The Political Economy of Violence: Toward an Understanding of the Gender-Based Murders of Ciudad Juarez

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THE POLITICAL ECONOMY OF VIOLENCE: TOWARD AN UNDERSTANDING OF THE GENDER-BASED MURDERS OF CIUDAD JUÁREZ

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I. Introduction

Ciudad Juárez, México (Cd. Juárez) has been described as “the laboratory of our future.” [FN1] It serves as a prototype of a manufacturing export zone that developed with
conscientious adherence to development policies prescribed by powerful international economic and political institutions. In the course of four decades, Cd. Juárez has been remade in accordance with the directives of economic liberalization and free trade. [FN2] The case of Cd. Juárez is not isolated; conditions in Cd. Juárez are unique only to the extent that the city has fully subscribed to the conventional wisdom dispensed by the International Monetary Fund (IMF). [FN3] In varying degrees, the conditions are reproduced in the border cities of northern México and, indeed, through much of the developing world. [FN4] Because Cd. Juárez represents an experiment conducted fully in accordance with the protocols of international lending agencies, it necessarily calls attention to local consequences of the new global economy.

Sadly, Cd. Juárez has gained an international reputation of another type. Shortly after the signing of the North American Free Trade Agreement (NAFTA) [FN5] in December 1992, the murder rate of women in Cd. Juárez began to soar. [FN6] Estimates vary, but perhaps as many as 400 women have been murdered in the last twelve years. [FN7] Prior to NAFTA, the murder rate in Cd. Juárez was *797 much lower than that of similar-sized U.S. cities. [FN8] After NAFTA took effect, the number of murdered women increased, and by the end of the 1990s, the rate had jumped dramatically. [FN9] During this same period, Cd. Juárez also experienced the highest levels of reported domestic violence in México. [FN10]

The murders have been the subject of international investigation and condemnation. [FN11] Criticism has been directed at the Mexican government for its failure to protect women and solve these crimes. [FN12] This criticism has generally been framed in terms of human rights. A number of international organizations have urged Mexican authorities to reform the criminal justice system and end official indifference to crimes of violence against women. [FN13] The civil and political rights of the victims and their families have been invoked to demand changes in law enforcement systems. [FN14] As a result of the unrelenting advocacy of the families, cross-border organizing efforts, international organizations, and non-governmental organization (NGO) investigations, the murders have remained under scrutiny and modest legal reforms have been achieved. [FN15] The murder of *798 women, however, has continued. [FN16]

The emphasis on protecting women within the framework of human rights law and efforts to reform the criminal justice system are no doubt critical to ending crime in Cd. Juárez. It is more complicated than that, however, the relationship between the murder of women and the new political economy of Cd. Juárez remains unexamined. This Article argues that these otherwise distinct issues are inseparable. It calls attention to the social consequences of economic liberalization otherwise obscured by explanations that emphasize the failure of law enforcement to protect women. Specifically, this Article examines the ways in which gender-violence is related to the social and political consequences attending economic transformations that depress standards of living and destroy the social fabric of communities. It seeks to illuminate the degree to which the success of globalization is derived from the marginalization of women and to understand gender-based violence as steeped in the logic of economic globalization.

Part II describes the murder of women in Cd. Juárez. It explores the current theories behind the crimes, including deviancy for profit, gender and backlash, and conditions of state impunity.
that allow crime against women to flourish. [FN17] It then situates Cd. Juárez as a free trade zone transformed in accordance with foreign investment strategies. The impact of economic liberalization policies on labor and trade unions, habitability, environment and health, infrastructure and social programs, and crime and drugs is examined as the context for the rise of the murder rate of women. [FN18]

Part III presents the murders as a function of economic liberalization. It considers how global economic strategies have weakened the ability of the state to prevent crime. It argues that Mexican laws have been revised to accommodate market forces and facilitate the interests of foreign investors, often to the detriment of Mexican workers, and ultimately contributing to the *799 socioeconomic conditions that produce gender violence. [FN19]

Part IV suggests the need to expand the analytical framework of the human rights discourse to include economic and social rights. Central to the strategies to protect women are policies to protect labor. This Part argues that such strategies must be considered in the context of the crisis of public governance and, thus, proceeds to examine the status of voluntary codes and enhanced labor law protections enforceable through the International Labor Organization (ILO) as sites to counter violence against women. [FN20] Intervention efforts are likely to fail unless strategies are developed to empower women to define their own needs and defend their own interests.

