
Between the Cracks

Balkan Cigarette Smuggling

Aida A. Hozić

Illicit trade may be the best way for the Balkans to benefit from globalization.

IN July 2000, Richard Sklar, President Bill Clinton's special envoy to Bosnia-Herzegovina, brought a few packs of cigarettes to a meeting between the Bosnian Presidency and representatives of the international community. Sklar had purchased the cigarettes just a few blocks away from the Presidency headquarters in downtown Sarajevo. The packs had no excise tax label and apparently—like millions of other cigarettes sold every day across the Balkans—had been smuggled into the country. As reported by the Bosnian weekly *Naši Dani*, Sklar showed the cigarettes to the assembled members of the Bosnian Presidency and said, "You are losing \$500 million a year because of cigarette smuggling. Sometimes politicians in this area only think about themselves, their families, and a few of their friends. In any other country in the world, they would have been thrown out of the government and forced to look for jobs elsewhere."¹

Since the early 1990s and the outbreak of multiple wars in the wake of Yugoslavia's collapse, cigarette smuggling has become a multi-billion-dollar business in the Balkans, simultaneously sustaining many of the region's governments and draining the newly formed states of potential tax revenue. Montenegro, Serbia, Croatia, Macedonia, Kosovo, and portions of Bosnia (particularly Republika Srpska and Herzeg-Bosna) have financed their war-time and peace-time activities with the illicit tobacco trade. Cigarette smuggling has also become big business in neighboring Romania, Bulgaria, Greece, and Albania. The growth of informal and illicit trade networks in the Balkans (in addition to cigarettes, trafficking in drugs and people now often feeds both underground and legitimate economies) is usually said

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to be a consequence of the porous borders and weak institutions in post-communist Southeastern Europe, and of the political and economic distortions caused by the Yugoslav wars. Implicit—and at times explicit—in these explanations is a cultural assumption that the Balkan countries are the sick offspring of the sick man of Europe, as the Ottoman Empire, which dominated the region a century ago, used to be described.² More accurately, however, the pervasive informal and illicit trade in the Balkans should be seen as an integral part of the world economy, a local response to the rise of global merchant networks. From this perspective, the Balkans represent a zone of sovereign exception that has affirmed and enabled the continued functioning of the international state system through a period of significant economic and political turbulence.

Placing Balkan cigarette smuggling in a historical and global context reveals the symbiotic relationship between statehood and illicit trade in the modern world economy. This article builds upon Giorgio Agamben's re-conceptualization of sovereignty as depending on the ability to suspend law and create juridical zones of exception.³ In short, contraband activities thrive precisely thanks to the checkered nature of the international state system, which inextricably entwines zones of law and lawlessness. Smuggling is thus a game—both literally and metaphorically—neither with nor without frontiers. It is a game dependent on politically or juridically constituted transit zones where the laws of territorial states are temporarily suspended.

A History of Balkan Smuggling

Contraband trade has a long history in the Balkans. The Ottoman Empire proved to be an ideal location for the “conquering Balkan Orthodox merchant” who captured the trade routes between Central Europe, Russia, and Constantinople.⁴ Since the days of the Ottoman rulers, informal and illicit trade networks have paralleled legitimate commerce. The Ottoman Empire's division into customs zones with different import and export duties, different taxation scales for sea and overland trade, strict regulation of internal trade, and a ban on exports of staple goods to Europe, unintentionally created numerous opportunities for arbitrage, speculation, and contraband trade. In short, the Balkans became an environment in which commerce—legal and otherwise—could flourish.

In addition, the Balkans were on the geographical edges of two empires, the Habsburg and the Ottoman, making the region a potential flashpoint. Southeastern

Europe became the principal battleground in the reluctant mutual courtship and perpetual contest between the two worlds. Situated in this geopolitical no-man's land, the Balkans emerged as a forbidding, self-enclosed zone through which only the initiated, the well acquainted, or the native could travel. Various forms of banditry—from the *uskoks* of Senj to the *hajduks* of Serbia to the gangs of Albania and Montenegro—threatened foreign merchants and kept them, for the most part, off the Balkan overland routes. The disorder, anarchy, and danger that came to be associated with Balkan overland trade empowered the native merchants, eliminated their competition, and led to the formation of mini-merchant fiefdoms with their own forms of protection and authority.⁵

The agricultural-military foundation of the Ottoman Empire favored Muslims exclusively, but left trade in the hands of foreigners or non-Muslims. Merchants used diaspora communities and population migrations to spread trade along family, friendship, ethnic, or village ties, without raising any major uncertainties about trust or future exchanges. These informal channels overlaid the Balkans with a complex web of overlapping communities that the boundaries of a nation-state could never contain. Trade flourished among those who knew how to navigate the rocky terrain of cultural differences. The interlocking networks antagonized any group whose interests were first and foremost territorial: landowners and peasants, bureaucrats and their tax-paying subjects, (self-identified) foreigners, and the natives.⁶

Cigarette and tobacco smuggling also have historical roots. Although enforced with different degrees of diligence, the Ottoman and Austro-Hungarian Empires both established tobacco monopolies that fostered contraband activities. The Ottoman monopolies covered only the tobacco trade—cultivation of tobacco for private use was allowed without any special permits. Farmers exploited this loophole from the time tobacco production began to expand in the eighteenth century. But the illicit cultivation and sale of tobacco and contraband truly began to flourish only at the end of the nineteenth century, when the combination of increased pressures on the peasant population, the weakening power of the government in Constantinople, and increased competition with the rapidly industrializing West pushed entire regions of Bulgaria and Macedonia into opium and tobacco production. The crops were then smuggled by sea into Western Europe either from the Albanian coast or along the old Thessaloniki-Marseille route.⁷

