S. markets, the national security of the United States is threatened and there should be no haven for the perpetrators. The U.S. further claims that the Colombian government is bound by international treaty and custom to "do something" or hand over traffickers for prosecution in the United States. It is added that if the Colombian government does not do something, then the United States will impose such economic penalties on Colombia as decertification for multilateral and bilateral aid. Of course, not being able to access international funding for crop replacement programs, education, and economic development, leaves Colombia's desperately poor in the situation of having to increase their co-operation with those who do have the ability to help them financially -- the drug traffickers. Hence, it is not surprising that much of the drug policy of Colombia is reactive and incremental. A sort of ping-pong policy pattern has emerged over the years, especially over the issue of extradition of Colombian drug traffickers.

1978-1982 President Turbay Ayala (Liberal)

By the late 1970s, in North America and Western Europe, the marijuana boom was at an end and that of cocaine beginning. The new era began with coca leaves being imported from Peru and Bolivia, for although it is possible to grow coca in Colombia, it is of a lesser quality. For the peasant population this was a great opportunity to improve

their economic lot and thousands of people moved to the Caquetá region. There many people, including many of the cities' unemployed, encountered vast expanses of unsettled land, that they hoped to colonize (Pearce, 1990: 173).

Turbay came to power with accusations against him of fraud, patronage and drug-funded campaigns (Thoumi, 1995: 47). This, in the face of the social unrest that had occurred during his predecessor López Michelsen's regime such as the National Civic Strike in 1977 which had led to calls for the army to take a stronger role in social control. Using the constitutional powers allowed him to invoke a 'state of siege' in most cases of 'internal unrest', Turbay brought a Security Statute into force (Decree 1923, 6 September, 1978). This Statute increased the army's discretionary power to arrest and detain people on a variety of crimes that could later be tried in a military court. While civilian rights were severely restricted, the particular targets of the military and police 'anti-subversive operations' became guerrilla groups and leftist organizations. In reaction to this, organizations such as the M-19 guerrilla organization stepped up their anti-state activity, garnering legitimacy with some members of the peasant population, and the popular, middle class and intellectual members of the nation (Berquist et. al., 1992: 286).

In the mid-1970s, Colombia began to acquire the international reputation for being a centre of drug smuggling and illegal activity (Dix, 1987: 52). Turbay soon realized such activity was having a deleterious effect on Colombian society. Further, the United States began to exert pressure on Colombia to put an end to the traffic in illicit drugs. As a result of these factors, Turbay signed a narco-traffic-related Extradition Treaty with the United States on September 14, 1979 (Dix, 1987: 52). It became Law

Number 27 on November 3, 1980. In the Treaty, Colombia pledged to extradite to the United States any Colombian national sought by the United States for the international crime of narcotics trafficking. The government of the United States, in turn, agreed to extradite to Colombia any U.S. national sought by the Colombian government on drug related issues. Additionally, Turbay used his Security Statute to send the Colombian military to the Guajiria Peninsula to crack down on the drug traffickers there. The action lasted two years and resulted in the seizure of 6,000 tons of marijuana and 300 airplanes and boats (Bagley, 1988/89: 79). The United States quickly responded with US \$16 million in additional economic assistance to Colombia out of its \$42 million world-wide interdiction budget (Bagley, 1988/89: 80).

Politically, the Liberal Party became divided on Turbay's policies, and a movement led by Luis Carlos Galán, *nuevo liberalismo* (New Liberalism), grew quickly. This movement was aimed largely at attacking corruption within the party ranks. While it would certainly be erroneous to place the blame on one particular problem or policy for the growth of the drug industry in Colombia, the fact is that global economic circumstances, coupled with the Turbay government policies, aided the growth of the Colombian underground economy (see, for example, Thoumi, 1992). Turbay decided to base his National Integration Plan on the expansion of state infrastructure which required long-term borrowing from international lending agencies. However, due to the fall in international coffee prices, the rise in world oil prices, Colombia's debt climbed to SUS 10 billion (Thoumi, 1995: 48). With the balance of trade worsening, and after having

liberalized imports to avoid inflationary pressures, a recession developed in Colombia. This led people to seek other avenues of revenue generation.

One natural money-maker was smuggling. Smuggling has a long tradition in Colombia and has ranged from the movement of coffee, cattle, consumer goods, emeralds, and more recently, drugs. Pearce argues that smuggling of coffee and cattle, for example, "has been indirectly encouraged by government exchange controls and other barriers imposed on international trade at different times" (Pearce, 1990: 105). However, the difference between the smuggling of cattle, coffee, and even emeralds, is the particularly sinister aspect of drug trafficking. Thoumi argues that the underground economy that has emerged since the 1970s is both qualitatively and quantitatively different from the more traditional one in that antisocial elements have emerged and have promulgated a deep social malaise in Colombian society (Thoumi, 1987: 36). Indeed, as a result of these changes in the face of illegal activity, more sinister phenomena such as kidnapping for ransom, the emergence of private para-military death squads, the assassination of judicial personnel as a part of a *vendetta* for having prosecuted criminals, and finally, and perhaps most troubling, the seemingly social acceptance of high levels of extreme violence.

At this time the drug mafias began an effort to gain legitimacy for their form of economic activity by attempting to gain entry to the social establishment. However, when they bought huge tracts of land and became landowners, they came into direct conflict with many of the guerrillas and left-wing activists that operate in the rural areas of Colombia. Kidnapping began to be the favoured means of criminal extortion at all levels

of society, and for guerrilla movements, a political tool. But when the guerrillas began to kidnap relatives of mafia members, the cocaine barons joined ranks with landowners, businessmen, and members of the army in the so-called 'dirty war' in which guerrillas became their targets. While *sicarios* (paid assassins) were prevalent during the era of *La Violencia* in Colombia, during the early 1980s they became a well-equipped and effective tool for eliminating guerrillas with cocaine money behind them (Medina in Berquist et. al., 1992: 161).

MAS (Muerta a los Secuestradores -- Death to Kidnappers), a para-military death squad is said to have appeared in 1981 after the M-19 kidnapped Marta Nieves, the daughter of Favio Ochoa, and sister of Jorge Luis Ochoa, all members of a leading cocaine mafia family. It originated from a meeting in Medellín of 223 prominent drug traffickers. Until Marta Nieves Ochoa was released in February 1982, "the immediate execution of all those involved in the kidnapping" was carried out as per *MAS*'s pronouncement (Gugliotta and Leen, 1989: 18). The mafias allegedly invested huge sums of money into *MAS*, effectively turning it into a private army that hunted down and killed people who were against them and their drug business ("Commission for the Study of Violence" in Berquist et. al., 1992: 268). The development of *MAS* was very significant because not only did the drug traffickers act publicly for the first time, but they co-ordinated their efforts to "develop co-operative relationships that lasted for years". These co-operatives became infamous agents of summary right-wing justice based in Puerto Boyacá in the Magdalena Medio but with influence in a number of other departments where popular unrest and guerrilla groups threatened local élites (Gugliotta

and Leen, 1989, 18). Indeed, in the 1970s and 1980s, the number of homicides climbed steadily, indicating that private justice was beginning to replace state justice in a number of areas of Colombian life. It is believed that approximately 800 extrajudicial executions were carried out by paramilitary groups such as *MAS* between 1982 and 1985 (Americas Watch Report, 1986: 114).

Not only was the Turbay regime known for its lack of substantial policy to deal with drug trafficking, but it became famous for being the most repressive in recent history (Pearce, 1990: 82). In March 1980, the Turbay Administration pulled out of the U.S. 'assistance' deal to interdict marijuana shipments from the Guajiria Peninsula. Part of the reason, it was claimed, was that army commanders were leery that "the army would be corrupted as the police had been by the established \$110 million in protection monies distributed by the traffickers" (Bagley, 1988/89: 80). A further problem was that while impossible to substantiate, it was contended that many officers in the Colombian military and police were involved in paramilitary groups, such as *MAS*, "in a patent abuse of their positions and direct defiance of clear official orders and existing laws" ("Commission for the Study of Violence" in Berquist et. al., 1992: 268). That *MAS*, in particular, was plainly sponsored by drug traffickers and existed, in part, to wipe out 'obstacles' to their business interests, did not bode well for government justice. In fact, the inadequacy and open inability of the government to respond in any official way to organized narcotics trafficking during this time period left the door open for citizens to employ their own violent forms of justice, and for traffickers to pursue their activities with relative impunity.

1982-1985 President Belisario Betancur (Conservative)

At the beginning of his presidency, Belisario Betancur declared a general amnesty on illegal income, including money made in the drug trade. This amnesty was designed to "attract hidden capital, from wherever it comes, without looking back at its origins, without the application of any kind of sanctions" (Associated Press December 24, 1982). This rather overt policy of attracting the money of the drug industry was later contradicted by a hardening of policy toward the drug business. This became especially apparent after the murder of Justice Minister Rodrigo Lara Bonilla in April 1984. Betancur from this point, declared that drugs were "the most serious problem that Colombia has had in its history" and he called for a "great national mobilization" against traffickers (cited in Lee, 1989: 38).

