

“Order Is the Best We Can Hope For”: *Sicario* and the Sacrificial Violence of the Law

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The civilized have created the wretched,
quite coldly and deliberately, and do not
intend to change the status quo.

—James Baldwin

The spectacular modes of violence witnessed within contemporary politics offer a persistent challenge to the end-of-history proclamations that were made at the end of the previous century.¹ The imagined resolution of social antagonism that was presumed to follow the fall of the Berlin Wall promised a global order in which liberal, capitalist democracy would provide a cohering anchor for all nations and cultures to coexist within a single universal. Rivalry between sovereign nations had been accredited as the source of murderous global conflict in what had been the bloodiest century in human history up to the end of the Cold War; with the twenty-first century heralding the suppression of that rivalry, it was anticipated that the violence would dissipate under the glare of a shared adherence to rule of law. However, the preponderance of increasingly spectacular images of violence delivered by contemporary politics and reflected in our popular culture troubles this

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presupposition. The sight of the Twin Towers of the World Trade Center on fire that has been seared into our collective memory is read as confirming the end of “the end of history.”² The so-called War on Terror launched in the aftermath of 9/11 has continued to remind us of the return of a violence that was never truly contained, particularly with the images of Lynndie England’s Abu Ghraib and the capture of Saddam Hussein. Critical scholars have responded by taking up the task of unpacking the insights that the War on Terror can offer us with regard to the contemporary workings of violence within the modern global legal order.³ However, absent from this critical engagement has been another abstract war that has both preceded and paralleled the War on Terror: the so-called War on Drugs. The task I will undertake in this essay is to address this absence by drawing some insights into the structuring of contemporary violence and its operative function within our proclaimed peaceful global legal order. I will examine first the legal architecture that governs the War on Drugs and then the representation of this inexhaustible war within popular culture, particular through Denis Villeneuve’s 2015 film *Sicario*. *Sicario*, a cinematic interrogation of the irresolvable conflict between drug enforcement agents and narcotraffickers along the U.S.-Mexican border, captures the ways in which the drug war offers a telling instance of law underwritten by violence. The drug war and its damning representation in films such as *Sicario* offer a significant challenge to the presuppositions of the universal triumph of the rule of law heralding the realization of universal peace, for the legal project of universal drug prohibition requires reconciling an expansion of law with an expansion of violence. I will illustrate how the drug war reveals a violence that is not only present within the legal order but also in fact constitutes its very ground, a violence that takes a (re)generative form due to the way in which the construction of its victims imbues it with legitimacy. I term this violence “sacrificial violence,” following the work of philosophical anthropologist René Girard. My exploration into the sacrificial undercurrent of legal ordering begins with an evidential problem: that the empirical violence that has resulted from the law’s determination to prohibit drugs cannot be explained without challenging the orthodoxy that international law is opposed to violence. The contradiction between international law’s founding claim to save “succeeding generations from the scourge of war”—as stated in the opening line of the preamble to the United Nations (UN) Charter—and its concurrent declaration of a War on Drugs holds significance for both scholars and practitioners who continue to uncritically invest in the redemptive power of law.

The Drug War as Catastrophe

To intimately associate the violence of the War on Drugs with the workings of the international legal order is to call into question a primary orthodoxy of the law: that the law acts as an external limit on violence. Orthodoxy prescribes that we submit to the authority of the law through faith in its ability to restrict the human inclination to violence, thereby providing the basis upon which a social order can be founded. Through conceptions about the arrogation of the rule of law so as to function in a single global sphere that came to fruition over the course of the twentieth century, the equation between this extension of the rule of law and the extension of peace was taken as self-evident. Such an assumption is demonstrated in the founding document of the contemporary international community, the UN Charter, in which a global legal order is imagined as being produced through the promise of international law to ensure a universal peace.⁴

However, the empirical consequences of international laws prohibiting drugs trouble any such easy equation between the extension of the rule of law and the extension of peace.⁵ The War on Drugs has produced little more than the same mass of casualties that all wars tend to produce. The drug war has visited catastrophe upon untold millions; it has been the cause of social death (through mass imprisonment) and material death (through violent state enforcement) throughout the globe. For example, in the United States more than half of all federal prisoners have been incarcerated due to drug offenses,⁶ while internationally the United States is openly engaged in targeted assassinations of suspected drug traffickers.⁷ In Rio de Janeiro, where law enforcement is understood by authorities to be “a war against gangs and drug traffickers,” on-duty police officers are estimated to kill at a rate of three people per day.⁸ At the height of the Colombian drug wars, the annual murder rate was 1 person per 1,000 of the population.⁹ In addition to the deaths, there were 300,000 Colombians driven from their homes.¹⁰ Stories of death and displacement are repeated across the Americas, where indigenous peoples routinely lose their livelihoods through crop eradication and land seizure programs invoked to enforce drug laws.¹¹ And in Mexico, the region that currently occupies the popular imagination as the epicenter of the crisis of the drug war, as illustrated by *Sicario*, murders between 2006 and 2012 totaled 60,000, a number widely accredited to an escalation of the drug war.¹² The scale of the violence is better appreciated when compared with the 14,728 civilian deaths in Afghanistan over the same period while that nation was at war.¹³ Even a cursory review

of such statistics invites us to question how this devastation that has emerged during an era marking the triumph of a global rule of law can be reconciled with the promise of universal peace contained in the founding document of the modern international legal order. The challenge is only amplified when we consider the futility of the violence of the drug war in achieving its own stated goals. Through its universal prohibition of the drug trade, the law explicitly stated its aim to bring about “A Drug-Free World.”¹⁴ This ambition emphasizes a belief in the omnipotence of the law. International drug prohibition held that it was within the power of the law to conform a world to its word, that a law prohibiting drugs could universally reduce and finally abolish the production and therefore the use of substances drawn from naturally occurring plants such as coca, opium, and cannabis (outside of the narrowly defined realms of the medical and the scientific).¹⁵ The idea was that the law would, through its force, suffocate the supply of drugs, while concurrently the authority of the law would inspire a reduction in demand by discursively constructing these substances to be transgressive.¹⁶ In practice, the defeat of this ideal has been outright. Even an institution invested in proclaiming the success of prohibition, the United Nations Office on Drugs and Crime (UNODC), had to admit the durability of the drug trade, estimating that between 162 million and 324 million people used illicit drugs recreationally in 2012.¹⁷ Following prohibition, the continuing prevalence of drug use has led to the trade in illegal drugs emerging as among the most lucrative of all global criminal industries, accounting for one-fifth of global criminal proceeds, by the UN’s own admission (rising to half if tax evasion is discounted).¹⁸ This is all despite over \$100 billion per annum being spent globally on enforcing the War on Drugs.¹⁹ And of course, the costs in terms of bodies, as detailed above, outstrips even this financial loss.