In contrast, the Austro-Hungarian empire attempted to control both the production and sale of tobacco. The

Habsburg monopoly supplied newly established cigarette-manufacturing plants in Croatia and Bosnia-Herzegovina and strictly controlled exports of both raw tobacco and cigarettes.⁸ Contraband activity along the borders with Serbia and across the Adriatic with Italy continued until World War I. In the inter-war period, the independent states carved out of the Habsburg and Ottoman lands quickly established new state monopolies and smuggling resumed, now with Germany as the main consumer of Balkan tobacco.

While smuggling declined after World War II, Yugoslavia's collapse, the subsequent civil wars, and the opening of the former Soviet bloc to trade have recreated many of the structural preconditions for commerce and contraband trade across Southeastern Europe. The Balkans of the twenty-first century may not be part of a vast agricultural and militarized empire (unless they are defined as the best-policed zone of the new global empire),⁹ but the region still exhibits many of the traits typical of a late nineteenth-century crossroads zone. Multiple borders (Bosnia alone has more than 400 border-crossings), different taxation systems, numerous refugee and diasporic communities, create a set of relations both within the Balkans, and with Europe, Turkey, and Asia that seems exceptionally conducive to informal and illicit trade. The Yugoslav wars, ironically, did not simply disperse arms throughout the region and perpetuate warlordism and private armies—they also resurrected the historical image of the region as a dangerous, hostile space for outsiders. The presence of legions of peacekeepers and representatives of various international communities does not change this picture. On the contrary, the foreigners create their own islands of sovereignty and tax-exemption around which informal and illicit commerce can flourish, while their dependence on local interpreters (language and otherwise) creates yet another layer of intermediaries between the formal and informal economies.

The Balkan Cigarette Trade Today

Anti-smoking campaigns have cut cigarette consumption in developed countries, but cigarette production and consumption continue to grow in developing countries, particularly Eastern Europe, Russia, and China. Cigarette consumption continued unabated during the Balkan wars. Despite transportation and delivery problems, demand was satisfied with locally produced cigarettes as well as with smuggled goods. Production and trade—legal and otherwise—were tightly controlled by local political elites who saw the potential for incredibly high

profits. The European Union, the Italian government, and independent media outlets in Croatia, Serbia, and Bosnia have uncovered multiple production and transit schemes originating in the former Yugoslavia.

The most obvious scheme involves control over production and distribution of locally produced cigarettes, both local brands as well as counterfeit versions of major brands. Although most local manufacturers operating in wartime could not compete with smuggled imports, several factories in the former Yugoslavia nonetheless generated large profits thanks to government support or shrewd distribution strategies. For example, Sarajevo Tobacco continued production throughout the

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city's 1993–94 siege.¹⁰ During those months of isolation, cigarettes were sold for as much as 100 deutsche marks per pack and were the favorite currency for barter trade. With steady production in a captive market, the 120-year-old Sarajevo Tobacco was one of the few manufacturers in Bosnia-Herzegovina, if not the only one, to register profits during that period. Its proceeds supported several factories owned by members of the Bosnian political elite as well as (illegal) purchases of weapons for the Bosnian army.¹¹ After the war, the management of Sarajevo Tobacco reinvested some of the profits to upgrade its facilities, and within just a few years the firm had reached 60–70 percent of its pre-war output.¹² However, it was unable to regain its pre-war Marlboro license from Philip Morris. When the management and employees of Sarajevo Tobacco tried to unilaterally privatize the factory, the government strenuously objected, knowing it would lose a major source of funds. Representatives of the international community annulled the privatization plan in 2001. The case is still pending in Sarajevo courts.

Rovinj Tobacco in Croatia also successfully continued its production through the war years. According to the company's own reports, its market share in Croatia increased from 35 to 63 percent between 1991 and 1997. By 2003, Rovinj controlled 95 percent of Croatian tobacco exports and was contributing nearly 5.5 percent



Map 1. The Čapljina Cigarettes

Cigarettes produced in Croatian tobacco factories in Zagreb and Rovinj were smuggled to the Herzegovinian town of Čapljina and from there transported all over the republic as products of the Tobacco Factory Čapljina. The “factory” was closed down in 2000 after an investigation by the financial police uncovered the scheme. According to the chief inspector of the financial police, Bosnia-Herzegovina lost tens of millions of U.S. dollars because of unpaid taxes on “Čapljina cigarettes.” Map reproduced with permission from the Center for the Study of Democracy (Sofia), “Smuggling in Southeast Europe,” available at www.csd.bg.