The political climate was tense, especially between 1983 and 1985 when the traditional parties lost some influence to the popular movement. At the same time, numerous drug-related criminal acts began to plague Colombian society. In response, President Betancur appointed Lara Bonilla as Minister of Justice because of his very public refusal to be bribed by drug traffickers. Lara then proceeded to undertake a hard-line position with regard to drug trafficking in Colombia. His strategy included the publicization of the drug mafia activities, extensive judicial reform, and increased raids on processing facilities. However, his assassination led Betancur, who had resisted U.S. pressure to do so, to re-enact the 1979 Extradition Treaty. The targets of the Extradition Treaty came to be known as the 'Extraditables' who launched an open campaign against the Treaty with public debates, bumper stickers, graffiti and newspaper advertisements.

However, the event thought to have triggered the assassination of Lara, was the government offensive against the Medellín cartel which destroyed a seventeen laboratory cocaine production complex called *Tranquilandia* (Tranquil Land) located in dense jungle on the Yari River (MacDonald, 1988: 33). By tracking the path of a shipment of U.S.-source ethyl ether, an essential precursor chemical, Colonel Jaime Ramírez Gómez, the head of the narcotics unit of the National Police was able to locate the processing site, *Tranquilandia*, which turned out to be one of the largest cocaine-processing laboratories in the world, was raided and destroyed. However, seven weeks later, Lara was assassinated and when a Bogotá judge discovered that leading Medellín cartel members had conspired to kill Lara, he too was murdered (MacDonald, 1988: 34). Colonel Ramírez was killed in November of 1985.

The event demonstrated to Colombians the extent of the power that the drug cartels wielded. They flaunted that power, even before killing Lara, by bugging his telephone and then sending him tapes of his conversations along with death threats (Strong, 1995: 94). For the first time the traditional system of political élites was threatened by powerful newcomers who were not as interested in party affiliation as they were in continuing their highly profitable and illegal activities. After Lara's murder, Betancur decided to try to eradicate the drug cartels. His renewal of the Extradition Treaty with the United States was immediately met with strong opposition not only from the drug cartels, but from many members of the Congress who believed that it was an affront to Colombian sovereignty. The drug cartels, in addition to mounting the extensive public relations and lobby campaign, also hired fifty high-ranking lawyers to demand the

annulment of the treaty in the Supreme Court of Justice. At the same time the presiding justices also all received the following message:

We are writing to you to demand favourable positions for our cause. We do not accept resignations, we do not accept sabbaticals, we do not accept fictitious illnesses. Any position taken against us we shall take as an acceptance of our declaration of war. From prison, we will order your execution and with blood and lead we will eliminate the dearest members of your family (Pearce, 1990: 194).

Four judges connected with the case were killed in the Palace of Justice in November 1985; another Supreme Court Magistrate, Hernando Baquero Borda was killed in July 1986. Eighteen people were extradited to the United States on drug charges while the treaty was in force, but only one drug boss, Carlos Lehder was ever sent. It was believed that he was captured with the help of rival cocaine leaders with whom he had come into conflict (Strong, 1995: 154).

Betancur began to be increasingly isolated as the Liberal Party controlled Congress and only a few party members had joined his Conservative government. Additionally, many members of the Conservative Party were as antagonistic to many of Betancur's initiatives as the Liberals. Ranchers, businessmen, the Church hierarchy and most of the political élite, for example, opposed Betancur's initiatives to end guerrilla violence through direct negotiations (Hoskin, 1988: 10). Jaime Castro, Minister of the Interior from 1984 to 1986 even played an ambiguous role in that he felt that negotiated peace meant the guerrillas laying down their arms and not participating in the political process. In addition, by the end of 1984 in the face of a shaky economy due to a large

balance-of-payments deficit, a fiscal crisis and steadily growing unemployment, the government was forced to launch an austerity program.

In 1985 Betancur's peace process ended when on November 6 the M-19 took over the Palace of Justice in Bogotá. Because the President had refused to take a phone call from the President of the Supreme Court of Justice, who was being held hostage, the army took control of the operation (Carrigan, 1993: Chapt. 7). Within an hour the Palace was surrounded by hundreds of troops and tanks and the military began an assault that included tank fire and rocket grenades which were returned by the M-19. Twelve Supreme Court Justices were killed in the fighting, including the President of the Court, Alfonso Reyes. All forty-one M-19 members along with seventeen soldiers were also killed (Pearce, 1990: 181).

Numerous killings allegedly perpetrated by *MAS* occurred in the Cauca Valley, Antioquia, Urabá and the Magdalena Medio between 1983 and 1984 (Pearce, 1990: 177). When the Attorney General investigated *MAS* in early 1983, fifty-nine members on active military service were accused of belonging to it (Berquist et. al, 1992: 269). In November 1983, the Minister of Defense, General Fernando Landazábal was forced to resign along with four other generals. At the same time, however, the Attorney General announced that the amnesty with the guerrillas had expired.

By early 1986, the crisis in Colombia was severe and the ruling class was divided on how to resolve it. Opinion ranged from military solutions to an acknowledgment that some genuine changes in the political system were needed. In some regions, private justice intertwined with factions of the army had taken control, the drug mafia had

consolidated 'fiefdoms' and a number of guerrilla organizations controlled large areas in some departments and had launched an offensive in others.

1986-1990 President Virgilio Barco (Liberal)

By the end of 1986, a further ten judges had been assassinated along with Guillermo Cano, the editor of the main Liberal daily, El Espectador, after he published a comprehensive scathing U.S. account of the Colombian mafias (Thoumi, 1995: 218). The Supreme Court finally voted to suspend the Extradition Treaty December 12, 1986, declaring that Law Number 27 was unconstitutional. President Barco attempted to sign the bill to counter the argument that it had not originally been signed by President Turbay but by his designate (Lee, 1989: 213). However, the twenty-four justice Supreme Court once again declared unanimously that Law Number 27 was unconstitutional. Thus, Barco began his administration. He cautiously attempted to find a balance between the repressive policies of Turbay and Betancur's political solutions that had alienated just about everyone. He began by endeavoring to garner support and restore legitimacy especially with the middle class while at the same time strengthening the state's power to combat social unrest, lawlessness and insurgency. His other policies included agrarian, urban and political reform.

Over the course of his term, Barco dedicated his efforts to eliminating the instability that was being caused by left-wing guerrilla groups. A number of massacres (defined as killings of more than four people at a time) occurred, many of which were carried out by paramilitary groups, with 691 reported killed in 1988 alone (Pearce, 1990: 217). Further, "[d]uring 1988 and the first nine months of 1989, political and

'presumably political' assassinations attributed to paramilitary death squads averaged 228 and 169 per month respectively" (Latinamerica Press 7 December, 1989: 5). Serpa Uribe, the Attorney-General, wrote a letter to government ministers explaining that "without a doubt these massacres are part of a plan to intimidate and exterminate, conceived and implemented by a network run by the most perverse of human beings" (El Tiempo, 6 August 1988). However, allegedly, many of the groups doing the killings were actually known to the government (El Tiempo 6 August, 1988). Following a period of *La Violencia*, in a 1968 statute, the Minister of Defense had permitted the formation of "juntas de autodefensa" (self defense groups) and by 1983 they numbered more than 200,000, which was almost four times the number of national police (Mcrae, 1993:16). By 1988, not only was the government aware of 140 private defense firms, but they also knew that a number of them were run by the drug mafias (Mcrae, 1993: 16).

Thus, while the intention had been to restore order so that economic reforms could be brought about, Barco made a serious misjudgment about the threat of the cocaine mafias, for in pursuing these goals he did not pay enough attention to the barons' activities. By the time he did become aware of their activities, they had managed to ally themselves with important members of the army and the traditional élite enabling them to increase their power and influence greatly.

Because they now owned huge tracts of land in some of the most troubled areas of the country, the mafias soon became the leaders of the effort to eradicate guerrillas and other groups identified as 'left wing' activists such as trade unions and opposition politicians. By 1989, the cocaine mafias had allied themselves with the extreme right that

expressed itself politically in the Morena Party (the Movement of National Restoration). Morena is a far-right militant political party that claimed to be "...defending democracy and shaking off the dangerous specter of communist totalitarianism..." (La Prensa, 9 August, 1989). Furthermore, Morena is based in Puerto Boyacá which has been noted as the centre of paramilitary squads organized by the drug mafias. The weakness of the Colombian state soon became increasingly evident by the independent initiatives made by the mafias to legitimize and increase their business interests. It was thus in August 1989 that the so-called cocaine wars began.

In 1989, drug trafficking was estimated to contribute four percent to the GDP of Colombia (Pearce 1990: 267). The enormous wealth of the mafias was becoming so legendary that a new term was coined to describe their status -- the *narco-bourgeoisie* (Pearce 1990: 267). Their accumulation of huge tracts of land had left them with approximately one million hectares of prime agricultural holdings and their largesse had led them to invest in a number of industries and financial institutions such that when Gonzalo Rodríguez Gacha boasted that seventy percent of Colombians lived directly or indirectly from their business, many probably believed him (Lee, 1988/89: 91).