Despite these figures, many still do not recognize the War on Drugs as a catastrophe. According to the generals of this drug war, “who dream of a world free of drugs,” the conventions’ “success . . . is undeniable.”²⁰ For these agents, any negative consequences of the attempts to enforce prohibition are seen as reinforcing the dangers of the drugs rather than indicating any failure of law. Their response to the evident failures of the drug war has been to call for more law: more enforcement programs, more institutions, greater surveillance powers, and stronger punishments for those who defy the law. Outside of their consideration is the potential of the law to actually be implicated in the ills of the drug war. The dissociation of the catastrophe from the actual law itself is also echoed by some critics of prohibition, who claim that the drug war is an

“approach [that] might be tempting in theory but in practice is murderous and self-defeating.”²¹ The latter understanding portrays prohibition as a benevolent project, albeit one that due to unforeseen complications has created worse harms than those it initially aimed to address.

Rejecting both of these perspectives on the War on Drugs, I propose a focus on the ways in which the violence detailed above is actually inscribed in the law, and I further seek to illuminate the function that such violence serves in constituting and sustaining the international legal order. The drug war must be reinterpreted. It must no longer be held as a necessary undertaking or as an unfortunate misstep in international law’s teleological march toward universal peace but instead should be read as an instance of a recurrent struggle that gives the global legal order its very form.

Law’s Violence

To begin to address the question of reconciling the violence of the drug war with the workings of a peaceful legal order requires recognition that the violence of the drug war is not a violence that is the opposite of law—after all, it is spoken into existence by the law. Yet neither can this violence be understood as simply all that the law is, since this would destabilize a law understood as self-authorizing the peaceful order of a community. Therefore, the evidential problem of the violence of the War on Drugs requires a far more challenging analysis of the tension between order and violence within the law.

A refusal to see law as the external solution for crises of violence provides a starting point from which to seek an alternative narrative for how a peaceful juridical order is produced. First, the relationship between law and violence escapes such an easy binary opposition. The War on Drugs is just one instance that illustrates how violence can be produced not through an absence or lack of law but instead by emerging from law itself and from attempts to enforce its regulations. Multiple forms of violence are performed every day through the law and its institutions. Rather than seeing law and violence as fixed in a rigid dichotomy, a rich tradition of legal scholarship has focused on the intimate relationship between law and violence.²² Richard Cover famously unveiled the violence of the law by declaring that “legal interpretation takes place in a field of pain and death.”²³ Cover showed that it is this ability to inflict “pain and death” that gives law its authority. Law must be violent in order to take effect; without the ability to wield violence, the

law is not the law. And yet violence cannot be the totality of what the law is, for if law were only violence, it would not invoke the reverence that the law requires.²⁴ This paradox is taken up by Walter Benjamin's "Critique of Violence," which canonized the concept that legal violence possessed a distinguishing "mythical" quality. By "mythical," Benjamin is referring to the function of legal violence, which he sees as making or preserving law.²⁵ This imagining of the nexus of law and violence as establishing and/or sustaining a determinate order has informed a tradition of jurisprudence that remains highly influential in critical legal studies. However, rather than merely concerning itself with legal violence as only the inflicting of physical force through the word of the law, recent scholarship has illustrated the multiplicity of law's violence. Violence informs law's discourse as well as its actions in the way law uses languages and representational practices to silence perspectives, the way it denies alternatives of experience, and the way it delimits legitimacy through its objectifying epistemology.²⁶ To best appreciate the operation of violence within the contemporary legal order, I draw on these refined, discursive understandings of law's violence in addition to the singular impact of law's force. While the violence of the War on Drugs is often manifested as the visible exertion of force, this material violence is merely the superlative form of a preceding discursive violence, a construction of particular subjectivities that renders them naked before the ultimate material violence. These two dimensions of legal violence should not be separated: the material is, in itself, always already discursive. Material violence must reduce things beyond what they possibly could be, before it enacts force upon them. The material and the discursive are part of the same process of violence, and it will be this process, over and above the inflicting of force (social/material death), that can be traced in both the legal structure of the drug war and its imaginings within popular culture. Furthermore, this violence operative through the law serves the function of constituting lawmaking in Benjaminian terms: of producing a legal order. In this essay, I argue that the model for how legalized violence can be productive is found in the notion of sacrifice, a notion often confined to the premodern but that continues to maintain purchase within our presupposedly secularized modernity.

Girard's Theory of Sacrifice

The above-detailed violence of the drug war is best read as a violence that actually constitutes, rather than destabilizes, law. To

better appreciate this argument, it is necessary to unpack the notion of sacrifice, with particular reference to the operative role it plays in facilitating and sustaining community. The potency of sacrifice, specifically as a (re)generative mode of violence, is most clearly illuminated in the work of French anthropologist, philosopher, and literary critic René Girard. Initially through his engagements with literature and later through his fully realized theoretical works, Girard offers an expansive narrative about the origins of violence in community. By drawing on the grammar of the theological, he offers an elegant account of how the mechanism of legitimate violence allows a community to form while externalizing violence from within. Girard traces the ritual of sacrifice through the mythology and religions of human culture, reading its recurrence as betraying a subterranean mechanism for neutering the reciprocal violence that results from rivalry within any community. For Girard, the sacrificial ritual facilitates this catharsis by transferring that violence onto a legitimate victim, a victim that the community somehow justifies as deserving of violence.²⁷ Girard's schema suggests an alternative understanding of international law's arrogation of a universal peace in the making of a community of nations.²⁸ Through his analyses, we can revisit the relationship between the production and renewal of the international legal order and an outbreak of violence such as the War on Drugs, considering how certain modes of violence may actually facilitate, rather than destabilize, the peace of the international community.