of the state budget’s total revenue.¹³ However, according to reports by the Croatian weekly *Feral Tribune*, Rovinj Tobacco was not immune to illicit distribution schemes for its products.¹⁴ Although the company denies all such reports, its most popular brand, Ronhill, was apparently smuggled across the borders of Croatia, with or without the direct knowledge of the company’s management. According to one account, the cigarettes were legally exported to Bosnia-Herzegovina and then re-imported into Croatia where they were subsequently sold on the black market at discount rates and without paying state taxes. In a variation on this scheme, Rovinj’s Slovenian subsidiary would, on paper, export cigarettes to companies registered in places like Cyprus, Liechtenstein, or Malta but owned by members of the Serbian, Montenegrin, or Croat political elite or their cronies. The cigarettes never reached their official destination, however, but were instead transported from the Slovenian port of Koper to Montenegro or even the Bulgarian seaport of Varna and then trucked back into Serbia, Montenegro, Bosnia, or even Croatia—all avoid-

ing custom duties and state taxes.¹⁵ Rovinj Tobacco also opened a cigarette-manufacturing plant in Čapljina, a town in Herzegovina, from which the cigarettes were sold all over Bosnia. Investigations by the Bosnian government later revealed that the Čapljina operation was a front through which cigarettes from Rovinj were being recycled.¹⁶

Smugglers in Serbia, Montenegro, and Macedonia seemed less inclined to protect their own domestic producers and instead dealt in foreign brands. Except for counterfeiting foreign brands, domestic tobacco and cigarette production declined in Serbia, Montenegro, and Macedonia, while foreign brands flooded the market.¹⁷ In addition, the territories resold cigarettes back into the European Union. The methods of smuggling major foreign-brand cigarettes through the Balkans were quite similar to the schemes for selling Croatian cigarettes in Bosnia and Serbia. While both Serbs and Macedonians participated in cigarette-smuggling rings, the most elaborate scheme by far was the one devised by the Montenegrin government. By the second half of the 1990s, Montenegro was the center of smuggling operations for the Balkans, “one gigantic marketplace for smuggled cigarettes,” according to German customs investigators.¹⁸

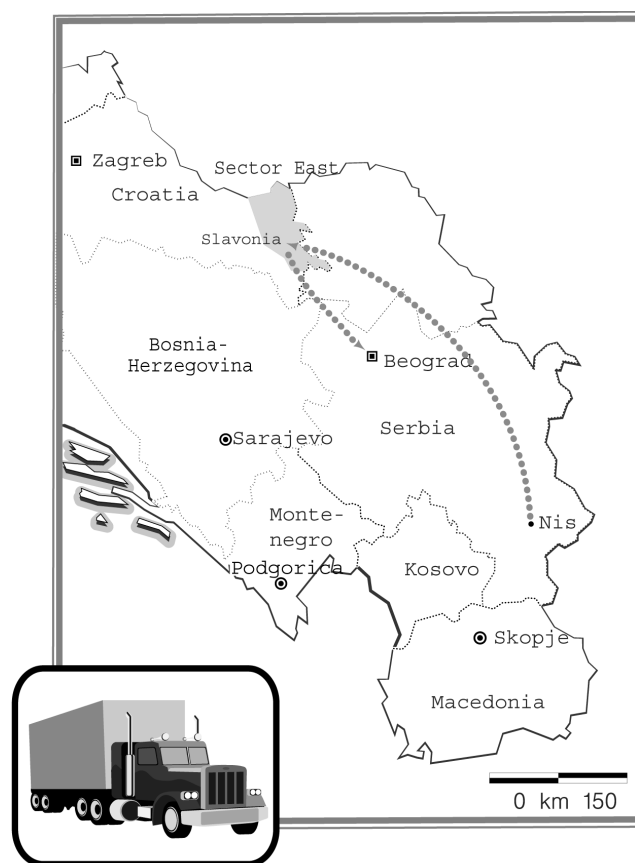
The Montenegrin smuggling operations were organized in two distinct ways over two distinct periods. They allegedly began in 1992, the onset of the Yugoslav wars, with the cooperation of both Serbian and Montenegrin officials. The initial smuggling ring was controlled by Vladimir “Vanja” Bokan, a friend of Slobodan Milošević’s son Marko and a son-in-law of General Nedeljko Bošković, special adviser for national security issues to the (then) Montenegrin prime minister, Milo Djukanović.¹⁹ Sometime in the early 1990s, Bokan bought the entire chain of newspaper and cigarette kiosks in Serbia from Marko Milošević, thus acquiring full control over tobacco distribution in the former Yugoslavia. Montenegro’s porous borders helped Bokan create links with cigarette manufacturers in Turkey, Bulgaria, Greece, Kosovo, and Montenegro and with markets in Western Europe, particularly Austria and Germany. Bokan was killed in Athens in October 2000, allegedly because he had threatened to reveal the links between Milošević’s inner circle and cigarette smuggling. Greek investigators and Interpol claim that Bokan had nearly \$50 million in his bank accounts in Switzerland, Greece, and Italy at the time of his death.²⁰

Bokan’s close ties with the leaders of Montenegro and Serbia became a liability when relations between Milo Djukanović and Slobodan Milošević began to de-

teriorate. Djukanović, who was a Milošević protégé and had become Montenegro's prime minister in 1991 thanks to Milošević's support, began to distance himself from Milošević in 1994. In 1995, he unilaterally offered NATO the use of the Montenegrin port of Bar for peace-keeping missions in Bosnia. The already tense relations between Serbia and Montenegro became even worse in 1997, when Djukanović was elected president, openly running a campaign against Milošević and advocating Montenegrin independence from Serbia. His anti-Milošević stance made Djukanović the darling of the West, particularly the United States, where he was praised as an exemplary market reformer and pro-democracy leader.