The temptation of riches of amazing proportions that flowed from the drug barons made it difficult for many Colombians, including members of the traditional élites, to resist (Pearce, 1990: 267). Such enticements often led to conflict between the 'old' and 'new' money and the interests that flowed from it. While the government made periodic crackdowns, the general ambivalence to undertake a systematic effort became apparent. "The complexities of the relationship of the new élite enriched by cocaine dollars, and the

old establishment and competition within the new élite itself (for example, between the Medellín and Cali cartels, in which the latter are happy to back government action against the former), is the necessary background to the cocaine wars" in this era (Pearce, 1990: 268). Added to this was the Barco government's acknowledgment that its authority was steadily being eroded by the 'private justice' of the mafias and their allies, some of whom were from within the ranks of the incumbent regime.

Crime began to reach epidemic proportions with 1.6 million criminal cases pending by September 1988 (El Tiempo, 18 December 1988). The justice system was largely unable to deal with the backlog and because of this 'the private settling of accounts' began to emerge. Furthermore, corruption and intimidation perpetrated by the cocaine mafias served to not only undermine the effectiveness of the judiciary, but other sections of the criminal justice system as well. The option of the 'two silvers' *plomo ó plata* (lead, a bullet or silver, the slang for money) became the catch phrase for the favoured form of extortion against judicial personnel. This meant that prior to many trials, judges investigating drug cartel activities, were given the option of being killed or taking a bribe, but in either case with the view to their rendering favourable decisions.

Fifty judges were murdered and countless others were threatened and/or paid off. Two Ministers of Justice were threatened by the mafias, Rodrigo Lara Bonilla was killed during the Betancur regime and his successor Enrique Parejo González, was later shot and wounded in Hungary in 1987 where he had accepted the post as ambassador (Gugliotta and Leen, 1990: 480-481). Carlos Mauro Hoyos, the Attorney-General under Barco, was kidnapped and murdered in January 1988 (Strong, 1995: 170).

Numerous ministers of justice were appointed by Barco. The eighth, a 32-year old woman, María Elena Díaz Pérez, a Medellín judge and mother, was shot and killed along with her two bodyguards on her way home for lunch. Díaz had been investigating several massacres of peasants by paramilitary groups. Her predecessor, who had begun the investigation, fled abroad to evade the death threats that she had received and in her absence her father was murdered.

By this time the pressure from the United States was intensifying. According to Tokatlian, opinion polls taken during the U.S. presidential campaign indicated that the American public considered drugs to be a greater threat to the national security of the United States than Communism, "and some influential conservative American think tanks were recommending greater militarization of the war on drugs" (1990: 338-339). Colombians began to suffer from this in less obvious ways, for example, shipments of Colombian flowers were delayed so long by United States Customs that they were spoiled, and passengers returning from Colombia were "harassed" in the Miami airport (Thoumi, 1995: 219). President Barco became increasingly pressed to react strongly and put an end to the escalating problem -- both inside and outside Colombia.

In August 1989, the Liberal presidential candidate Luis Carlos Galán was murdered at a political rally and that same month thousands of judges resigned to protest the killing of a fellow judge. The government then announced the resumption of extradition with the United States as well as special measures to protect members of the judicial system and increased military antidrug actions. The mafia, in turn, announced

their "veto by assassination" -- that for every one of their members extradited, ten judges would be killed (Lee, 1989: 125).

Galán's murder unleashed a torrent of emergency decrees and the most dedicated attack on the mafia's property to date. An estimated 11,000 persons involved in some way with cocaine were arrested the week after Galán's assassination alone (Pearce, 1990: 269). During that week, numerous properties were destroyed in 2,000 raids that led to the seizure of 900 vehicles and aircraft as well as 1,200 weapons (Pearce, 1990: 269).

The United States gave some financial aid, mostly in the form of military support for this effort. However, the general feeling of Colombians was that Colombia was not a combat zone and the drug war was rather, a social problem. Further, they felt that the entire offensive was useless in solving a U.S. consumption problem (Bagley, 1988/89: 88). The Extradition Treaty was renewed, however, by presidential decree. By the end of 1989, not one of the twelve mafia bosses wanted by the U.S. government had been extradited. In fact, the most important person to be extradited was Evaristo Porras Ardila, allegedly the Medellín cartel's head of operations in southern Colombia. Three of six people awaiting extradition were released at the end of September 1989 (Thoumi, 1995: 221-222).

Again the existence of the Extradition Treaty represented an area of bitter disagreement for Colombians. While many people felt that the drug lords were a principal cause of social disruption, they felt just as strongly that the Colombian system, rather than foreign jurisdictions, should be made to deal with its own criminals. Once again, national pride was stung by the loss of sovereignty over the internal affairs of the

Colombian state. Barco's ninth minister of justice, Monica de Greiff, resigned in September 1989 after only two months at her post, allegedly over the Treaty, but it was reported that she received constant death threats from the cartels (Strong, 1995: 224).

In the following months, the U.S. continued to extend its military presence in Colombia announcing its intention to send about one-hundred military advisers to help the Colombian government deal with its drug-related problems. Many Colombians suspected that the United States was interested in more than the drug problem and was becoming involved in Colombia because of the counter-insurgency 'problem' (Pearce, 1991: 271). It was further alleged that the Cali Cartel had hired eleven British mercenaries to kill their rival in the Medellín Cartel, Pablo Escobar, as well as the fact that DAS had known for some time that British and Israeli mercenaries had been training assassins in ACDEGAM's (Peasant Association of Farmers and Cattle Ranchers of the Middle Magdalena Valley) school in Puerto Boyacá (Strong, 1995: 179). It soon became apparent, as well, that the government's crack down on the cartels was limited with the majority of those arrested in the initial campaign released and the confiscated property restored (Pearce, 1990: 273). However, the mafia continued to fight back against the state, making the members of the country's judiciary their main targets. Judges were forced to hire bodyguards and drive armored cars. Of 4,500 judges, an estimated 1,600 received death threats during 1989 (Pearce, 1990: 273). As well, the mafias targeted banks, the headquarters of the two leading parties, commercial centres, the newspaper El Espectador, and even schools, in a bombing campaign in the major cities. A total of thirty-seven bombs were exploded, and thirty-six fires set (Thoumi, 1995: 223). By the

end of September 1989, six people had been killed and hundreds wounded in these attacks. On November 27, 1989 a bomb later linked to the mafia exploded on an Avianca jet killing all 107 people on board. On December 6, a bomb exploded on a bus outside of the DAS headquarters in Bogotá, killing fifty-nine and wounding 500 people. While the majority of the victims were street vendors and passersby, the main target of the attack, General Maza Márquez, escaped unharmed (Thoumi 1995: 224).

By the end of 1989, many people in the Colombian government felt that the only way to end the violence was to negotiate with the traffickers. The mafia had offered in 1984 to give up the cocaine business and reportedly to pay off the national debt of \$US 14 billion in return for being allowed to repatriate their fortunes and invest that money into legal businesses (Bagley, 1988/89: 83). In fact, in October 1989, two of Bogotá's leading newspapers, La Prensa and Semana, reported that indirect talks between the government and the mafias had occurred prior to Galán's murder and indicated that perhaps while the number of people killed by the violence was relatively low, there was a severe and damaging psychological effect on the Colombian people (Thoumi, 1995: 224). However, when trafficker Rodríguez Gacha was killed in December 1989, the idea of negotiating with the mafias left peoples' minds.

1990-1994 César Gaviria Trujillo (Liberal)

When former President César Gaviria Trujillo was sworn into office in August of 1990, hopes were high that the youngest chief executive in the nation's history would usher in a new era of solutions to Colombia's long history of violence and economic uncertainty. Politically, the long-standing two-party monopoly of government was

debilitated by corruption and clientelism. Gaviria himself had been elected by only a bare majority which mirrored the fact that the Conservative party was enmeshed in internal crises; and the new parties that were entering the political stage not only had uncertain political agendas, but some were allegedly led by drug lords (Martz, 1991: 70-71). In addition, he was faced with increasing popular demands for institutional reforms and democracy.

The war over the illegal drug industry, meanwhile, exacerbated not only the domestic situation, but Colombia's relations abroad. The drug problem and the resulting violence could not, however, be attributed solely to the drug cartels. Government corruption that led to affiliations with the drug mafias served to undermine the justice system that would have curtailed some of the criminal activity. In turn, unofficial right-wing para-military death squads (euphemistically called self-defense groups) willing to deal with the drug problem if the government was not, continued to patrol the countryside, at times using indiscriminate violence against those whom they viewed as posing a threat to 'order' (Thoumi, 1995: 222).