This Article seeks to add to the literature analyzing the relationship between gender-based violence and economic globalization. Studies that approach gender-based violence from an ecological perspective have focused principally on “internal” factors, including family dynamics and cultural norms by which patriarchal hegemony over women is sanctioned. [FN21] Certainly, these projects have proposed useful interventions and legal reforms as a response to gender-based violence on national and international levels. These studies, however, have ignored the ways that economic liberalization policies have insinuated themselves into the private spaces of households and affected the social order of communities as factors contributing to violence against women. These developments have also been ignored in the scholarship on economic globalization. This literature has principally focused on the macro benefits of liberalization strategies, while the micro consequences of global development policies have rarely been considered. [FN22] This Article examines the *800 conditions of life as lived by the men and women caught up in the vertiginous swirls of liberalization strategies, particularly women who are located “at the fulcrum of the economic process.” [FN23] In so doing, it questions the normative assumptions about dominant economic globalization policies. It points to the ways in which gender-based violence is both central to and an outcome of global production in the export economy.

The gender dynamics of globalized production in which women's labor is sought as a means to reduce costs and increase profits has repercussions far beyond the gated maquiladoras of Cd. Juárez. These consequences move inexorably from factories into the communities, and eventually into homes - the most private recesses of family and kinship relations. It is important to note that Cd. Juárez is not unique. The murders, the environmental degradation, and the poverty of this city in northern México cannot be written off as “a grotesque exception,” but
perhaps instead should be viewed as the “window” onto the havoc that economic globalization can wreak. [FN24]

II. Gender and Violence in the Transformation of Ciudad Juárez

A. The Murders of Women in Ciudad Juárez

In December 1992, accompanied with a mixture of official celebration and ceremonial optimism, the government of México signed NAFTA. [FN25] Soon thereafter, the first of a series of murders of women were reported in the newly established free trade zone in the northern border city of Juárez. [FN26] The murdering of women continued and soon increased, eventually assuming the dimensions of a discernible pattern: serial killings of young women, mostly migrants, employed in the northern maquilas. [FN27] discovered as grotesque mutilated bodies, but most of all as a phenomenon to which local and state authorities appeared powerless to halt. [FN28] To date, in the intervening twelve years, perhaps as many as 400 women have been murdered, and no one knows why. [FN29] Nor has anyone devised a way to bring the Juarez killing spree to an end.

In addition to the hundreds of murders, hundreds of other women have disappeared. [FN30] The majority of the victims have been young, slim, with tan or dark skin, long brown hair, and mostly migrants from southern México who came north in search of employment. [FN31] Observers have described the victims principally as maquila workers for multinational corporations, including General Electric, Alcoa, Dupont, RCA, General Motors, Ford, and Chrysler, or as shop clerks from poor families. [FN32] Some were killed or disappeared en route to or from work. [FN33] Many were raped and mutilated, their bodies abandoned in ditches and vacant lots. [FN34]*802 Others were found near the airport, in poor colonias, [FN35] in trash dumps, by train tracks, in downtown plazas, in vacant lots near commercial areas, and, in some instances, multiple bodies were found in a single shallow grave. [FN36] Eight bodies were found in a field facing the offices of the city's Maquila Owners Association. [FN37]

The murders are aptly described as one of México's “most vicious unsolved mysteries,” appearing as “waves of killings,” with bodies “surfacing in the desert that surrounds [the] city like an ocean.” [FN38] The murders are reported with such frequency that they are now considered nearly commonplace. [FN39] Fear has gripped the city, which is now considered by many to be “freakish and marginal.” [FN40]

The murder of women has been differentiated from the larger crime wave plaguing Cd. Juárez not only because it represents a higher rate of homicides for women than for men, but also
because of the common traits shared by these murders. [FN41] These common traits include discernable patterns of ritualized acts the victims *803 suffered before their murders as well as the similar manner in which the bodies of these women were disposed. [FN42]