Djukanović's criticism of Milošević and his cozy relationship with the United States did not stop the cigarette smuggling through Montenegro. Instead, control of the cigarette trade gradually moved from Vladimir Bokan to Stanko Subotić Cane, a Serbian native with a Croatian passport, multiple private companies on Cyprus, and close ties to the Serbian opposition, the Macedonian government, and the Montenegrin leadership. In 2001 the Croatian weekly *Nacional* revealed that Subotić controlled the distribution of all major cigarette brands on the territories of the former Yugoslavia. Cigarettes were legally imported into Montenegro in quantities far greater than its relatively small market could have absorbed (Montenegro has 600,000 inhabitants). While they had previously been flown into Tivat and Podgorica from Antwerp and Rotterdam, cigarette shipments were now increasingly brought by ship to Bar. From Montenegro, the cigarettes were subsequently sold all over the Balkans, taken further into Turkey or even Iraq, and most frequently loaded on speedboats bound for Italy.²¹

Milo Djukanović now faces indictment in several European countries, and a court in Naples has issued orders for his arrest. The Montenegrin press speculates that the EU and the United States have made it clear to Djukanović that he should quietly withdraw from the political scene because they have no desire to protect black marketers and smugglers.²² Regardless of Djukanović's political future, the record of arrests and break-ups of smuggling rings in the former Yugoslavia shows that even removing top politicians is no guarantee that the illicit trade will stop. Serbian officials claim that they have managed to curb the quantity of cigarettes smuggled into Serbia from 80 percent to 20 percent of total cigarette consumption since the demise of the Milošević government in 2002.²³ More careful estimates state that the smuggling has been reduced by only



Map 2. The "Sector East Scheme"

The largest cigarette smuggling scheme in Serbia, operating from 1995 to 1997, involved the "export" of cigarettes produced by the Serbian cigarette-production giant Duvanska industrija Nis to Eastern Slavonia, the last part of Croatia held by the Serbs (until January 1998, when it was peacefully reintegrated into Croatia). The "exported" cigarettes were then smuggled back into Serbia and sold on the local black market, costing the state up to \$800,000 per day in lost revenue. Map reproduced with permission from the Center for the Study of Democracy (Sofia), "Smuggling in Southeast Europe," available at www.csd.bg.

16 percent.²⁴ Similarly, Italian officials say that breaking the mafia's connections with the Montenegrin government has slowed the pace of smuggling activities in southern Italy, but has not, by any means, completely eradicated the entrenched illicit trade.²⁵

Unlike many problems in the former Yugoslavia, smuggling activities were never linked to ethnic ties or hatreds. In fact, the smuggling rings depend on cooperation across ethnic lines and state borders. Croats exported via the Croatian diaspora in Herzegovina into Bosnia but also into Serbia, the mafia bosses of the Serbian and Montenegrin smuggling rings had Croatian passports, the Bosnian government traded control over cigarette production for weapons regardless of their country of origin. Similarly, cigarette smuggling was never captive to any particular political force: It was an

instrument of the repressive Milošević regime, the allegedly democratic Croatia, Montenegro, and Macedonia, as well as of their various internal enemies. As in the late nineteenth century, smuggling persists because of the conscious building and re-building of porous borders by political elites—that is, the symbiotic relation between statehood and illicit trade. Rather than being a product of war or of the subsequent anarchy, smuggling depends on forms of sovereign exceptions similar to those that sustained the peripheral areas of the old empires or were fostered by the development of contemporary offshore markets, a view that will be further reinforced by placing the Balkans into a wider network of global smuggling rings.

Global Cigarette Smuggling

The smuggling operations in the Balkans resemble cigarette-smuggling schemes around the world. Recent lawsuits filed by the European Union, Canada, Ecuador, Honduras, Belize, and Colombia against R.J. Reynolds, Philip Morris, and British American Tobacco, as well as investigative reports by the Center for Public Integrity and the Campaign for Tobacco-Free-Kids, have demonstrated that smuggling is most often conducted with the knowledge and consent of major cigarette manufacturers, if not on their direct orders.

The possible involvement of global companies in smuggling activities came to light in the mid-1990s, when researchers noticed a discrepancy between the figures for global exports and imports in the cigarette trade. As more precise numbers for cigarette exports and imports per country became available, simple arithmetic showed that more than one-third of the cigarettes traded globally had disappeared.²⁶ A 1997 report by the European Parliament suggested that 280 billion cigarettes were smuggled globally every year, with a loss of \$16 billion in global revenue.²⁷ According to the same report, the contraband market share in EU countries in the mid-1990s varied from 15 percent in Austria and Spain, to 10 percent in Italy and Germany, to 2–4 percent in France and Ireland. Similarly, a 2000 World Bank report noted that cigarette exports between 1975 and 1996 were consistently at least 1.3 times greater than imports, and that approximately 6 percent to 8.5 percent of the cigarettes consumed globally had probably been smuggled.²⁸ Based on a variety of sources, the World Bank also provided estimates of smuggling activities per country. According to its figures, more than 30 percent of the cigarette trade in Bangladesh, Cambodia, Colombia, Latvia, Lithuania,