Girard's model does not start from a presupposition of order as the normal state of social relations. Rather, he skillfully traces a structure in which conflict becomes the default condition that prefigures the emergence of community. He demonstrates that conflict is *a priori* and exists due to the mimetic quality of desire. In contrast to classical understandings of desire as inherent to the human soul, tamed through engagement with the capacity for reason, Girard suggests instead that human desires are determined not by one's own mind but rather in reflection of the desires of those others to whom we award the recognition of being. Upon perceiving the desire of another, the human subject comes to desire an object, thereby creating the figure of "the rival." For Girard, rivalry is not a distorted manifestation of human relationship but instead could be said to form its basis, betraying the mimetic to be the primary impulse of the human.²⁹ A structure is therefore set in place for perpetual, intensifying violence between all those who claim subjectivity. Rivalry, following desire, functions mimetically, and as a result a state of crisis emerges that threatens to engulf all participants. A contagious cycle of violence materializes, multiplying as more and

more subjects reflect each other by directing their desire toward the objects of contestation. Therefore, the basic requirement for a community to be established becomes the need for this intensifying violence to be quarantined. For Girard, this abiding peace is not achieved through a spontaneous truce. Rather, unanimity is only brought about by displacing the violence felt by rival for rival onto a surrogate victim, a figure Girard names the “scapegoat.”³⁰ The scapegoat is employed as a sacrificial substitute, tasked with absorbing the violence that has plagued the rival subjects and expunging this violence through its own sacrifice, thereby allowing a community to emerge. Sacrificial violence cordons off the eruption of the maleficent violence that promised only perpetual disorder. Girard illuminates the workings of this mechanism in clear detail:

The violence directed against the surrogate victim might well be radically generative in that, by putting an end to the vicious and destructive cycle of violence, it simultaneously initiates another and constructive cycle, that of the sacrificial rite—which protects the community from that same violence and allows culture to flourish.³¹

For Girard, this act of legitimate violence serves as the prerequisite for any social order to emerge. The sacrificial mechanism must remain concealed in order to achieve this catharsis: if the act of violence is not seen to be justified, then it will merely add to the crescendo of violence emerging from the mimetic rivalry. Only when read by the social order as legitimate does the sacrifice of the scapegoat facilitate “the very real metamorphosis of reciprocal violence into restraining violence,” bringing about a societal mode of relations.³² However, following Girard, the externalization of violence onto the scapegoat creates as it destroys. While it removes the initial rivalry, it establishes paucity in the emergent social order’s ability to account for itself positively, allowing room for a periodical rereferral to that generative act of violence in order to ensure continuing cohesion. The bounding of violence also becomes an enabling of violence, since a particular category of violence becomes that which is (re)generative of the social order as a whole.³³ Girard’s model for the emergence of a peaceful social order is an inviting lens through which to analyze international law’s relationship to an enacting of violence such as the War on Drugs. What this model illuminates is how the notion of sacrifice has been misunderstood. Sacrifice is not enacted in service of transcendent gods but in fact is an offering onto the social order that itself practices sacrifice. Particularly within our secularized modernity, constituted as devoid of an external, transcendent reference

point such as a god, legitimate violence “becomes an ‘introverted’ sacrifice, a sacrifice to the perfected immanence of a now disenchanting world.”³⁴ This understanding aids us in reconciling the way in which violence can be both produced through the law and productive of the law. As the law posits itself as ontologically complete, it masks a crucial element of its being; it remains, at all times, dependent on a spectacular form of lawmaking violence, for “what the sustaining of modern law requires . . . is sacrifice.”³⁵ Girard provokes the question of whether for international law to constitute itself it must allow room for a violence that will promote the cohesion and preservation of the legal order.³⁶

Girard’s schema of community (re)generation through legitimate violence offers an alternative grounding for the international legal order. My move to filter a critical approach to international law through the Girardian model is not devoid of scholarly antecedents. Gregor Noll has most clearly drawn this link, between the paucity of international law’s ability to positively account for its own coming into being and the subsequent room left for referral to a violence that (re)generates the society of states.³⁷ It is in agreement with Noll, and following Girard, that I suggest that the international community’s movement, from being plagued by contagious, internal violence to the miraculous “peace” of the modern legal order, can be read through the mimetic violence between sovereign nations being displaced onto a hidden third term, a target structured to serve as a legitimate recipient for this violence: a scapegoat. Drawing on Girard directs the focus to the potential for conflict offered by an order of sovereign states that constitute themselves free from an overarching, transcendent point of authority. Girard understands rivalry as inherent in any social order and argues that any such order is only cohesive once that rivalry has been quelled. Transferring this model into an analysis of the international legal order offers an alternative answer to how this order constitutes and sustains itself: it does so through violence on a subject that is deemed to be a legitimate victim. Drawing a continuum from “rudimentary sacrificial rights” to “advanced judicial forms,” Girard sketches the persistence of a religious (in its broadest sense) orientation of law, which allows the workings of the sacrificial mechanism to function.³⁸ Noll states this idea most clearly by suggesting that “If we follow Girard and read international law as religion, its incompleteness, its obscurity might be absolutely necessary for the law’s ‘transcendental effectiveness’ in containing violence.”³⁹

The bind that ties members of the international community becomes one that must remain hidden so as to be effective. The

circularity of its presumed grounding betrays an unprocessed element of the constitution of the international legal order: that the apparently miraculous unity among the constituents of the global legal order is produced and sustained by a subterranean violence. Girard points to this violence built into the making of the modern world order, which, in my view, persists in contemporary instantiations of legalized violence. Speaking to the closing of possibilities inherent in any claim to a single totalizing universal order, Girard states that “the history of modern society is marked by the dissolution of differences, that clearly has something to do with the sacrificial crisis. . . . Indeed, the phrase ‘modern world’ seems almost like a synonym for ‘sacrificial crisis.’”⁴⁰ The emergence of what we now call the international is coterminous with modernity’s birthing of the sovereign nation-state, a form of social ordering that proceeded to multiply and proliferate while escalating rivalry. Girard offers clarity regarding the location of the sacrificial mechanism within the modern world. Its work persists in “one of our social institutions above all: our judicial system.”⁴¹ Following modernity, the law functions to secularize the sacrificial ritual employed to expel contagious violence from the society. The law also inherits the obscurity required for the sacrificial mechanism to be effective, as Girard emphasizes:

It is that enigmatic quality that pervades the judicial system when that system replaces sacrifice. This obscurity coincides with the transcendental effectiveness of a violence that is holy, legal, and legitimate successfully opposed to a violence that is unjust, illegal, and illegitimate.⁴²

This is an immediate challenge to the ideas of secular modernity on which law, including and perhaps especially international law, is presumed to rest. To view the international legal order through Girard’s understanding of community formation illuminates the extent to which law remains hostage to the metaphysical grammar of the religious, in the broadest sense of the term. The acclaimed history of Euro modernity, which purports to have drawn within itself the authority of the transcendent, is disputed by a Girardian conception of law. Instead, I suggest, international law only appears as ontologically complete to the extent that it conceals the fact that as an order, it is fixed through an originating referral to violence. The violence remains concealed through being constructed as legitimate, thereby establishing a law that contains—in both senses of the word—the escalating violence that would otherwise infect society. The law *contains* violence (keeps it at bay) by *containing* violence (keeping it within). Oscar Guardiola-Rivera

recognizes how this “foundational sacrifice” provides international law its “prescriptive force”:

Group survival is seen in the context of the predominant *doxa* as necessarily desirable and violence appears paradoxical: violent conflict, often seen as a foreign element threatening group survival, is necessarily undesirable and must be contained by means of . . . violence.⁴³

Understanding international law’s indeterminacy as necessarily obscuring the continued reference to a premodern, sacred violence aids my attempt to reconcile the violence declared by the law—exemplified in this essay by the War on Drugs—with the maintenance of order.

***Sicario* and the Cinematic Depiction of Sacrificial Violence**

That the impossible legal project to enforce drug prohibitions offers an ideal setting through which to explore these tensions between law, order, and violence has not escaped the attention of popular culture. A recent representation of the way in which spectacular violence can be exercised through the law in the drug war is the 2015 film by Denis Villeneuve, *Sicario*. This film tells the story of a Federal Bureau of Investigation (FBI) field agent, Kate Mercer (played by Emily Blunt), who, after distinguishing herself through uncovering a particular gruesome safe house for a Mexican drug cartel, is recruited to serve in a nefarious multiagency drug enforcement operation. The FBI agent, while remaining confused about the exact nature and jurisdictional basis under which this operation is functioning, maintains enough faith in the inherent goodness of the efforts to enforce antidrug laws that she complies with her superiors’ directions despite her doubts. However, as the operation unfolds, the protagonist’s moral anchor begins to come unmoored as she better appreciates that the violence that she and her colleagues are licensed to execute is not aiding in the creation of a “drug-free world” but instead is reinforcing the coherent order of the status quo. An explicit recognition of the impossibility of the stated aim of the drug laws—to eradicate the supply, use, and trade of prohibited substances—is offered to Mercer at the end of the film by the defense contractor, Matt Graver (played by Josh Brolin), who initially invited her into this elite drug enforcement unit. When Mercer’s faith in the project is conclusively shattered and she asks why the enforcement agency privileges violence over

prohibition, Graver responds, “Until someone finds a way to stop 20 percent of America putting this shit up their nose, order is the best we can hope for.”⁴⁴

Ultimately, the central antagonism driving the story—the conflict between the major *narcotraficantes* (drug dealers) and the various agencies responsible for American drug enforcement—does not resolve itself; instead, the film concludes with the traffic of narcotics persisting at much the same level as before, only now through a different set of hands. However, a simple recognition of the futility of the drug war leaves unaccounted the violence we have seen visited upon the often nameless victims throughout the story. The expendable nature of the human victims caught in the cross fire of the drug war is illuminated at several moments throughout the movie. Discarded bodies populate the landscape over which the film takes place, with a particularly haunting scene occurring when Mercer (and the audience via her perspective) is introduced to Juárez, driving into the city to be greeted by the sight of bodies of drug war victims hanging in the street. Scholars have read the sacrificial nature of public lynching as the essential element distinguishing this spectacular mode of violence.⁴⁵ The performative nature of lynching as a form of execution is what allows it to be (re)generative of the social order at large. As opposed to disturbing the peace of a functional social order, lynching is actually performed to reconstitute the peace. The cathartic power of such executions is dependent on the construction of the victims. Lynching is linked to purification: in order for its operative function to be realized, the victims—scapegoats, in Girard’s description—must already be discursively constructed as an infestation that pollutes the social order. Their deaths thereby become a public declaration that the threat to the social order has been extinguished. The spectacular nature of this performative execution erases the innocence of the victims. The sacrificial dynamic underwriting the public lynching is acknowledged within the dialogue of *Sicario* when a fellow drug enforcement agent explains to Kate Mercer the purpose of the hanging, mutilated bodies: “When they mutilate a body like that, they make people think that they must have been involved, they must have deserved such a death because they did something.”⁴⁶

Due to the construction of the victims as deserving of their fate, the violence upon them does not disturb the cohesion of the community. This exemplifies the discursive violence that precedes the material inflicting of force and constitutes it as (re)generative in Girard’s sense. The same dynamic of the erasure of innocence through the spectacularization of violence is present again later in the film when the drug enforcement agents use lethal force on a

group of *narcotraficantes* they pursue out of Juárez. Stuck in a traffic jam along the U.S.-Mexican border, the agents decide to preemptively confront and then execute suspected drug gang members driving in a trailing car. After the encounter, the shock of the visibly shaken protagonist is dismissed out of hand by the flippancy of two of the experienced agents as they discuss the issue among themselves:

AGENT 1: This is going to be on the front page of every newspaper in America?

AGENT 2: No it won't, this won't even make the papers in El Paso.⁴⁷

Mercer, who again serves as the lens through which the audience views the realities of the drug war, is confronted through her exposure to this conversation with the way in which the *narcotraficantes* have already been constructed as legitimate victims; as such, their deaths will not disturb social order and thereby attract media coverage. As with any infestation, their deaths are not only welcome but also already predetermined.