In addition to the serial murders of maquila women, the rate of gender violence classified as “domestic violence” between current or former intimate partners has increased markedly. [FN43] Prior to the early 1990s, very few women were murdered in Cd. Juárez; there were barely a handful of cases per year. [FN44] In 2000, instances of domestic violence homicides increased more than 30% over a similar span for a similar period in 1999. [FN45] Cd. Juárez now has the highest levels of reported domestic violence in México. [FN46] The domestic violence program in Cd. Juárez reported a startling increase in their caseload, as much as a six fold increase, during that time. [FN47]

As early as 1995, just a few years after the murders began, authorities had announced the arrest of suspects and made assertions that the crimes had been solved and that the events that earned Cd. Juárez the title of “capital of murdered women” were events of the past. [FN48] But the murders continued, notwithstanding *804 the detention of a string of individuals who reportedly confessed to the crimes. [FN49] Further problems arose with emerging evidence of police impropriety regarding the detained suspects. A forensic chief who worked on these cases resigned, stating that his office was asked to falsify evidence against some of the accused. [FN50] More tragic, however, was the shooting and killing of a defense attorney four days after he announced plans to file charges against the police over the torture of two defendants. [FN51]

A number of organizations and institutions have criticized the handling of the murder cases and have issued their own reports calling for changes to police practices and the Mexican criminal justice system. [FN52] All have denounced local, state, and federal police for failing to investigate the murders in a timely fashion, for negligence and incompetence, and for the apparent indifference to women’s rights. [FN53]

In the face of law enforcement indifference, family members have resorted to newspapers to call attention to the plight of *805 women in Cd. Juárez. [FN54] Advocacy groups profile individual cases as a way to pressure authorities to locate the missing women and to call attention to the murders. [FN55] Photos of missing women are displayed on windows in homes and in the storefronts of downtown discount shops. [FN56] Pink crosses have been painted on utility poles throughout the city. [FN57] Documentaries have been made and memorials have been established. [FN58] The murders have transformed Cd. Juárez into “The City of Dead Girls,” a condition that has produced a host of theories in an effort to explain the murders. [FN59]

B. Murder Theories

In addition to the criticism lodged against the criminal justice system generally, a number of
hypotheses about the cause of the murders have gained currency. The theories themselves are an indication of the depth of the fear that has gripped the city, as well as the ongoing victimization of women in Cd. Juárez. These hypotheses illuminate the complexities in coming to terms with the epidemic of gender violence in Cd. Juárez.

1. Deviancy

Theories have linked the murders to deviancy for profit; that is, the murder of women to obtain their organs to sell on the black market to wealthy individuals. Other theories have suggested that women have been murdered in the production of snuff films. Suspicions exist that satanic cults have been murdering women as part of their rituals. The murders have also been depicted as the killing of women for sport by sons of wealthy elites, including owners of maquilas. Some experts have raised the possibility of serial killers, possibly from the United States, who cross the border and thus escape detection. Others suspect that police officers are involved in the killing of women for sport, or to avoid prosecution after raping them.

2. Gender and Backlash

Other theories attribute the homicides to the behavior of the victims. One former mayor of Cd. Juárez linked the murders to provocative dress and late night activity. The governor of the State of Chihuahua claimed the victims invited their deaths by associating with the wrong types of people at the wrong places. The Public Prosecutor and the police have blamed women for working at taverns, patronizing bars, attending dances, and tempting men. The Maquila Association has attributed the women's corrupted character as the cause of their murders. Thus, the murdered women have been denounced as prostitutes, whose illegal conduct was responsible for their untimely ends. The victims have been demeaned for having loose morals or no morals at all; by their very actions and demeanor, they forfeited state protection. Alternatively, their families have been blamed for failing to teach them proper morals and for failing to protect them.