Burma, and Pakistan was linked to smuggling.²⁹

The World Bank report differentiated two types of smuggling activities: bootleg and wholesale. Bootlegging occurs when cigarettes are purchased in one country and resold in another without paying taxes and duties. Wholesale smuggling refers to the sale of cigarettes without paying taxes or duties both across borders and within their country of origin. While bootlegging often implies small-scale trafficking, wholesale smuggling requires well-organized transportation and distribution networks. Hence, researchers suggest that while price and tax differentials may be sufficient and necessary inducements for bootlegging, wholesale smuggling requires other factors, such as corruption, public tolerance, established organized crime, and well-developed sales networks. Therefore, countries with high taxes may have relatively few smuggled cigarettes, whereas countries with much lower taxes—such as Spain, Italy, or the Central European states—seem much more prone to develop a black market cigarette trade.³⁰

By 1997, the large scale of the illicit trade in cigarettes, which almost always involved major international brands, had raised suspicions that wholesale smuggling might be connected to the world's largest cigarette manufacturers. The proof linking cigarette manufacturers with the illicit trade came to light only in 1998, when numerous documents related to the tobacco industry were released in a settlement between the U.S. government, U.S. states, and major cigarette manufacturers. In January 2000, the Center for Public Integrity released a report documenting the involvement of British American Tobacco and Philip Morris in cigarette smuggling in Canada, Hong Kong, and Latin America. According to the report, the companies consciously manipulated the labels of duty-free, transit, and legally exported cigarettes to reach markets without customs and local taxation.³¹ At about the same time, European and Latin American governments filed lawsuits against the U.S. tobacco manufacturers in U.S. courts alleging corporate control over illicit trade.

Subsequent research has uncovered several major global routes for illegal cigarettes. On the Asian front, China seems to be the main center of smuggling activities, but Malaysia, Hong Kong, and Singapore, as well as the United Arab Emirates, Turkey, and Israel have also been significant origination or transit points for cigarettes destined for the European Union. In Europe itself, cigarettes have been smuggled through the Baltics, Central Europe, and the Balkans. In Africa, cigarettes leave Kenya, Ghana, and South Africa by ship along the West African coast to continental Europe and the

United Kingdom. While some cigarettes destined for Europe come from Central America, the United States is the primary trans-Atlantic source.³² Finally, cigarettes from Europe and the United States are also smuggled into Asia, Africa, and Latin America. Cigarettes produced in the United States or in Europe are frequently exported only to be smuggled back into their countries of origin—this time, however, with no tax or custom duties attached.³³

For the major cigarette manufacturers, the most important benefit of smuggling is the expansion of their market share. While high tax levels, negative publicity, legal actions, and health warnings against the tobacco industry in most of the developed countries could have significantly affected cigarette consumption around the world, smuggling has ensured that millions of smokers still have access to relatively cheap cigarettes. Since the only loss in these transactions is the loss of government revenue from taxes and custom duties, the manufacturers have successfully retained—and sometimes increased—their share of profits.

These, at least, are the allegations by the plaintiffs in a series of lawsuits by the governments of Canada, Colombia, Honduras, Belize, and the European Union against major U.S. cigarette manufacturers and their overseas distributors. The cases, filed in the United States under the Racketeer Influenced and Corrupt Organizations (RICO) Act, were thrown out of court. Siding with the tobacco industry, the courts relied on the common-revenue law (i.e., a sovereign state cannot impose its revenue code on other sovereign states) to dismiss the cases, claiming that U.S. courts cannot be used to retrieve foreign taxes.

Following the terrorist attacks of September 11, 2001, EU lawyers modified their claims and re-filed their cases under the new Patriot Act. They argue that the Patriot Act, with its insistence on international cooperation in the global battle against organized crime and money laundering, renders the common-revenue law irrelevant. They also point out that Congress explicitly rejected a provision, demanded by the tobacco lobby and backed by the White House, that the Patriot Act should have no bearing on the common-revenue law.

The new complaint, filed in 2002, emphasizes the links between cigarette smuggling, money laundering, and organized crime. Money earned in Europe through cocaine or heroin trafficking was, according to the plaintiffs, laundered through cigarette-smuggling schemes. In addition, the lawsuit alleges links between cigarette manufacturers and well-known enemies of the United States, such as Serbian strongman Slobodan Milošević

and Uday Hussein, son of the deposed Iraqi leader Saddam Hussein. The legal justification for the dismissal of the lawsuits, the White House attempts to protect Big Tobacco, and the ways the EU has modified its claims all demonstrate that smuggling operations do not take place in a political vacuum. They require the participation and tacit support of governments in the West. As such, illicit operations call into question the way the relationship between smuggling and security has recently been conceptualized in international relations.

Sovereign Complicity

The political interventions to protect U.S. tobacco interests echo Richard Sklar's comments to the Bosnian Presidency mentioned at the beginning of this article. But contrary to the conventional wisdom, cigarette smuggling is not the exclusive domain of corrupt Bosnian politicians, a side-effect of failed or collapsed states, or a consequence or companion of war and international sanctions. Placed in its historical and global context, cigarette smuggling no longer seems unique to the peculiarities of the contemporary Balkan region. Instead, the Balkans, like Burma or the Triple Frontier separating Argentina, Brazil, and Paraguay, have become an attractive state-like supplement to a world-wide commercial network.