“The Beast”: Ciudad Juárez

In *Sicario*, it is not only particular people who are shown to be discursively constructed as naked to violence; an entire city is subjected to the same discursive practices. Stalking the film is the construction of Ciudad Juárez, both its territory and its inhabitants, as a sphere of legitimate violence. The drift over the border functions as a drift into the space beyond the line, where different rules apply. Juárez—referred to by drug enforcement agents in the film as “The Beast”—operates as a sphere in which the agents are not restrained by the checks and balances they are usually subject to. However, this construction of Juárez as a place beyond the line should not be taken as an affirmation of the commonly held assumption that areas such as Juárez function as lawless; Juárez remains very much within the panoramic gaze of the law. By taking seriously the Girardian insights into the construction of social orders, Juárez can be better understood as included within the global legal order but only as a deviant element. It must be within that global legal order so that the latter will have the universality it accredits itself with; this inclusion is evident in the way jurisdictional national boundaries are functionally erased in the operations of the enforcement agents. At the same time, however, Juárez must also be outside the legal order for the violence that we

witness taking place within its borders to be justified. Once again, this inclusive/exclusive positionality concords with Girard's theorization of the scapegoat, which "should belong both to the inside and the outside of the community."⁴⁸ In order to produce such a subject, a discourse must be offered that rationalizes a subject to be both like and unlike the community: a distortion of the model, a failed realization of what the community should be. It is through this discursive process that the goal of making "the victim wholly sacrificeable" is satisfied.⁴⁹ Traversing the boundaries of the global legal order, Juárez and its inhabitants, in *Sicario*, find themselves exposed to a cathartic violence through being both similar enough and different enough to absorb the sacrificial violence and transform it into being regenerative of the wider order.

Villeneuve's film, although fictional, struck a chord with audiences with its depiction of the dynamics that produce death and destruction in the epicenter of the drug war in the twenty-first century. However, an element underexplored by *Sicario* is the economic conditions that aid in the prematerial construction of Ciudad Juárez and its citizens as naked to the law's sacrificial violence. The global legal order is always coterminous with the globalized market of exchange, enshrined in the twenty-first century through neoliberal trade agreements, of which the North Atlantic Free Trade Agreement (NAFTA) is perhaps the exemplar par excellence. With NAFTA facilitating the erasure of the economic border between the United States and Mexico for the purpose of the free exchange of goods and services, the city of Juárez emerged as the principal site for México's export economy. Deborah Weissman further illuminates this point when she explains that "geography is central to Cd. Juárez's standing as a location from which to understand the consequences of the *maquila* [assembly plant] development strategies."⁵⁰ The proximity of Juárez to the American border aids the transformation of the city into a terrain of transience and contingency, a condition necessary for sacrifice. Juárez's location means that it is subject to a gravitational pull from the United States that gradually erodes the structures and institutions that would otherwise guarantee the city's subjectivity. Juárez becomes a city whose subjectivity is determined vis-à-vis its relationship with America, with tens of thousands of migrants traveling into the city annually.⁵¹ This form of transience and precariousness is invited by the economic imperative to create the necessary conditions for a successful free trade zone along the border. Consequently, however, the social structure in Juárez has suffered significant shifts and dislocation.⁵² Overall income levels have fallen sharply, while disparities in wealth have expanded, making the instability of inequality the

norm. The expanding population means that unemployment in Juárez has only increased “even as *maquilas* have created jobs in the export zone.”⁵³ The impact of neoliberalization has transformed the city into a polis with a sacrificial status before the global legal and economic order. Prior to the impact of neoliberalization in the 1990s, “Ciudad Juárez was considered a reasonably safe place; it is now known as a social disaster and one of the most distressed urban areas in the Western Hemisphere.”⁵⁴ This devastation is evident not only in the explosion of material violence depicted in *Sicario* but also in the accompanying rise of “environmental degradation and sprawling squatter settlements inhabited by a rapidly increasing migrant population.”⁵⁵

Juárez’s transformation is also what has allowed it to become the epicenter for the ever-growing industry of narcotics traffic. The same conditions that make a location a desirable center for the free exchange of commodity goods across formal jurisdictional boundaries also make it a place where illegal commodities can be smuggled along with legitimate ones. Juárez has now become synonymous with the drug war, and as the point of connection between the drug-producing countries of Latin America and the world’s largest drug consumption market, the United States, it was always going to be a consequence of NAFTA that there would be a surplus of illegal commerce generated, along with the desired legitimate trade. The potential wealth offered by the drug trade combined with the insecurity of an unemployed and transient population only amplifies the likelihood of an antagonism between the global economic imperative for free trade and the global legal imperative for the prohibition of drugs.⁵⁶ The impact of NAFTA has contributed to the transformation of not only Juárez but also Mexico into a fragile state. The agricultural reforms demanded of Mexico by neoliberal economic dogma in order to dismantle what was seen as inefficient protectionism has divided up communal lands under the premise of making them more competitive, leading to falling prices for produce and rising unemployment. Farmers began turning to narcotics production to sustain their income, moving into a sector with greater potential profit returns and competitive advantages over global rivals—a shift that is, ironically, in complete alignment with neoliberal economic principles.⁵⁷ Narcotics then become yet another product that is transported through Ciudad Juárez to satisfy the demand of the United States, the same nation that then levies violence on Juárez in order to purify the world of drugs and drug traffickers, the declared illegitimate element of the desired global economic order.