“Backlash” theories have also gained currency. Men are said to be retaliating against women for usurping male positions in the wage labor force. The murders are thus said to be the result of changing gender roles and social class systems. Mexican culture is blamed for engendering machismo, resulting in the inability of Mexican men to accept women's employment outside the home and their concomitant independence. This view suggests that as male unemployment increases and their wages decline to levels inadequate to support their families, their self-esteem diminishes along with their inability to function as heads of household. To compensate for this loss of male identity, men resort to violence against women.

3. State Impunity and Conditions for Murder

The criticisms of the state by various human rights groups identify the absence of civil,
political, and legal rights in Cd. Juárez as the fundamental cause of the murders, because a climate of impunity, as indicated by the inability or the unwillingness to provide justice to victims and their families, is created. [FN77] Local and international advocates consider the flawed criminal justice system as contributing to an environment that has made Cd. Juárez hospitable to predatory murders. [FN78] The very failure to solve the murders has transformed Cd. Juárez into a “mecca for homicidal maniacs.” [FN79] Rape laws that inhibit the prosecution of men for raping their wives and a paltry record of enforcing domestic violence statutes further encourage a climate of violence against women. [FN80] Organizations promoting international human rights highlight the lack of enforcement of the International Covenant on Civil and Political Rights, [FN81] the American Convention of Human Rights, [FN82] and the Convention of the Elimination of All Forms of *809 Discrimination against Women [FN83] as a cause of the murders and as a primary legal violation that should be addressed. [FN84]

These theories make little mention of the emergence of Cd. Juárez as the principal site for México's export economy. An examination of the changes that have followed the growth of the export economy provides a basis for understanding the consequences of paradigmatic economic globalization strategies implemented in much of the developing world. This examination also describes the context within which to consider murder in Cd. Juárez, and thus to critique the usefulness of theories propounded in an effort to resolve crime against women.

C. Situating Ciudad Juárez

The murders of women in Cd. Juárez coincide with the enactment of NAFTA and the expansion of the free trade zone along México's northern border. México's first significant efforts to industrialize the north (frontera norte) and stimulate the economy were launched in 1964 and led to its ambitious Programa Nacional Fronterizo (PRONAF). [FN85] The plan called for the development of cultural centers, the expansion of social services, and the improvement of the economy without the aid of foreign investors. [FN86] But the weight of U.S. economic dominance quickly swayed investment strategies, and U.S. capital flowed into border development and transformed the north into the maquiladora (maquila) sector, a free trade zone for U.S. *810 companies. [FN87]

In the 1980s, the maquilas expanded dramatically as economic crisis prevented México from paying interest on its external debt. [FN88] The debt also caused México to introduce classical structural adjustment programs: the public sector contracted, banks and state industries were privatized, wages were frozen, tariffs and investment restrictions were eliminated, and industries were deregulated in accordance with the dictates of international lending agencies. [FN89] México's communal land grants that once served as family farming structures were restructured, thereby setting the stage for privatization of family farms and buyouts by private interests. [FN90] As a result, maquilas assumed an increasingly strategic place in the Mexican economy. [FN91] Mexicans migrated from the south, displaced by the changes in land tenure forms, and crowded along the U.S.-Mexican border areas in search of employment, thereby assuring the
maquilas a reserve of workers. [FN92]

Geography is central to Cd. Juárez’s standing as a location from which to understand the consequences of the maquila development strategies. With a population surpassing one million people, Cd. Juárez is México's sixth largest city and receives an estimated 60,000 migrants annually. [FN93] As the city with the largest concentration of maquilas, Cd. Juárez has been described as the *811 country's “economic powerhouse.” [FN94] In this instance, location is everything. Situated along the northern frontier, Cd. Juárez serves as a repository of cheap labor able to produce and transport goods on demand. [FN95]

Cd. Juárez, like the rest of México and much of Latin America, has dutifully turned to the invisible hand of the market to guide social and economic development. [FN96] But, in creating the conditions necessary for the successful free trade zones along the border, México's economy and social structure have suffered significant shifts and dislocation. [FN97]