This hardly fits most recent descriptions of criminal commerce. Smuggling, trafficking, and other forms of illicit trade are generally considered to be manifestations of state weakness or state deviance. Ignoring the long history of contraband activities and their role in the construction of the modern state system, Mary Kaldor, for example, argues that illicit trade represents the major source of financing for "new wars" over culture and identity, fought by paramilitary troops and private armies and financed by drugs or human trafficking.³⁴ Basing her arguments, to a large degree, on a close examination of the Balkan situation, and treating the recent wars in the region as the archetype of contemporary warfare, Kaldor argues, in essence, that new wars of this kind are the most visible symptom of an international state system weakening in the face of globalization.³⁵

Historically alert but totally oblivious to global forces, proponents of the failed-state theory also perceive the link between violence and illicit commerce as a sign of state weakness.³⁶ Unlike Kaldor, however, they view them as problems endogenous (but not exclusive) to recently formed post-colonial or post-communist states. Failed states, in this perspective, generally have the ex-

ternal characteristics of statehood but fail to function like states internally. Governments lack territorial control, cannot extract taxes or provide security or public services to their citizens, fail to control their borders, and are corrupt. These shortcomings create conditions in which illegal activities can not only flourish, but also become substitutes for normal state functions. Violence and organized criminality, in this view, have little to do with forces outside the failed states—they are endemic to specific regions or states, black holes in the interna-

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tional system that can only be filled by rebuilding state institutions or establishing international protectorates.

Finally, even analyses inspired by Charles Tilly's classic work on the rise of the modern European state, which perceives illegality and statehood, commerce and violence as inextricably entwined, often see the current spread of informal networks as merely a step toward the establishment of real states.³⁷ While Tilly himself always emphasized that states were neither intentionally produced nor irreversible forms of political and social organization, most contemporary works on informal and illicit economies that follow in his footsteps tend to raise the possibility that illicit activities will eventually become legalized and, more importantly, legitimate. The new robber barons—today's warlords or violent entrepreneurs—will at some point attempt to protect their profits with laws. The new elites will become interested in reinforcing state mechanisms.³⁸ In short, despite Tilly's warning to the contrary, the teleology of the state is still at work among his followers.

If, however, the assumption of state incapacity were to be removed from studies of smuggling and illicit trade, a completely different picture would emerge. Namely, not only is illegality endemic to the modern state system (thus there is little "new" about it), but so is the alleged failure of some states—they are exceptions only insofar as they perpetuate the rule. Looking at the above descriptions of smuggling networks, both in the Balkans and world-wide, it becomes obvious that there is one theme that links the trade along all these routes: All cigarette smuggling schemes take advantage of the transit rules that govern legal international trade. Thus, a truck loaded with cigarettes that enters Germany

from Poland en route to Spain will not be obliged to pay any custom duties or taxes in Germany. As long as the papers clearly indicate the intended destination, the cigarettes can easily disappear en route. Smugglers often deliberately multiply the number of transit countries and places where their load can be shifted and changed, since that minimizes the chances of being caught. Smuggling, therefore, flourishes on the basis of gray areas of international sovereignty—spaces where the laws of a state are, for one reason or another, suspended. Applicable laws exist; they just are not enforced.

Conclusion

The most important aspect of the Balkans for global cigarette smuggling is the fact that it is neither a zone of safety nor a zone of danger. Rather, it is a transit zone, an area where laws are temporarily and selectively suspended to ensure proper circulation of goods through the international state system. Modern-day smuggling, then, re-constitutes the Balkans as a dual periphery, much as it was in the nineteenth century, simultaneously included and excluded from Europe, part of both the legal global economy and its illicit counterpart. The Balkans serve as a giant, semi-regulated (or at least government-protected) territory where products that would otherwise have difficulty entering European or Western markets get recycled, laundered, or refurbished, and then are brought (back) into the West. The Balkan states, like the off-shore tax havens described by Ronen Palan, act in much the same way as "parking lot proprietors: they could not care less about the business of their customers, only that they pay for parking their vehicles there."³⁹ They offer protection services and local hide-outs to global corporations or organized crime networks and help them circulate their goods without questioning their origin or worrying about their final destination.

The question of sovereignty, of the Balkan states' neither-here-nor-there position in Europe, affirms the importance of questioning and challenging the widespread notion of the Balkans as a political anomaly, an area of deviant lawlessness, corruption, and crime. Palan's argument about tax havens seems quite pertinent. The commercialization of sovereignty—the sale of sovereign space in exchange for protection, anonymity, and tax evasion—is not, in his view, just a simple response to the increased regulation and levels of taxation in advanced industrial countries. Rather, the commercialization of sovereignty is a pragmatic solution to an inherent contradiction between the state's increasing insulation in law and the internationalization of capi-

tal. The key to this solution is an element of juridical fiction rather than fact. The strategy of tax havens is based upon the premise that legal entities can establish a presence in their territories without actually relocating. Thus, not only are tax havens and their “prostitution of sovereign rights” endemic to the state system, they also constitute a “virtual state system” that feeds off the juridical and political infrastructure of the “real” state system and enables the smooth functioning of the global economy.

James Mittelman and Robert Johnston offer a similar analysis of the relationship between states and organized crime.⁴⁰ The emerging “courtesan state,” as they call it (the analogies to prostitution in both analyses are quite interesting in themselves), finds itself in a subservient position to the more powerful interests in the global political economy. While offering services to its wealthy clients, the advanced industrial countries, it neglects to provide social services for its own poor. Organized crime steps into this void and acts as an intermediary between the two worlds. Therefore, organized crime can be seen as a manifestation of a Polanyian double-movement, the consequence of the expanding global economy and the search for forms of social protection.