A few weeks prior to his August 7, 1990 inauguration, President-elect Gaviria, in an unofficial visit to Washington, announced that Colombia sought expanded trade with the United States rather than increased antidrug aid (Martz, 1991: 80). He specifically rejected the U.S. emphasis on a broader role for the Colombian military in his country's antidrug campaign and even pointed to the United States failure at home to impose "severe sanctions" against Washington Mayor Marion Barry (Martz, 1991: 80). He further outlined the importance of additional international assistance to reform and

strengthen Colombia's weakened judicial system. In response, a few days before his inauguration, the "extraditables" declared a truce, with the implicit expectation that Gaviria was going to change government policies. On taking office, Gaviria reiterated Colombia's commitment to combating drug trafficking but underscored that his government's highest priority was to end domestic narco-terrorism rather than to combat international drug smuggling (Bagley and Tokatlián, 1990: 4).

In mid-August, 1990, Gaviria announced that his administration would not extradite Colombian drug traffickers if they abandoned their terrorist activities and turned themselves in for criminal trials in Colombia. He also called on the United States to step up its campaign to lower domestic drug consumption, to stop U.S.-based money laundering activities, and to end arms and precursor chemicals shipments, used by the Colombian drug mafias, from the United States (Bagley and Tokatlián, 1990: 4). It was thus Gaviria's implicit message that while his government would continue to co-operate in combating drug trafficking, it did not intend to do so at the expense of Colombia's social and political stability. This meant that attempting to end the drug war unilaterally was not an option for Colombia and that other states would have to work together to resolve the global, rather than simply Colombian, problem.

The Gaviria Administration's policy from the beginning was one that pointed to illegal drug trafficking as a global phenomena in which all countries had to participate in combating. While the government did recognize the problem as posing a grave danger to stability and democracy in Colombia, it was also undaunted in its insistence that international networks of organized crime could not be battled in Colombia alone. To

that end, early in his presidency Gaviria began the process for a new Colombian Constitution to be written.

The main purpose of this was to ensure that the new Constitution would not only ban extraditions, but also strengthen the judiciary system, to guarantee human and economic rights, and to decentralize power and decision-making in order to promote more democratic values in Colombian society (Heller, 1991). The new Constitution was approved on July 5, 1991 and it not only banned extradition but attacked the foundations of clientelism by declaring that henceforth representatives were to be elected nationally rather than in each department.

The Gaviria administration also specifically attempted to combat trafficking in Colombia, using some of the following measures:

1. Broadening the eradication and crop substitution program to replace the cultivation of Coca, marijuana and heroin-producing poppies through the Ministry of Agriculture, the National Rehabilitation Plan (PNR), and the National Police. The PNR and the Ministry of Agriculture were given the mandate to promote alternatives to drug crops while the National Police were to engage in a stepped-up campaign on eradication.
2. To reinforce the efforts to control the importation and distribution of precursor chemicals used in the production of cocaine to be directed by the National Police and the National Directorate of Narcotics.
3. Tighter control over Colombian airspace and maritime jurisdictions by the National Navy and the Air Force in order to stop the traffic of illicit narcotics, weapons, explosives, and precursor chemicals. This control was to be reinforced by the installation of radars and the international exchange of information. This measure allowed the joint operations between the Navy and the Air Force for the expressed purpose of patrolling and controlling maritime jurisdictions and the exclusive economic zone in the Caribbean and Pacific Oceans with the corresponding air space. The Navy then organized and activated a "Coast Guard" under a previous legislation (#1874 of 1979) that emphasized the control and prevention of all forms of illicit traffic including narcotics, explosives and arms, contraband and precursor chemicals in all coastal areas.

4. To reduce the volume of processing and the exportation of cocaine by way of searching for and destroying illegal processing plants under the direction of the National Police.
5. To reduce the incentives, the income and the impunity of narcotrafficking. This was to be done via investigations carried out by the Prosecutor General's Office and the Office of Special Investigations about sources of money and illicit enrichment of public officials. The DAS, the National Police and economic agencies such as Supercambios, Superbancaria, the National Taxation Directorate and Customs.
6. Increase international co-operation in order to debilitate the narcotic trafficking network, reduce the margins of profit in that lucrative business so as to make a more equal distribution of countries paying the costs for stopping narcotrafficking while at the same time maintaining national interests. To also look for control of precursor chemicals and ways to interrupt the process of money laundering via international judicial and police co-operation.
7. To increase international co-operation in the areas of crop substitution of illicit plants.
8. To bring to justice those who participate in every phase of the business of illegal drugs, ensuring that proper standards for the prosecution of such individuals are met (Gaviria, 1991: 35).

Also part of Gaviria's plan was to call for international solidarity in the fight against drug trafficking. He emphasized multiple approaches and flexibility, frequently reiterating the differences between narcoterrorism and narcotrafficking (see for example, Gaviria, 1991 (b); Gaviria, 1992 (a); Gaviria, 1992 (b)). The Colombian public, tired of the years of violence, was reportedly pleased by this perspective. This was added to a Washington Post poll taken on February 9, 1990, where two-thirds of Colombian respondents suspected that the United States was "using the drug problem as a way to exercise control over the Colombian government". Clearly, Gaviria's policy was to end

the narcoviolence that had plagued Colombia at least since the first signs of Colombian authorities co-operating with U.S. authorities to end drug trafficking, and more specifically since the 1979 Treaty of Extradition had come into force. The cornerstone of this policy was a form of negotiation with the drug cartels via the constitutional ban under Article 35 of the Constitution of Colombia that prohibits the extradition of Colombian nationals (Heller, 1991: 5). The Medellín cartel's unilateral truce and the subsequent surrender of Pablo Escobar on June 19, 1991, seemed to offer Colombians the peace they yearned for (see, for example, Cockburns, 1992). However, his escape and the subsequent manhunt for Escobar also left a number of doubts in peoples' minds ("Account and History of the Events of Tuesday and Wednesday, July 21 and July 22, 1992", 1992). When he was killed by Colombian Special Forces in December 1993, not all Colombians were triumphant -- mourners in Medellín kept opening his coffin in disbelief, all the while cursing the government "assassins" ("The Godfather of Cocaine" 1995). Meanwhile, the issue of narcotics trafficking remained a very thorny issue from the United States perspective.

1994- Present Ernesto Samper Pizano (Liberal)

Immediately following the final election tally in June 1994, Conservative opposition leader Andrés Pastrana Arango made public a tape-recording in which Cali drug baron Gilberto Rodríguez Orejuela and his brother were discussing the delivery of US \$3.6 million to the Samper presidential campaign (Serrill, 1994: 16). While Samper vigorously and vehemently denied having received any money from the Cali Cartel, it was to set the stage for a rocky and difficult presidency. From that day on, the entire

Colombian government was suspected of being in league with drug traffickers. Numerous people were accused and lay counter accusations of corruption and drug ties. The Defense Minister, Fernando Botero, was charged and incarcerated for having accepted bribes from drug traffickers while he was Samper's campaign manager. The Attorney General accused the Prosecutor General and the Prosecutor General accused the Attorney General of wrong-doing; each attempted to arrest the other. Further, "Case 8000" was implemented which pursued major investigations of government drug corruption which implicated over 100 political figures. Nine senators, the Samper Administration's Comptroller General, the Attorney General and former Samper campaign officials were investigated for accepting money or favours from the Cali cartel and its front syndicates. While the uproar was likened to a "political earthquake, it more closely resembled a *telenovela* (a soap opera) that was so difficult to follow that hourly updates on the latest of the bizarre events were required (Interview with the Jaramillos, May 1996; Toronto Globe and Mail, September 12, 1995).

Despite the uncertainty raised about his honesty, President Samper, in his inaugural speech in August 1994 stated: "Colombia is a model of a country which with great cost and sacrifices has managed to implement a coherent and permanent policy against drug trafficking" (Esguerra, 1997: 2). He claimed that the new drug policy was to attack the structure of the drug economy and through programs of eradication and interdiction aimed to wipe out illicit crop cultivation, narcotics processing and distribution, and money and asset laundering. In a comprehensive analysis of the situation, the Samper regime also identified and targeted through anti-corruption

legislation, confiscation and alternative development programs -- a wide array of social problems caused by, and related to, narcotics trafficking in Colombia. These included corruption, lenient prison sentences, the accumulation of illicit wealth, economic and geographic dislocation of people (Esguerra, 1997: 2). Further, President Samper, like his predecessors, called for increased international co-operation on combating narcotics trafficking.

In early 1995, the initial emphasis was on capturing the drug cartel leaders who had previously been indicted for crimes. At the same time, coca and poppy eradication and interdiction programs were stepped up along with the attendant problems such programs would cause in rural communities in which the farmers of these crops lived.

In 1996, the Colombian government invested US \$1.3 billion to fight the drug war, which was an increase of US\$900 million from the previous year (Esguerra, 1997: 2). In addition, the Samper government enacted new asset forfeiture and money laundering laws that had the intention of destroying the empires of the cartels through forced bankruptcy. While this had the effect of stripping the more than US \$400 million of the traffickers' assets in Colombia, because of the tendency of the traffickers to bank internationally as well as own property in other countries, the economic effects of this blow to traffickers' operations was more than likely negligible (Esguerra, 1997: 2). In addition, 73,581 acres of poppy and coca plantations were sprayed and 614,716 kilos of coca leaf and 56,626 kilos of pure cocaine were seized and destroyed (Esguerra, 1997: 5). Finally, numerous cocaine labs, clandestine airstrips and vehicles were also confiscated.