The Sacrificial Rule of Law

Despite mirroring the Girardian critique of sacrificial legal violence that I outline above, *Sicario* ultimately concludes, however, by detaching the violence witnessed over the course of the film with the inner workings of the law. At the end of the film, keeping in place the dichotomy between law and violence that was outlined earlier in this essay, Matt Graver's partner Alejandro Gillick (Benicio del Toro) tells Kate Mercer that if she can't handle the lawlessness of drug enforcement, she should try other careers: "You should move to a small town, somewhere the rule of law still exists."⁵⁸

However, what Alejandro overlooks is that *Sicario* does not depict the lawlessness of the drug war but instead illuminates and exposes the full workings of the law. The actions of the drug enforcement agents are not merely lawful in the sense that they are tacitly legitimized by the authority that has been invested in them to enforce the laws on drug prohibition; on a theoretical level those actions also illuminate the violence built into the practice of lawmaking. The rule of law contains within it the violence that has been experienced over the course of the film's narrative, only it contains this violence in an oppositional relationality within itself. The presumption that the rule of law equates to an order of peace ignores the extent to which historic crimes such as transatlantic slavery and the Scramble for Africa were carried out not in a vacuum of law but instead through the law and its workings. When the modern international legal order presents itself as a global mechanism projecting global equality of justice, it forgets not only the history of law's imperial character but also that an extension of the rule of law does not necessitate an extension of justice. Throughout history, law and justice, in their extension, have often operated in separate binary spheres, as Ugo Mattei and Laura Nader have demonstrated.⁵⁹ Mattei and Nader place what they term the "imperial rule of law" within this tradition, describing how the colonial powers would use law as propaganda to allow the claiming of resources as a legal right instead of its true condition, that of plunder.⁶⁰ This essay is driven by an aim to extend Mattei and Nader's concept of an imperial rule of law to a theory of a sacrificial rule of law, one that can account for the violence that the law visits through the drug war on areas such as Ciudad Juárez.

The Geo-Epistemology of Sacrifice in the Drug War

Juárez and its inhabitants function as a particularly drastic example of the sacrificial violence of the drug war, but this is not an isolated example. Other areas have suffered the same fate. In the Juárez depicted in *Sicario*, there is a consistent element that connects many of these regions. Only the most myopic of observers could ignore the asymmetrical apportioning of drug war violence among the peoples of the world. Despite adopting a liberal posture and being couched in terms of the impartiality and universality claimed of law, the international laws on drugs have disproportionately impacted specific categories and territories of peoples. First, the international laws on drugs provide an archetypal instantiation of the Western–non-Western dichotomy that scholars of Third World approaches to international law have identified within the universal promise of international law.⁶¹ The impetus behind international law’s prohibition of drugs came from the desire of Western nations (with the United States providing the initial driving force) to control the growing demand for psychoactive substances among their populations. Yet a close reading of the Single Convention on Narcotic Drugs of 1961 shows that the “schedules of control” detailing which drugs would be prohibited and how were drafted in a structure that discriminates against the interests

of producers and suppliers in areas such as Mexico.⁶² The treaty paid particular attention to the plant-based drugs that were produced and had long histories of use in non-Western nations (opium, heroin, coca, cocaine, cannabis) instead of the synthetic substances being produced in the West. What was universalized in the Single Convention on Narcotic Drugs was a particularly occidental conception of what constitutes “health and welfare.”⁶³ The cultural use of many of the prohibited substances was considered quotidian in non-Western societies. As a result, the violence unleashed following international law’s declaration of the universal prohibition of those drugs has particularly affected Latin America, the Caribbean, and the racially subaltern populations of Europe and the United States.

These are the subjects who have been primarily exposed to the violence of the law through the War on Drugs that, I argue, functions as sacrificial. As detailed above, in order for the sacrificial mechanism to function, the scapegoat must be constructed as a figure upon which violence can be licensed in order to produce a commonality among rivals. The construction of the scapegoat must be such that it reads as familiar enough to expunge violence from the community yet foreign enough for its sacrifice to appear

justified.⁶⁴ Girard details the categories that sacrificial victims must occupy: “neither outside nor inside the community, but marginal to it . . . situated . . . between the inside and the outside, they can perhaps be said to belong to both the interior and the exterior of the community.”⁶⁵ The victim is inside the order, so as to absorb the spiraling violence that threatens to destroy the entire community, and yet also outside of it, so that there remains a perceived discontinuity between the victim and the community, allowing the sacrifice to be expunged rather than perpetuated.⁶⁶ With the global legal order, the universal triumph of a shared rule of law that is celebrated by proclamations of “the end of history” is tied to a particular Western conception of the universal. Those who are outside this conception due to being non-Western while simultaneously being within it insofar as it is universal are rendered within its internal logic as subjects occupying the necessary inclusive/exclusive position for the Girardian sacrifice.

Therefore, returning to the empirical level, we can see how the enforcement of the drug prohibition in spheres of legitimate violence such as the city of Juárez, or parallel areas such as the favelas of Brazil or the ghettos of America, has licensed the construction of these zones based on their imputed nonbeing and on the juridical categorization of their residents as legitimate victims. As Denise Ferreira da Silva states when talking of the favelas of Brazil, the inhabitants of these spheres of legitimate violence are exposed to the force of law “whether or not they are involved in drug trafficking,” and their suffering does not disturb the cohesiveness of law but instead is read as *jus necessitates* for the preservation of order.⁶⁷ Ultimately, in reading the legacy of drug prohibition across these regions, only the most wilfully blind of observers could ignore the racial and geographical discrepancies in the application of the law.

Conclusion

The critical reading of the War on Drugs in this essay represents an underresearched topic. However, scholars have engaged with the related War on Terror on similar terms, noting the latter’s similar licensing of violence on an undiagnosed third term in response to intracommunal rivalry. For instance, Robert Knox correctly notes that the “racial” discourse underlying humanitarian interventions in the War on Terror cannot simply be read as a process of “othering” but instead functions as a response to interimperialist rivalry.⁶⁸ In stressing the importance of rivalry that underlies the universal

humanity invoked by the international community in opposition to the terrorist, Knox is setting up the structure for reading the War on Terror as a legitimate act of violence to contain this rivalry before an engulfing of the community. The same dynamic is what I argue is also operant within the War on Drugs, a legal project that pre-viewed many of the tactics later employed in the War on Terror.⁶⁹ This essay has sought to address the lack of attention to the War on Drugs by scholars concerned with the relationship between law and violence, particularly in comparison to the wealth of juridical scholarship that has been generated by, or has attempted to speak to, the War on Terror. The drug war provides a telling instance in which the workings of legal ordering can be examined. Sacrificial violence plays an essential role in this process of legal ordering, following Girard's theory of law and sacrifice. Once the global drug war is recast as a project concerned with resolving contagious violence, the Girardian corollary would anticipate the production of a sacrificial victim on whom violence could be licensed in order to contain the exploding rivalry. To produce such a subject, a discourse must be offered that rationalizes a subject to be both alike and unlike the community: a distortion of the model, a failed realization of what should be. It is through this process that the goal of making "the victim wholly sacrificable" is satisfied.⁷⁰ As outlined above, the discursive construction of Ciudad Juárez and its inhabitants imbues the region with the subjective qualities required of the Girardian victim. With popular culture reflecting this dynamic of violence, valuable insight into the workings of the drug war and, by extension, the sacrificial structure of legal ordering can be gained from reading the discursive and material violence depicted in Denis Villeneuve's film *Sicario* through this theoretical lens.