1. Labor

Independent labor unions have struggled to exist in Cd. Juárez, where government-controlled unions have obstructed organizing efforts. [FN98] Labor unions in México have often been described as *812 disorganized and debilitated; unions are often subverted by a corrupt government bureaucracy, notwithstanding progressive labor laws. [FN99] Recent globalization strategies have recast México's labor culture beyond the historical difficulties between unions and government. The disciplining of independent labor unions and the rise of government-sponsored labor organizations, while not new strategies, are often used by the Mexican government at the behest of maquila owners to accomplish flexibilization [FN100] as a means to control wages and working conditions. [FN101] Independent union activists in maquila industries have been blacklisted; organizing efforts are foiled by irregular and illegal practices. [FN102] Government deference to the interests of foreign investors has further resulted in the failure to defend worker interests and allowed employers to *813 “manipulate labor relations at their pleasure.” [FN103] In the maquila sector, collective bargaining has all but been eliminated.

As a result of de-unionization, the terms of employment have been individualized and managerial discretion has expanded in terms of defining job responsibilities. [FN104] Women workers in particular have been classified as unskilled labor to justify low wages, despite the introduction of technologically advanced processes requiring heightened worker capabilities. [FN105] Assembly-line conditions have worsened with the global transformation of manufacturing, from large-scale mass production to the mode of constant product modification and just-in-time inventory delivery requirements that are dependent on faster output times, excessive hours, and stressful working conditions. [FN106]

Income in México has plunged while disparities in wealth have expanded. [FN107] Unemployment in Cd. Juárez has increased even as maquilas have created jobs in the export zone. [FN108] As firms downsize and outsource within the new model of supply chain manufacturing, many workers have been pushed to the margins of *814 the workforce and
subsist in the informal economy through subcontracting or self-employment. [FN109] Lourdes Benería notes that “production processes that were illegal and viewed as part of the underground economy two or three decades ago are now considered to be legal or part of the regular economy, even if functioning under similar situations.” [FN110] Workers are unable to counter this restructuring imposed from the top down. [FN111]

Real wages have steadily declined since 1995. [FN112] Foreign manufacturers are attracted to Cd. Juárez precisely because of the availability of a well-trained, cheap labor force, unapologetically advertised as free of the “costs and burdens” of “U.S. mandated government programs, including Worker's Compensation,” and assurances of “free[dom] from personal contingent liability related to safety and security matters.” [FN113] Maquila workers earn less than service workers and workers in the domestic manufacturing economy; in some instances, maquila workers earn less than self-employed workers on the periphery of the labor market. [FN114]*815 Maquila wages are often insufficient to meet the needs of housing, food, and utilities. [FN115] The high cost of living in Cd. Juárez and the inability of workers to subsist on maquila wages refute the explanation that low wages are adequate to meet local standards of living. [FN116]

2. Gender and Labor

Women entering the labor-intensive manufacturing sector in record numbers are the foundation of the export zone economy. Between the late 1960s and the early 1980s, maquila managers recruited young women for their ideal labor force in the belief that these women worked hard and produced at low cost. [FN117] It was assumed that not only would women with little or no experience in the wage labor force make minimum demands, but also that they would lack the skills necessary to organize and present grievances. [FN118]

The recruitment effort was specific and direct: management documents and advertising campaigns described in precise terms the gender characteristics of the workers they intended to hire. [FN119]*816 As a result, the initial composition of the maquila workforce was composed of approximately 80% women, most of whom were young, single, and childless. [FN120] If the ideal woman could not be found in requisite numbers, manufacturers looked to hire gay men instead. [FN121] As the economic crisis deepened and the maquila sector expanded in the mid 1980s, the demand for workers increased. Factory owners began hiring men and older women, who were identified as “ideal,” because as primary wage earners, they could not risk losing their employment and would, presumably, endure exploitative working conditions. [FN122] Internal migration to the north, together with a rise in unemployment elsewhere in México, increased the willingness of young men to accept the low wages previously associated with women workers. [FN123] Ciudad Juárez, however, remains known as a city where women without skills or education can find employment. [FN124]

Despite the promise of respectable working conditions for women, maquila employment has not compared favorably with work in the domestic economy or, for that matter, with those women working outside of the formal economy. Low wages often oblige women to turn to

prostitution on the weekends as a means of subsistence. [FN125] Because women workers are deemed unreliable, or simply because they are women, corporate investment in training is not required; women employed at one maquila gain few new skills with which to improve their positions with another manufacturer. [FN126]