While it was claimed by the Samper government that these policies had been undertaken unilaterally, the issue of certification was looming in the early part of 1996. The Clinton Administration was highly suspicious of Samper's intentions and continuously condemned the Colombian government for not being dedicated to the dismantling of the illicit Colombian drug industry. In 1995, this sentiment was echoed by a top state department official who stated that the Colombian government was simply lying and that "[t]hree years from now we'll still be hearing about their plans" (Serrill, 1995: 31). When the Colombian Congress absolved Samper of personal responsibility in accepting narcocontributions in July of 1996, Botero alleged that the president knew and approved of the narcocontributions to his election campaign. The United States responded to this information by canceling Samper's tourist visa to the United States (Newsday September 24, 1996). A few months later, the U.S. media reported the accusation against President Samper that he had transported eight pounds of heroin in his private airplane to Washington, D.C. where he was attending an official meeting (Newsday, September 24, 1996). He was then forced to fly from Washington on a commercial jetliner to New York City where he addressed the General Assembly of the United Nations. There Samper asked the world community to stop "satanizing" his embattled homeland, stating that Colombia is more of a victim than a villain in the losing battle against drugs (Austin American Statesman, September 24, 1996). Washington's dissatisfaction with the Samper government's efforts resulted in the decertification of Colombia for foreign aid in April of 1996.

Perhaps in a bid to counter the United States strong move, the Samper Administration soon began to publicly state that "extradition is an important tool in fighting the drug war" (Esguerra, 1997: 19). According to the Samper Administration, despite the constitutional prohibition against extraditing Colombian nationals, the government extradited thirteen non-nationals to the United States (Esguerra, 1997: 19).

However, this did not appear to appease the United States, especially as the Colombian Prosecutor General, Gustavo de Greiff, was very open in his negotiations with the drug cartels and his calls for the legalization of drugs (Fleischer in Fleisher and Lora, 1994; 10). This provoked the contention that de Greiff had been involved as a partner in an airline company with the Cali cartel (Strong, 1995: 303). However, Samper continued to push for the re-establishment of the extradition of Colombian drug traffickers.

On May 22, 1997, the Colombian Senate voted 53-14 in favour of a bill to re-establish extradition of Colombian drug traffickers. While the legislation would offer exceptions for those people who turn themselves in or have already been sentenced in Colombia, meaning the jailed leaders of the Cali cartel, it was an important step for the Samper government (Agence France Presse May 23, 1997). However, the fact that the Cali kingpins Gilberto and Miguel Rodríguez Orejuela attempted to escape from Bogota's La Picota maximum security prison after twenty-one months there by means of a false wall and a tunnel, is likely directly related to the extradition issue. According to El Tiempo, General Rosso Serrano, the head of the Colombian national police, claims that the various cartel members held a meeting prior to the extradition debate, "If there is

anything that unites the mafia, it is the threat of extradition" (June 8, 1997). As General Serrano holds a desk job in Washington, D.C. and is a 'favorite' of the DEA and other parts of the U.S. defense establishment, it is difficult to analyze this statement. While the United States has long been a proponent of extradition as a method of fighting the war on drugs, it has been past experience in Colombia that any time extraditions are carried out, or even threatened, a flood of violence is unleashed that is so strong that the government has no choice but to halt the process. If the events that occurred shortly after the June 9, 1995 arrest of Gilberto Rodríguez Orejuela are anything to go by, peace will be unknown in Colombia as long as the Samper government agrees to extraditions. A day after his capture a ten-kilogram bomb filled with shrapnel was detonated in a downtown Medellín park, killing twenty-nine and injuring more than two hundred. While the FARC guerrillas claimed responsibility, it was felt that the bomb was actually a reprisal against the government for the drug kingpin's capture (Strong, 1995: 334).

Summary

Following the eras of Colombian drug policy development, some themes emerge that are noteworthy. The first notable similarity is that in each era policy is made largely in reaction to either events of a criminal nature that have occurred in Colombia, or as a result of pressure by the United States on the Colombian government to end narcotics trafficking. The cycle that emerges, in general varies only in the particular acts of violence or reprisal that occur: Narcotics trafficking by Colombians to the United States results in strong U.S. reaction for Colombian policy makers to "do something" about the drug problem. Colombian drug policy is made to attempt to both appease the United

States and to halt the illegal activity of Colombian traffickers. This leads to violent reprisals by the Colombian traffickers against the Colombian state. The Colombian government then alters its hard-line policies in order to appease a beset and distraught Colombian public. The United States then reacts angrily declaring that Colombia is not doing enough to end the drug problem. Colombian officials then look for another policy to end drug trafficking.

The issue of extradition of Colombian drug traffickers to the United States is the factor that exemplifies this cycle of policy crisis decision-making. Historically, it has been an issue which has reflected policy-making uncertainty and confusion. This trend will likely continue, however, as Colombia cannot resolve a problem of international dimensions. The only answer is for the international community to redouble its efforts to find a global solution.

CONCLUSION: JUSTICE FOR WHOM?

*You must have been dreaming...Nothing has happened in Macondo,
nothing has ever happened, and nothing ever will happen.*

García Márquez, One Hundred Years of Solitude

The original intention of the research for this dissertation was to “study the implications of drug corruption on the criminal justice system of Colombia”. The study was based on the hypothesis that because Colombia attempts to mirror a form of Liberal Democracy incompatible with its history and tradition, it is left with a governing structure which is unable to deal with such factors as extreme violence, rapid social change, extensive poverty, high unemployment, criminal activity, partisan political rivalries, ineffective and corrupt state institutions, and more recently, foreign relations dilemmas. Research was thus begun with a focus on corruption as an exemplar for testing the underlying assumptions of the hypothesis. However, as the inquiry progressed, it was determined that corruption is only part of the problem for the Colombian criminal justice system. A number of other factors also contributed to a highly unstable environment for effecting a coherent and durable drug policy in Colombia.

Further, the intent of this thesis was to analyze the nature of the policy environment rather than to articulate policy recommendations as “...for every solution you generate one or more additional problems requiring additional solutions emerge” (Personal Communication with Dr. Millett, August 19, 1997). Indeed, the problems that Colombia faces do not lend themselves to any simple solutions. Colombia’s internal sovereignty is at risk from a variety of national and international groups who not only

threaten the country's attempts to establish a genuine democracy through their criminal acts and violence, but who have transported Colombia's internal crises into the international arena. This has led to great difficulties for Colombia in its external relations as these criminal groups are now threatening the stability of other states through their activities.

The United States has been besieged by drug traffickers who are responding to market demand for illegal narcotics in increasing quantities. Organized international crime groups that engage in drug trafficking and other illegal activities such as weapons trafficking, are now one of the greatest threats to global order in the post Cold War era. As such, global solutions need to be found to deal with these groups. However, it has become increasingly clear that rather than fight international organized crime collectively, states from which the criminals originate, or for which they hold citizenship, are being blamed for not ending the problem.

As this dissertation has discussed, one such state is Colombia. Colombia has been intermittently threatened and cajoled, mostly by the United States, to effect policy that will halt the traffic in illegal narcotics by Colombian nationals. However, Colombia is lacking in the resources to combat a global problem. Colombian policy has been to try to react to international, and especially U.S., pressure to "do something", but without success and when steps are taken to combat these organized criminals, such as extradition to the United States, the violent reprisals by the traffickers have been so detrimental to order that desperate officials have to reverse policy decisions. These reversals, while they temporarily restore order to Colombia, do not appease the United States in its "War on

Drugs". The conclusion is that Colombia cannot win this war on its own, even if the United States supplies its military with weapons and 'advisors'. This is so because global problems require global solutions.

One facet of the problem has been the use of extreme violence and extortion by Colombian drug traffickers that has led to a crisis of legitimacy in the criminal justice system of Colombia. This has forced policy makers to grapple with making policy choices that aid the cause of domestic order but that do not necessarily satisfy the international community or, especially the United States in its "War on Drugs".

Research on the politics and history of Colombia found that the contention that Colombia is one of the most violent countries on earth, yet the most democratic in Latin America, is widespread. However, it was concluded that while free and fair elections have regularly been held in Colombia, it would be false to label Colombia a true liberal democracy. This is so because the true elements of a liberal democracy, equality and liberty, can only be exercised by citizens in a peaceful social order. Unfortunately, in the case of Colombia, the government has been unable to guarantee a stable and durable social order all of the time. The factors found to contribute to this lack of order in Colombian society were the growth of transnational criminal organizations over several decades, as well as indiscriminate violence, corruption, historical party rivalries, traditional oligarchical structures, extremes of wealth and poverty, guerrilla movements and external interference by foreign powers.