Notes

James Baldwin, "The Devil Finds Work," in *The Price of the Ticket: Collected Nonfiction, 1948–1985* (New York: St. Martin's, 1985), 566.

1. The most famous proclamation of the "end of history" is that of Francis Fukuyama, *The End of History and the Last Man* (London: Penguin, 2012).

2. Mackubin T. Owens, "9/11: The End of 'The End of History,'" Ashbrook Editorial, September 2003, <http://ashbrook.org/publications/oped-owens-03-9-11/>.

3. See Giorgio Agamben, *State of Exception*, translated by Kevin Attell (Chicago: University of Chicago Press, 2005); Judith Butler, *Frames of War: When Is Life Grievable?* (London: Verso, 2009); Mark Neocleous, "The Police of Civilization: The War on Terror as Civilizing Offensive," *International Political Sociology* 5 (2011): 144–59; Christopher Coker, *The Warrior Ethos: Military Culture and the War on Terror* (London:

Routledge, 2007); Helen Duffy, *The "War On Terror" and the Framework of International Law* (Cambridge: Cambridge University Press, 2005).

4. The UN Charter states that the organization's aims include "sav[ing] succeeding generations from the scourge of war;" "unit[ing] our strength to maintain international peace and security" (these two objectives being listed in the Preamble), and (as stated in Chapter 1) "develop[ing] friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace." Charter of the United Nations, June 26, 1945, <http://www.un.org/en/sections/un-charter/preamble/index.html>.

5. The international legal basis for the drug war is provided by three UN treaties: The Single Convention on Narcotic Drugs (1961), The Convention on Psychotropic Substances (1971), and The Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988).

6. Heather C. West and William J. Sabol, "Prisoners in 2007," Bureau of Justice Statistics Bulletin NCJ 224280, 2008. See Appendix Table 12, "Number of Sentenced Prisoners in Federal Prison, by Most Serious Offense, 2000, 2006, and 2007."

7. Patrick Gallahue, "Targeted Killing of Drug Lords: Traffickers as Members of Armed Opposition Groups and/or Direct Participants in Hostilities," *International Journal on Human Rights and Drug Policy* 1 (2010): 15–33.

8. Philip Alston, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions—Mission to Brazil*, Human Rights Council Eleventh Session, A/HRC/11/2 (2008), 13.

9. Steven Levitt and Mauricio Rubio, "Understanding Crime in Colombia and What Can Be Done about It," in *Institutional Reforms: The Case of Colombia*, edited by Alberto Alesina (Boston: MIT Press, 2005), 132.

10. Noam Chomsky, *Rogue States: The Rule of Force in World Events* (London: Pluto, 2000), 64.

11. Damon Barrett, *Reflections on Human Rights and International Drug Control*, LSE IDEAS, http://www.lse.ac.uk/IDEAS/publications/reports/pdf/SR014/Barrett_Damon.pdf.

12. See "Mexico's Disappeared: The Enduring Cost of a Crisis Ignored," Human Rights Watch, February 20, 2013, <https://www.hrw.org/report/2013/02/20/mexicos-disappeared/enduring-cost-crisis-ignored>; Nick Mirossoff and William Booth, "Mexico's Drug War at a Stalemate as Calderon's Presidency Ends," *Washington Post*, November 27, 2012, https://www.washingtonpost.com/world/the_americas/calderon-finishes-his-six-year-drug-war-at-stalemate/2012/11/26/82c90a94-31eb-11e2-92f0-496af208bf23_story.html.

13. This statistic is from the UN Mission in Afghanistan reported in "Afghanistan Civilian Casualties," *The Guardian*, April 2013, <http://www.theguardian.com/news/datablog/2010/aug/10/afghanistan-civilian-casualties-statistics>.

14. This is made explicit upon a review of the history of the UN's engagement with the prohibition of drugs. The most prominent example was the 1998 UN General Assembly Special Session on Drugs, which was held under the slogan "A Drug-Free World—We Can Do It."

15. This overarching ambition of the international drug control system is clearly

stated in the Transitional Reservations of Article 49 in the Single Convention on Narcotic Drugs (1961). See Article 49, 2(g): “The production and manufacture of and trade in the drugs referred to in paragraph 1 for any of the uses mentioned therein must be reduced and finally abolished simultaneously with the reduction and abolition of such uses.” This ambition was further reaffirmed in the UNODC “Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem” (2009). See paragraph 2: “[We] Reaffirm also that the ultimate goal of both demand and supply reduction strategies and sustainable development strategies is to minimize and eventually eliminate the availability and use of illicit drugs and psychotropic substances in order to ensure the health and welfare of humankind.”

16. For further exploration of the reading of drugs as transgressive subjects, see Michael Taussig, *My Cocaine Museum* (Chicago: University of Chicago Press, 2004), xiii.

17. UNODC, *World Drug Report (2014)*, 1, https://www.unodc.org/documents/wdr2014/World_Drug_Report_2014_web.pdf.

18. UNODC, *Estimating Illicit Financial Flows Resulting from Drug Trafficking and Other Transnational Organized Crimes: Research Report*, October 2011, 20, https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf.

19. Transform Drug Policy Foundation estimate. See the briefing “Estimating Global Spending on Drug Enforcement,” 2011.

20. Antonio Marie Costa (head of the UN Office on Drugs and Crime), “Legalise Drugs and a Worldwide Epidemic of Addiction Will Follow,” *The Guardian*, September 5, 2010, <http://www.theguardian.com/commentisfree/2010/sep/05/legalisation-drugs-antonio-maria-costa>.