What both of these analyses share is a sense that the clash between economic liberalization and the state’s embeddedness in a set of laws generates its own perversions that, in turn, allow the global economic system to continue to function. The best Balkan example of such a deviant state may be Bosnia-Herzegovina, entirely a construct of the international community and the liberal economic order. However, while the international community in Bosnia insists on those attributes of statehood that enable international capital to flow through it freely (e.g., standardization of laws with advanced industrial countries, transparency rules that allow global merchants to operate in Bosnia just as easily as in, say, Singapore), local merchants continue to perpetuate internal barriers and legal idiosyncrasies that strengthen their own position. As a result, the state operates as a no-man’s land, combining elements of legality and illegality in which informal markets and illicit trade thrive as a way to connect Bosnia to world markets.

But there is another element of these analyses worth mentioning. Both Palan and Mittelman emphasize the fact that sovereign exceptions are, indeed, endogenous to the international state system; and that lawlessness (or the prostitution of law, in their terminology) is a fundamental part of the modern world economy. In this respect they come close to Giorgio Agamben’s works

on sovereignty, which also stress that it is the exception and not the law which constitutes the essence of sovereign power.⁴¹ Indeed, over the past decade the media have helped construe the Balkans into precisely such a zone of sovereign exception, making the extant sovereign order possible.⁴² This same politics of representation has its counterpart in the actual economic flows. The Balkans, as an alleged zone of lawlessness and corruption, may indeed be an integral part of the world economy that sustains the functioning of the international state system rather than eroding it.

Therefore, policy prescriptions that solely emphasize the strengthening of local state institutions in the Balkans as a way to eradicate contemporary illicit trade patterns seem inadequate. Without examining global corporate practices, states that harbor them, and their impact on smuggling, efforts to strengthen local state institutions may—at best—move illicit trade somewhere else and—at worst—increase the pressures on traffickers to organize better and extract larger profit margins from smaller volumes of trade. The opposite policy prescriptions, such as turning the Balkans into a free-trade zone or speeding up its integration into the EU, might have better chances of success. Instead of lamenting the weaknesses of the Balkans, it may be the time to try to capitalize on them.

Notes

1. Dženana Karup-Druško “Reket za Dodika, Bičakčića i Čovića” (A Racket for Dodik, Bičakčić, and Čović), *Naši Dani* (October 13, 2000).

2. Since the Dayton Peace Agreement of 1995, and especially since the 1999 Kosovo war, the discourse about the former Yugoslavia as a land of “ancient ethnic hatreds” and senseless identity-based violence has been replaced by the discourse of lawlessness, corruption, and criminality. See, for example, the U.S. Institute for Peace report, “Lawless Law Versus Rule of Law in the Balkans,” no. 97 (December 2002), available at www.usip.org/pubs/specialreports/sr97.html.

3. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998).

4. Traian Stoianovich, “The Conquering Balkan Orthodox Merchant,” *Journal of Economic History* 20, no. 1 (1960): 234–313.

5. For the history of Balkan economies under the Ottomans, see Halil Inalcik and Donald Quataert, *An Economic and Social History of the Ottoman Empire, 1300–1914* (New York: Cambridge University Press, 1994); Resat Kasaba, *The Ottoman Empire and the World Economy* (Albany: SUNY Press, 1988); John R. Lampe and Marvin R. Jackson, *Balkan Economic History, 1550–1950: From Imperial Borderlands to Developing Nations* (Bloomington: Indiana University Press, 1982); Bruce McGowan, *Economic Life in Ottoman Europe: Taxation, Trade, and the Struggle for Land, 1600–1800* (New York: Cambridge University Press, 1981); Michael Palairot, *The Balkan Economies c. 1800–1914: Evolution Without Development* (New York: Cambridge University Press, 1997).

6. On the significance of diasporas, see especially Stoianovich, “The Conquering Balkan Orthodox Merchant.”

7. See particularly Palairot, *Balkan Economies*.

8. Peter Sugar, *Industrialization of Bosnia-Herzegovina, 1878–1918* (Seattle: University of Washington Press, 1967).

9. According to Negri and Hardt, the new empire is all-encompassing,

more similar to the Roman Empire than to nineteenth-century imperialism. It embodies elements of the American constitutional order but should not be identified with the United States only. It is the political expression of globalization. Michael Hardt and Antonio Negri, *Empire* (Cambridge: Harvard University Press, 2001).

10. Daria Šito-Sučić, "Sarajevo Plant Seeks New Marlboro License," Reuters (January 19, 1999).

11. Džnana Karup-Druško, "(Ne)Zakonita privatizacija Fabrike duhana Sarajevo" (Illegal Privatization of the Sarajevo Tobacco Factory), *Naši Dani* (May 10, 2002).

12. Šito-Sučić, "Sarajevo Plant."

13. See annual reports for Rovinj Tobacco on their Web site at www.tdr.hr/eng/corporate/index.html.

14. Ivica Djikić, "Balkanska Pušionica" (Balkan Smoking Room), *Feral Tribune*, available at www.feral.hr/index1.php?article=2002,871,djikić/.

15. Ibid.

16. Marko Hajdinjak, *Smuggling in Southeastern Europe* (Sofia: Center for the Study of Democracy, 2002); also Karup-Kruško, "Racket."