Another facet of the problem is the international dimension. It is arguable that every state has criminal organizations that threaten order, but to what extent such

criminals, acting as international regimes, transport their activities across state boundaries is of great concern. Traditionally states have formulated international law, most often in the form of bilateral and multilateral treaties, to resolve international disputes. International criminal law has similarly emerged to deal with matters of international criminality. However, despite the numerous rules and international agreements meant to maintain order in an anarchical international system, international practice is not uniform in the application and interpretation of these rules. International criminal law and extradition, as partial remedies to resolving difficulties of some states reluctant or unable to try international criminals, are very precise in their solutions. However, due to the fact that sovereign states are free to order their internal affairs as they see fit, each state deals with offenses committed within its territory or by its own nationals according to the dictates of its domestic legal systems. Jurisdiction often becomes confusing and much disagreement has occurred especially on the issue of under which circumstances a state may punish a foreigner for an act committed outside its territory and therefore, at a time when the act was not subject to a state's criminal laws.

The front-runner in applying international criminal law on a variety of jurisdictional bases has been the United States. U.S. policy, at least as far back as the Reagan Administration, has been to claim jurisdiction when any part of the crime impacts the United States or its citizens. It has further concluded a number of bilateral extradition treaties in order to expedite the extradition of foreign criminals for prosecution in the United States. Thus, United States policy has been to repeatedly pressure Colombia to enforce the 1979 U.S.-Colombia Treaty of Extradition to extradite Colombian traffickers

to the United States for trial. However, on the limited occasions when extraditions of Colombian nationals have been carried out, the extremes of violence employed by the drug cartels in reaction have been so deleterious to the social order that desperate Colombian officials have been virtually coerced into finding political/legal barriers to the Treaty.

Colombian policy makers have thus been subject to extremes of violence, coercion and international pressure from fiercely competing interests. The discussion of disjoint crisis decision-making discussed in Chapter One, assisted in explaining and interpreting the impact that these various factors have on drug policy-making in Colombia. It was found that Colombian drug policy is indeed made largely as a reaction to crisis. Hence, Colombian policy-makers have resorted to "quick fixes", rather than long term planning, demonstrating that in such an environment, it is difficult, if not impossible, to make effective and lasting policy to combat drug trafficking. The result of the analysis in the thesis confirms that the incremental model is the one that best explains the current dynamic in Colombia. In fact, one of the conclusions that may be drawn from this dissertation is that because Colombia is so subject to a variety of internal and external forces that impact its drug policy, a return to the incremental/rational policy debate would relieve some of the policy gambling characteristic of crisis decision-making. The external pressures on Colombia drug policy cannot be understated either. The fact that international regimes place an increasing strain on Colombian internal sovereignty has further clouded the ability of successive governments to make independent policy choices. There is a sense that with the apparent breakdown of the Westphalian system,

more, rather than less, of these regimes will make themselves felt in the internal politics of Colombia.

The research for this dissertation began with an analysis of available literature, both academic and government sources, as well as other communications relevant to the research subject such as media reports. A content analysis as a form of unobtrusive research was undertaken together with interviews with selected persons who have expertise in the area. Several field trips to the United States and Mexico were also made. The inability to secure funding for field research in Colombia, it was concluded, was based on the fact that lending agencies are reluctant to countermand United States policy to decertify Colombia for foreign aid in early 1996.

The content analysis, in particular, was instrumental in uncovering a number of misperceptions about the making of drug policy in Colombia, as well as the U.S. "War on Drugs". It was concluded from this study, that since the end of the Cold War, a number of illusions, that perhaps held the framework of international relations together during the 1945-1989 period, have clearly been shattered. Some would argue that these were "necessary illusions"³¹, largely promoted by the media, to perpetuate the bipolar, ideological struggle between communism and democracy as well as the division of the world into roughly two spheres of influence. Yet, the post-Cold War world does not have the same easily definable enemies. Regional ethnic and religious conflict, terrorism, the mass migration of people and drug trafficking have become the new enemies. However, many of these enemies are not always as easy to identify as Communists were. While the

³¹ This is the partial title of a film by Naom Chomsky (1989).

Gulf War was a post-Cold War technological arms testing ground in a U.S. election year, the War in Bosnia was clearly a theatre that the United States was reluctant to enter. Likewise, the civil strife in Somalia, Rwanda, Khazakstan, Georgia, Chechnya and Albania, to name but a few, only reluctantly, if at all, became matters of international concern as the human rights atrocities were escalating out of control. It soon became clear that, with no stake in these regions, former Super Powers were less than interested in becoming involved. Still more clearly, was the fact the only problems that are being given any attention are those that directly impact on the national security of states. Coalitions and counter-coalitions for the purposes of fighting common enemies are now losing their support among the member states. However, even the human rights argument that used to be a natural law justification for the interference in sovereign states, has been all but dropped.

Drug trafficking has been perceived as a particular threat because it has had a direct economic, social and political impact on the populations of sovereign states. The United States, more specifically, has in turn, converted this into a threat to national security -- in essence turning a domestic problem of consumption into a foreign policy dilemma. Or put in other terms, such seemingly outward-looking policy was the result of attempting to resolve U.S. domestic political exigencies, and thus political survival, than perhaps a dedicated foreign policy initiative. The rhetoric found in U.S. academic articles, books, film, and media sources generally illustrated this point quite clearly. A number of similarities were noted in the content analysis between what was written about Colombia by U.S. scholars in their support of the U.S.-proclaimed "War On Drugs",

begun during the Reagan Administration, and work written during the Cold War about the so-called 'enemies' that emanated from the Eastern Bloc. Further, it was reasoned, now that the Cold War was over, there were a number of people in the U.S. Military and the CIA who stood to become unemployed if a new enemy was not encountered soon. Evidence of this was found in a speech made by William Bennett, the former U.S. Drug Czar of the Office of National Drug Control Policy, who stated in 1989 that drug trafficking in Latin America poses a "clear and present danger" to the national security of the United States.

The Colombian government, meanwhile, has long viewed the 'drug problem' to be one of consumption and demand and relates the problem to democracy and social stability. However, adding another dimension to the problem, the United States refuses to accept the Colombian argument and has not only exported the drug war to Colombia in the form of military 'aid' and personnel, but it has also alternately cajoled and coerced Colombia to enforce the 1979 U.S.-Colombia Treaty of Extradition that would extradite Colombian traffickers to the U.S. for prosecution. When this has not worked, United States policy makers have promoted the "narcoguerrilla" alliance. It is argued that narcotics traffickers have aligned themselves with communist guerrillas in order to subvert not only the Colombian state, but the United States as well. Spurious connections between the Sandanistas and even Fidel Castro in Cuba have been made in an attempt to paint the cartels in the worst light and to take advantage of the left-over anti-Communist hysteria of the Cold War. In reality there is little evidence of any alliance between the two groups, rather, their relations have been openly hostile and have involved kidnapping

and killing each other. For the cartels, the guerrillas pose a threat to their business interests and for the guerrillas the cartels' bloated pursuit of money represents everything that is bad about capitalism and is an affront to their ideological goals. Ironically, while their motivations may differ markedly, the two groups actually converge in terms of the consequences their actions have on the Colombian state.

Both the cartels and the guerrillas wish to undermine local authority and to corrupt the judicial process and in so doing demonstrate the Colombian government's inability to provide fundamental security. Further, both would like to completely destroy Colombian relations with the United States, the guerrilla groups for ideological reasons and the cartel members to put an end to the extradition debate. Hence, while these groups have little in common, their apparent disregard for the legitimacy of the Colombian state and the attendant consequences of their misdeeds makes them strange bedfellows.

Another interesting similarity between the two groups may be found in the fact that they have lost their original compositions. Indeed, the Colombian cartels are no longer the large and powerful crime organizations that they were in the recent past. Since the death of Pablo Escobar and the capture of the Rodríguez brothers of the Cali cartel, the mafias have splintered and their operations have been taken over by smaller, competing groups. This does not bode well for peace in Colombia especially if the rival groups begin to fight for an increased share of the illicit narcotics market. Similarly, many of the guerrilla groups have lost their original cohesion in addition to their *raison d'être*. With the end of the Cold War, communist ideological battles have increasingly lost ground to out-and-out political banditry. Large political fronts have given way to

small groups that control certain regions where illegal acts such as kidnapping, arms trafficking and even drug trafficking are carried out in order to survive. With these and numerous other changes, the future of peace in Colombia is increasingly at jeopardy due to the inexact nature of the emerging threats.

U.S. foreign policy regarding the Western Hemisphere has been very clear as far back as the Monroe Doctrine (1823), in which the U.S. expressly outlines the permanent nature of its national interest there. However, historically, threats to the national interest came from outside the Western Hemisphere, not from within. The advent of transnational criminal trafficking groups, many of which originate in Colombia, changed the face of the threat, perhaps forever. The making of policy relative to the drug issue in Colombia has been compounded by the tendency to interpret "fact" against a background of fictionalized images of Colombian life and politics.