21. Alston, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, 13.

22. For scholarship on the relationship between law and violence, see Walter Benjamin, “Critique of Violence,” in *Reflections: Essays, Aphorisms; Autobiographical Writings*, edited by Peter Demetz, 278–300 (New York: Schocken, 1978); Robert M. Cover, “Violence and the Word,” *Yale Law Journal* 95 (1986): 1601–29; Gary Boire, “Legalizing Violence: Fanon, Romance, Colonial Law,” in *Law and Literature, Current Legal Issues*, Vol. 2, edited by Michael Freeman and Andrew D. E. Lewis, 581–601 (Oxford: Oxford University Press, 1999); Austin Sarat, ed., *Law, Violence, and the Possibility of Justice* (Princeton, NJ: Princeton University Press, 2001).

23. Cover, “Violence and the Word,” 1609.

24. Austin Sarat, “Situating Law between the Realities Of Violence and the Claims of Justice: An Introduction,” in *Law, Violence, and the Possibility of Justice*, edited by Austin Sarat, 3–16 (Princeton, NJ: Princeton University Press, 2001).

25. Walter Benjamin, “Critique of Violence.”

26. Sarat, “Situating Law between the Realities Of Violence and the Claims of Justice,” 4.

27. Girard outlines his theory of sacrifice in *Violence and the Sacred*, translated by Patrick Gregory (Baltimore: Johns Hopkins University Press, 1977), and *Things Hidden since the Foundation of the World*, translated by Stephen Bann and Michael Metteer (New York: Continuum, 2003).

28. For a reading of international law through a Girardian lens, see Gregor Noll, "The Miracle of Generative Violence? René Girard and the Use of Force in International Law," *Leiden Journal of International Law*, 21 (2008): 563–80; Gregor Noll, "Sacrificial Violence and Targeting in International Humanitarian Law," in *Law at War: The Law as It Was and the Law as It Should Be; Liber Amicorum Ove Bring*, edited by Ola Engdahl and Pål Wrangé, 207–18 (Leiden: Martinus Nijhoff, 2008).

29. Girard, *Violence and the Sacred*, 147.

30. René Girard, *The Scapegoat*, translated by Yvonne Freccero (Baltimore: Johns Hopkins University Press, 1986).

31. Girard, *Violence and the Sacred*, 93.

32. *Ibid.*, 96.

33. Noll, "The Miracle of Generative Violence?," 568.

34. Peter Fitzpatrick, "The Triumph of a Departed World: Law, Modernity and the Sacred," in *Law and the Sacred*, edited by Martha Umphrey, Austin Sarat, and Lawrence Douglas (Stanford, CA: Stanford University Press, 2007), 160.

35. *Ibid.*

36. Noll, "The Miracle of Generative Violence?," 565.

37. Noll, "The Miracle of Generative Violence?" and "Sacrificial Violence and Targeting in International Humanitarian Law."

38. Girard, *Violence and the Sacred*, 24.

39. Noll, "The Miracle of Generative Violence?," 569.

40. Girard, *Violence and the Sacred*, 188.

41. *Ibid.*, 15.

42. *Ibid.*, 24.

43. Oscar Guardiola-Rivera, "Absolute Contingency and the Prescriptive Force of International Law," in *Events: The Force of International Law*, edited by Fleur Johns, Richard Joyce, and Sundhya Pahuja (New York: Routledge, 2011), 30.

44. *Sicario*, directed by Denis Villeneuve (Lionsgate, 2015).

45. See, for example, James Cone, *The Cross and the Lynching Tree* (Ossining, NY: Orbis Books, 2013).

46. *Sicario*.

47. *Ibid.*

48. Girard, *Violence and the Sacred*, 272.

49. *Ibid.*

50. Deborah M. Weissman, "The Political Economy of Violence: Toward an Understanding of the Gender-Based Murders of Ciudad Juárez," *North Carolina Journal of International Law and Commercial Regulation* 30 (2005): 810.

51. *Ibid.*

52. *Ibid.*, 805.

53. *Ibid.*

54. *Ibid.*, 809.

55. *Ibid.*

56. *Ibid.*

57. Peter Andreas, "When Policies Collide: Market Reform, Market Prohibition and the Narcotization of the Mexican Economy," in *The Illicit Global Economy and State Power*, edited by H. Richard Friman and Peter Andreas (Lanham, MD: Rowman & Littlefield 1999), 125–27.

58. *Sicario*.

59. Mattei and Nader identify the Japanese detentions in America during World War II and the establishment of the Fugitive Slave Act of 1850 as historical examples of moments when law and justice have stood in binary to each other. See Ugo Mattei and Laura Nader, *Plunder: When The Rule of Law Is Illegal* (Oxford, UK: Blackwell, 2008), 138.

60. *Ibid.*, 26.

61. For more on this, see B. S. Chimni, "Third World Approaches to International Law: A Manifesto," *International Community Law Review* 8 (2006): 3–27; Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2005).

62. William McAllister, *Drug Diplomacy in the Twentieth Century* (London: Routledge, 2000), 209.

63. The United Nations Single Convention on Narcotic Drugs, 1961, Preamble, "Concerned with the Health and Welfare of Mankind."

64. Girard, *Violence and the Sacred*, 272.

65. *Ibid.*, 286–87.

66. *Ibid.*, 273.

67. Denise Ferreria da Silva, "Law, Race and Violence," *Griffith Law Review* 18, no. 2 (2009): 232.

68. Robert Knox, "Race, Racialisation and Rivalry in the International Legal Order," in *Race and Racism in International Relations Confronting the Global Colour Line*, edited by Alexander Anievas, Nivi Manchanda, and Robbie Shilliam (London: Routledge, 2015), 182.

69. For a reading of how the War on Drugs cleared a juridical pathway for the War on Terror, see Christopher Ingraham, "The Shared Roots of the War on Drugs and the War on Terror, in One chart," *Washington Post*, April 14, 2015, <https://www.washingtonpost.com/news/wonk/wp/2015/04/14/the-shared-roots-of-the-war-on-drugs-and-the-war-on-terror-in-one-chart/>.

70. Girard, *Violence and the Sacred*, 272.

His Life and Thought (Fordham University Press, 2015); *Journeys in Caribbean Thought: The Paget Henry Reader*, with Jane Anna Gordon, Aaron Kamugisha, and Neil Roberts (Rowman & Littlefield, 2016); and *La sud prin nord-vest: Reflecții existențiale afrodiasporice* (IDEA Design & Print, 2016).

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