17. In Serbia, the largest cigarette manufacturing company—Duvanska Industrija Niš—nearly shut down in late 1990s. See Zoran Kosanović, "Šverc zatvorio fabriku" (Smuggling Closed Down the Factory), AIMPress report, available at www.aimpress.ch/dyn/pubs/archive/data/199707/70710-019-pubs-beo.htm. In Macedonia, tobacco growers have been experiencing tremendous difficulties in putting their crop on the market, because neither merchants nor the state have sufficient money to purchase their annual output. See Branka Nanavska, "Proizvodjači duvana beru bostan" (Tobacco Growers Getting Short End of the Stick), AIMPress report, available at www.aimpress.ch/dyn/pubs/archive/data/200201/20130-003-pubs-sko.htm.

18. Nicholas Forster and Sead Husić, "Probe into Montenegro's Role in Illegal Cigarette Trade," *Financial Times* (August 9, 2001).

19. Major revelations about Montenegrin cigarette smuggling were first made in the Croatian weekly *Nacional*. Most of the information in the next few paragraphs is based on their reports. See Jasna Babić, "Nacional Reveals the Head Mafia Boss of the Balkans," *Nacional* (May 17, 2001). On Vanja Bokan, see interview with his associate Srećko Kestner, by Ivo Pukanić and Borislav Jelinić, "Nacional razotkriva kako je djelovala najveća balkanska mafijaska organizacija" (Nacional Reveals the Practices of the Largest Mafia Organization in the Balkans), *Nacional* (May 31, 2001).

20. "Put sverca duvana vodio do Nemačke" (Tobacco's Smuggling Route Leads to Germany), *Blic* (February 13, 2002), available at www.blic.co.yu/arhiva/2003-02-13/strane/hronika.htm.

21. Željko Ivanović, "Speedboats, Cigarettes, Mafia, and Montenegrin Democracy," *Balkan Crisis Report*, no. 83 (October 12, 1999), available at www.csd.bg/publications/book10/2.2.pdf.

22. "Premijer je kapitulirao" (Prime Minister Capitulates), Montenegrin electronic news service PCNEN, available at www.pcnen.cg.yu/pcnen2/afere/afere48.htm.

23. "Ko i kako švercuje cigarete u Srbiji" (The Who and How of Cigarette Smuggling into Serbia), Montenegrin electronic news service PCNEN, available at www.pcnen.cg.yu.

24. See "'Dnevnik' istražuje: putevi švercovanja cigareta između mafijskog i državnog budžeta" (Dnevnik Investigates: Cigarette Smuggling Routes Between Mafias and State Budget), PCNEN.

25. "Šverc cigareta iz Crne Gore još traje" (Cigarette Smuggling from Montenegro Continues), PCNEN (September 26, 2003).

26. L. Joossens, "Tobacco Smuggling: An Optimal Policy Approach," in *The Economics of Tobacco Control*, ed. I. Abedian et al. (Cape Town: Applied Fiscal Research Center, 1998).

27. European Parliament, Report on the Community Transit System, Committee of Inquiry into the Community Transit System, Rapporteur: Mr. Edward Kellett Bowman, February 20, 1997. Available at www.europarl.eu.int/hearings/kelletta/ke1_6_en.htm?redirected=1/.

28. Prabhat Jha and Frank Chaloupka, eds., *Tobacco Control in Developing Countries* (Washington DC: World Bank, 2000).

29. Ibid.

30. Ibid. See chap. 16, "Issues in the Smuggling of Tobacco Products."

31. For example, cigarettes with transit or duty-free labels would be legally sent to Montenegro, then illegally shipped back to Western Europe. The relevant report has two parts: "Major Tobacco Multinational Implicated in Cigarette Smuggling, Tax Evasion, Documents Show," released on January 31, 2000, and "Global Reach of Tobacco Company's Involvement in Cigarette Smuggling Exposed in Company Papers," released on February 2, 2000. Both are available at www.public-i.org/story_01_013100.htm.

32. World Customs Organization, Western European Regional Intelligence Liaison Office, *LASSO 2000: Review on Cigarette Smuggling in Europe* (Amsterdam, 2000).

33. Center for Public Integrity, "Cigarette Smuggling and Kids," available at tobaccofreekids.org/reports/smuggling/. More relevant reports are available at publicintegrity.org.

34. Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era* (Stanford: Stanford University Press, 1999).

35. Ibid.

36. See, for instance, I. William Zartman, ed., *Collapsed States: The Disintegration and Restoration of Legitimate Authority* (Boulder, CO: Lynne Rienner, 1995).

37. See Dietrich Jung, ed., *Shadow Globalization, Ethnic Conflicts, and New Wars: Political Economy of Intra-State War* (London: Routledge, 2003). Although far more nuanced than most analysis of contemporary illicit trade networks, even Jung's book, and particularly his chapter "A Political Economy of Intra-State War," still holds some hope that current illicit trade will eventually be transformed into a state-building force.

38. See Vadim Volkov, *Violent Entrepreneurs: The Use of Force in the Making of Russian Capitalism* (Ithaca: Cornell University Press, 2002).

39. Ronen Palan, "Tax Havens and the Commercialization of State Sovereignty," *International Organization* 56, no. 1 (2002): 152.

40. James H. Mittelman and Robert Johnston, "The Globalization of Organized Crime: The Courtesan State, and the Corruption of Civil Society," *Global Governance* 5, no. 1 (1999): 103–27.

41. Agamben, *Homo Sacer*.

42. Aida A. Hozić, "Zoning; or, How to Govern (Cultural) Violence," *Cultural Values* 6, no. 1 (2002): 183–95.

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