In fact, attempting to stop drug trafficking into the United States has been like trying to stop several swarms of bees without being able to see them. To solve this problem, successive United States governments have turned their attention to the states from which the most trafficking activity originates rather than specifically resolving the domestic consumption crisis. In so doing, this domestic crisis has been turned into a problem that Colombians, and the citizens of other states such as Peru and Bolivia, are being called on to rectify. Yet, for their part, while an angry and fiercely nationalistic Colombian public want to see an end to the extreme violence and extortion employed by Colombian drug traffickers, they agree with the traffickers that it should be carried out by Colombian rather than American justice agencies.

Extradition has been one extremely controversial policy, over which this impasse has been played out. However, as with many of the other strong policies that have been taken to end this illegal trade in Colombia, extradition has been met with violent reprisals by the drug traffickers. Further, Colombia is a developing country that cannot afford to fight the international 'War on Drugs' alone. Despite, foreign aid and military assistance from the United States and multilateral lending agencies, the Colombian state does not have the resources to conduct this fight as other more developed states would like. This has led to spiraling frustration on the part of both Colombian and American citizens which has, in turn, sparked nationalist sentiments.

Areas for Future Research

Clearly, there is much more work that needs to be done on this topic, at least, in two main areas: first, extensive comparative research is essential to furthering the understanding of this increasingly complex issue. Comparisons with other states that have experienced similar problems of transnational criminality are essential in this regard. Italy, for example, has had varied experience in making policy to deal with organized crime groups there. The fact that there are international implications of mafia activities such as drug trafficking which is controlled from bases in Sicily, has not only dire implications for Italy domestically, but threatens the sanctity of Italian sovereignty in the international system. Repeated calls have been made by the global community for Italy to eradicate mafia activity, especially with regard to the international crime of drug processing and trafficking. Sicily is the headquarters for heroin and cocaine processing and trafficking in the world. The international community -- especially the United States

and the EEC -- have in recent years offered to help Italy deal with this problem as its criminal justice system, rife with corruption, has demonstrated itself largely unable to tackle the problem (Chubb and Vanicelli, 1988: 126). There have been numerous mafia arrests in the past years as part of the battle to eradicate corruption with Riina, the Sicilian mafia boss who eluded police for twenty-three years (to the point that no one even knew what he looked like), finally being arrested in Palermo in 1995. However, with its close ties to Italy's politicians, it will be a difficult task to rid Italy of the mafia completely, and in addition, for every Riina, there are ten members of crime syndicates who will take his place.

Another state that has experienced similar difficulties has been Japan. The darker side to the 'system' of vested interests and factional struggle in Japanese politics is the existence of the right-wing organized crime element known as the "*yakuza*". Like the mafia in Italy, members of different *yakuza* groups have financially supported their favorite political factions over the years. Some of Japan's most powerful men owe their position to their links with the underworld. For example, "[i]t is common knowledge that former Prime Minister Nakasone maintains close links to both the 'outward' and the 'behind the scenes' [*yakuza*] elements of the right wing" (Toshikawa, 1992: 25). This is particularly serious as the activities of newly merged 'mega'-*yakuza* groups include extortion, gambling rings, prostitution, loan sharking, and drug dealing, to name but a few (Friedland, 1993: 19).

As in Italy and Japan, Thailand has experienced sinister elements in the form of *jao poh* or godfathers. While economic development has helped to change the face of

politics in Thailand by forcing newly enriched businessmen or "bourgeois-middle-class groups" to enter the public arena in order to protect their interests, it has also strengthened the position of the regional tycoons or *jao poh* (Ramsey in Samudavanija, 1987: 38). While the godfather system has existed in Thailand since the 19th century, the recent activities of these godfathers has expanded from controlling commodity markets, gambling and prostitution rackets, to narcotics trafficking. As in the case of Italian mafia activity, while the *jao poh* may be a domestic scourge, drug smuggling operations lend an international wrinkle to the problem. Heroin smuggling rings have been increasingly using Thailand as a re-distribution point for drugs from the Golden Triangle. Such international illegal activity has led to calls by the global community for Thai authorities to not only end such operations, but to bring the ring-leaders to justice. As the *jao poh* are so interconnected through the patronage system to many of Thailand's top politicians, it will likely be rather difficult to do so overnight.

Mexico too, in recent years has come under scrutiny for the activities of Mexican narcotics traffickers. Mexican gangs are said to run their own distribution networks rather than to simply operate as "mules" for Colombian traffickers as they used to. Mexico shares a 2,000 mile border with the United States that has been cited as the "world's largest drug-smuggling crossing point" (Zackrisson in Binnendijk (ed.), 1997: 74). While the Mexican cartels are said to be subverting the police, military and government at all levels, more threatening still is the increasing perception by the United States that the activities of these groups pose a threat to its national security. Recently, Thomas Constantine, Director of the U.S. Drug Enforcement Administration was quoted

as stating: "These sophisticated drug syndicate groups from Mexico have eclipsed organized crime groups from Colombia as the premier law enforcement threat facing the United States today" (Associated Press, June 19, 1997). The "War on Drugs" is thus moving into new frontiers requiring collaborative efforts to stop it. Comparative research on this topic will help to achieve a greater understanding of this complex international problem.

A second area requiring further study is in the policy domain, drawing on, not only the experiences of other states, but on the policy options that they have pursued to combat such problems. Hence, several in-depth and linked policy studies should be undertaken to determine the best solution to this complex problem. Assigning blame and demanding that one or another state deal with an international problem does not sufficiently resolve the problem. Again, along the lines of a comparative analysis, policy may be drawn based on the varied experiences of other states. Building policy based on the past attempts to halt illegal organized activity by a number of states will more closely mirror the international dimensions of the problem -- finding a global solution to a global problem, rather than allowing each state to muddle through each crisis with 'quick fix' policies that in the end must be replaced by other crisis-driven policies.

Clearly, crime is not limited to region, culture or state of development. Every country has its experiences with organized criminal elements that use the existing systems of clientelism, patronage and greedy politicians to some degree. What is startling is that when actually compared, countries that appear to have very little in common historically, politically and economically, are rather similar when it comes to their experiences with

such phenomena. The differences may simply lie in the ability of some countries to camouflage these vices more deftly than others. However, as organized crime groups internationalize their operations, these countries will become targets for international condemnation. Clearly, much more research in these two interconnected areas will benefit the international community greatly -- especially for those states whose mafia groups have international aspirations.

The goal of this dissertation was to successfully contribute to understanding the problems that face countries such as Colombia so that drug trafficking as an international problem may be more effectively addressed and curtailed. The key to finding a drug policy that will end drug trafficking as an international problem as well as the extreme violence and corruption in Colombia lies in understanding the complex nature of the factors that contribute to this phenomena.

Colombia is not a difficult country to understand. There is an air of unreality -- of magical realism -- surrounding it, a quality of almost perverse acceptance of the circumstances. Colombians tend to be very philosophical and often full of humour about their tragedies, they seem to be most adept at accepting what is, while patiently hoping for change.

APPENDIX A

Unobtrusive Research Worksheet -- Content Analysis

Unit of Analysis:

Unit of Observation:

Hypothesis: Colombia attempts to mirror a form of Liberal Democracy. In practice its governing structure is suborned by corruption and intimidation so much so that it is ineffective in the making or reforming of criminal justice policy to deal with important social problems.

Conceptualization

Operationalization

Manifest: #1=strong
4=weak

Latent
(images: ie. crying)

Liberal Democracy

history

tradition

constitution

governing structure

Corruption

bribery

extortion

nepotism

misuse of office

misuse of funds

Criminal Justice Policy

drugs

organized crime

extradition

money laundering

international law

Administration of Justice

police

-investigation

-maintain order

-tactics

-accountability

-responsibility

army

-maintain order

-tactics

-accountability

-responsibility

judiciary

-independence

-procedure

-accountability

-responsibility

attorney general

-independence

-procedure

-accountability

-responsibility

prosecutor general

-independence

-procedure

-accountability

-responsibility

Social Factors

violence

rapid change

poverty/economic necessity

unemployment

criminal activity

partisan politics

historical propensities

Foreign Relations Problems

relations with the USA

international law

international trade

international organizations

APPENDIX B

Select Glossary of Terms

Basuco: a form of crack in which cocaine paste is mixed with marijuana and/or tobacco.

Bogotazo: The term used primarily outside Colombia to describe the destruction of Bogotá following the assassination of the popular Liberal leader Jorge Eliécer Gaitán on April 9, 1948 during the first era of *la violencia*. In Colombia the event is also referred to as the *Nueve de abril* and its participants *los nueveabrileros*.

Cacique: A local political boss. It is derived from the Spanish word for Indian chief, and is used interchangeably with *gamonal* or local strongman. These political chieftains who control particular regions or "city states" and are able to control trade to acquire benefits for both themselves and their localities.

Campeños: broadly speaking are peasants. Included under the broad rubric "campesinos" are also squatters, tenants, sharecroppers, day labourers, and *minifundistas* (those who own tiny plots of land that barely provide subsistence).

Cartels: is a misnomer applied mostly by North American authors to organized criminal narcotics traffickers. Generally, it is applied to the Colombian organized drug smugglers, the two largest groups of which are known as the Medellín and Cali Cartels. These groups do not operate like cartels in the economic sense -- they cannot maintain cocaine prices as OPEC (Organization of Petroleum Exporting Countries) maintains oil prices.

Coca: (erythroxyton coca) The use of coca to induce psychic states of "vision" in shamans or spiritual healers dates many centuries before the establishment of the Inca Empire. However, coca remained confined to its region of origin until the 12 century, when its use spread throughout South America. For the Incas, coca was a small tree of divine origin and a symbol of their political and social status. Coca began to become known in Europe after the conquest of the Americas. However, it was not until the nineteenth century that cocaine to be made from the coca plants in Europe and North America. Coca leaves are still mixed with ashes and taken by indigenous peoples in the Central and South America and are used for their euphorizing effect as well as their mitigating action on hunger and tiredness. The active principle of the coca is cocaine.

Coca Paste: also known as cocaine paste or cocaine sulphate or simply paste, is an intermediate substance in the production of cocaine hydrochloride, a crystalline powder which usually shows an acid reaction to the pH indicators and is soluble in water.

Cocaine: Derived from coca leaves, cocaine has strong anesthetic properties. The manufacturing process is relatively simple and involves placing the raw coca leaves on a sheet of plastic and then mixing them with sodium carbonate to release the alkaloid content. The mix is then transferred to a container into which gasoline and sulfuric acid dissolved in water are added. After about twelve hours, the contents of the container are passed through a press, producing coca paste. This paste is later converted into coca base through a process that uses ammonia, potassium permanganate and some filters to remove impurities. Chloridic acid, ether and acetone are then applied to the base in a process that requires "cooking" to transform it into cocaine. The final step is not complicated, but dangerous due to the ether's flammability. Interestingly, Arango and Child (1987) argue that this technology to produce cocaine was formulated in the mid-1960s by American in the US Peace Corps. They contend that the Peace Corp. workers who liked to smoke marijuana soon discovered coca chewing and from there developed the coca refining technology (Arango and Child, 1987: 125-126).

On the illegal market it is sold as white powder consisting of small flakes. Generally cocaine is not sold pure, but rather, it is "cut" or "stepped on" and is combined with other substances such as talcum powder, mannite, laxatives, and other psychoactive substances such as amphetamines.

Illegal cocaine is consumed mainly by sniffing and is absorbed by the mucous membrane of the respiratory tract. It may also be taken intravenously. In this case it is diluted in a water solution and injected directly into the bloodstream. Cocaine is relatively easy to transport as it tends to crystallize, when first made, into small rocks that can later be pulverized and stepped on. Thus, the rock cocaine or pure powder may be concealed in any manner of ingenious places for the purposes of smuggling. It has been placed in the heels of shoes, dissolved in water transporting tropical fish and later extracted, it has been made into a cellulose-look-alike substance to cover the face of watches and other consumer items requiring a transparent/translucent surface and any number of other methods not easily detectable.

Corruption: is the misuse of public office for private gain and has been defined by Joseph Nye as:

... behavior which deviates from the formal duties of a public role because of private-regarding (family, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence. This includes such behavior as bribery; (use of a reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses) (Nye in Heidenheimer, 1989: 970).

In addition, it is generally agreed that corruption is rooted in human nature -- and its accompanying imperfections and as such, instances of fraud (an act of deception deliberately practiced with the view of gaining unlawful advantage), extortion (exactng money coercively), embezzlement (appropriating fraudulently to one's own use what is

entrusted to one's care), violence and other forms of criminal activity can be added to the above definition. The common thread that runs through all of these forms of corruption is their reliance upon secrecy and collusion. Thus, even major exposures of corruption reveal only a part of what needs to be known in order to put a halt to such abuses.

Crack: Is a relatively new illegal psychoactive drug that has spread mainly in the United States. It is a substance consisting of coca paste and sodium bicarbonate, produced in illegal laboratories by heating and drying processes. It is sold in the form of whitish crystals and is smoked in special pipes mixed with tobacco and marijuana. It is substantially less expensive than cocaine powder.

Extraditables: The Extraditables were traffickers who could be extradited to the United States under the 1979 U.S.-Colombia Treaty of Extradition. Their group was formed in May 1982, supposedly led by Carlos Lehder. They organized open debates, made bumper stickers, distributed political pamphlets and hired bands of thugs to terrorize judicial and police personnel all in an effort to sway public opinion against extradition.

Magdalena Medio: Refers to the central Magdalena River valley, encompassing low-lying parts of the departments of Cundinamarca, Boyacá, and Santander to the east, and Tolima and Antioquia to the west. It also borders on the emerald zone of western Boyacá, whose long-established organizations of contrabandists moved easily into the illegal drug trade. It also includes the petroleum complex around the port of Barrancabermeja, where militant leftist labour unions have existed since the 1920s. It has recently been developed for agriculture by smallholders and squatters as well as large-scale commercial farmers and ranchers. In the 1980s the region became a major zone of violence in which leftist guerrillas, the paramilitary right groups, the drug mafias, and the Colombian army have all been involved.

Marijuana: Is produced by mixing the leaves and flowers of the cannabis sativa plant together after they have been dried. It is smoked on its own or rolled together with tobacco into cigarettes known as joints. It may also be smoked in a pipe. It is heavy to transport as it is packaged in bales like hay or tobacco.

Money Laundering: Is the activity in which money derived from the proceeds of crime is reconverted and enters the financial and entrepreneurial business world. By reintroducing money in this manner, its illegal origin may be covered up. Often this money is invested in legitimate business such as real estate, stock markets and manufacturing. Money laundering distorts national economies with the introduction of very large amounts of money which net effect is inflation. Criminal organizations often exploit bank secrecy rules and 'tax havens' to conduct money laundering activities.

Morphine: is an opiate alkaloid, extracted for medicinal purposes in 1803. It was initially used to induce sleep and to calm people. Heroin was synthesized in 1874 and marketed in 1898. It was first introduced to treat breathing difficulties in patients with tuberculosis and asthma. It was noted to counteract

the effects of morphine dependence. Heroin is the most involved in the development of dependence, however.

On the illegal market heroin is sold in two forms:

1. As White dust, which looks like flour and is obtained by diacetylation of morphine;
2. As Brown sugar, which consists of small brown-rose coloured granules. It is obtained by diacetylation of morphine with the addition of caffeine and other substances used in the 'cutting'.

Substances used to 'cut' heroin are the following: strychnine, sodium bicarbonate, amphetamines, talcum powder and mannite. It may be sniffed, injected and smoked.

Mules: Are people who transport illegal narcotics on behalf of the drug cartels, usually in small amounts, on their person, in their luggage, or in their stomachs to the United States and Western Europe.

Opium: The plant from which opium is obtained is *papaver somniferum album*. The opium is extracted by cutting into the head of the poppy from which a light-coloured lattice emerges. On contact with the air it becomes darker and of a thicker consistency. The lattice is collected in the form of slabs. Opium is smoked in special pipes generally with a long stem ending in a special brazier. Another method of taking opium is by swallowing. It often took the form of laudanum in the last century and was used to calm 'hysterical' women.

PEPES: Literally, People Persecuted by Pablo Escobar. This group was a 'shadowy' paramilitary support organization that was formed by the families of Escobar's victims. The PEPES with the alleged backing of the Cali cartel put a bounty of US\$5 million on Escobar's head. In addition, the PEPES attempted to inflict psychological damage on Escobar and his family by destroying their ranches and commercial property and even castrating their prize race horse and shooting his trainer.

Precursor Chemicals: Chloridic acid, ether and acetone as well as other chemicals that are added to raw and semi-processed narcotics to refine them for consumer use. See **Cocaine**, above.

Psychoactive drugs: are drugs with a pharmacologically active substance that influence the mental processes as well as some aspects of behaviour. The effects of the abuse of psychoactive drugs derive from their ability to interrupt or to modify chemical transmission between neurons, the principal cells of the brain.

Sicario: refers to hired assassins. These people are typically teenage males recruited from poor neighbourhoods on the outlying regions of Medellín, and trained in the use of automatic weapons and explosives by the drug mafias. Often the targets are killed in their cars by sicarios riding motorcycles which can easily and quickly move through traffic after the 'hit' has been made. Victims of sicarios range from three presidential candidates to members of rival drug cartels to judicial figures to police officers and

members of the media. Other victims have been ordinary citizens who have been in the way of stray bullets or in the destructive radius of a car bomb.

Trafficking: in illicit substances may be defined according to the first paragraph of Art. 36 of the Single Convention on Narcotic Drugs which indicates as penal offenses the following activities: "cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs". Illicit traffic thus denotes a complex phenomenon which in various phases, places and times, enables large quantities of drugs to be transferred from one country to another. Because this is illegal activity, the drug market is a black market. Because of the illegality of this business quantities are difficult to estimate. However, it is thought that the drug trade is second only to the illegal arms trade in the world.

Violence: is the threat or use of physical force to injure or harm someone, to deprive others of their rights and/or to intimidate them.

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