Women also endure a range of discriminatory and dehumanizing practices. [FN127] They are subject to physical exams that include a history of their sexual activity, monthly pregnancy tests, and coerced birth control measures as conditions of employment. [FN128] Women who have become pregnant have been fired without any pay or health coverage, despite Mexican labor laws that guarantee these benefits. [FN129]

Sexual harassment is commonplace. [FN130] Male managers leer at young women on the assembly line; sexual competition is encouraged both as a device to control labor and as a means to increase productivity. [FN131] Maquila managers seek to hire attractive and sexy women. [FN132] Women are encouraged to dress suggestively, wear lipstick, and flirt as a means of securing their employment. [FN133] They have been coerced into entering beauty contests, bikini contests, and other activities disguised as “work incentives and morale boosters,” [FN134] all designed to reinforce exploitative benchmarks of femininity. [FN135]

Male workers on the line are segregated from female workers and suffer gender-based harassment as well. [FN136] They are demeaned as lacking in manliness by virtue of their employment in the assembly process and for earning wages acknowledged as insufficient for respectable wage-earners. [FN137] They are sent to female-only lines as a form of discipline. [FN138]

Relegated to the least desirable jobs, women work without proper ventilation and are subjected to dangerous chemicals, toxic gases, and stress. [FN139] Their diet suffers due to a lack of cafeterias in the workplace. [FN140] On the occasions that women leave their jobs, it is usually due to illnesses related to working conditions in the maquilas. [FN141]

3. Habitability, Environment, and Health in Ciudad Juárez

Tens of thousands of Mexican workers migrate annually to Cd. Juárez only to arrive to find a city lacking the capacity to provide adequate housing. Cd. Juárez is now described as a visual nightmare of “exploding squatter settlements” and “urban dilapidation.” [FN142] Shanty-town industrialization has produced a bleak, urban landscape, with sprawling colonias forming out of one room hovels, constructed from packing materials, cardboard, pallets, and other highly flammable debris recovered from factory refuse bins. [FN143] These make-shift houses are constructed on abandoned land set against the backdrop of neatly groomed industrial parks and lack any semblance of minimum conditions of habitability. During the winter months, in the elevated parts of the city that experience cold, desert weather, families attempt to stay warm and illuminate their homes by wood fires, candles, make-shift heaters, or improvised connections to nearby electrical systems used by the maquilas. [FN144] Deaths in the colonias from fires, electrocutions, and carbon monoxide poisoning are common. [FN145] Land available for
shanty-town development has grown scarce, forcing some families to live in the city's dump. [FN146]

Housing squalor has been accompanied by pervasive environmental degradation described by the American Medical Association as a “virtual cesspool.” [FN147] Many neighborhoods lack water, sewage, and sanitation systems. [FN148] The contamination of air and water has been attributed to the failure of the maquilas to dispose of toxic materials properly. [FN149] Environmental controls are known to be lax, a condition that serves to encourage maquila growth. Worse yet, manufacturers routinely ignore existing environmental regulations. [FN150] Maquila factories have dumped toxic materials used in production directly into the municipal water system. [FN151] Indeed, the concentration of toxic pollutants in *821 the water system has rendered available treatment processes useless. [FN152]

Factory workers are poorly protected from exposure to toxic chemicals, smoke, dust, and fumes. [FN153] Inadequate ventilation has been associated with a host of health problems, including impaired vision, breathing difficulties, and kidney disease. [FN154] The rate of miscarriages among female maquila workers is high, and the number of children born with birth defects is rising. [FN155] Children have been born with facial deformities and mental impairments, and residents of all ages suffer high rates of cancer, lupus, hepatitis, diarrheal diseases, and gastroenteritis. [FN156] Environmental degradation, coupled with harsh working conditions and low wages, have contributed to increasing cases of stress-related mental illnesses. [FN157]

4. Financing the Infrastructure

Until the 1970s, economic policies emphasized infrastructure development and public programs that benefited many Mexicans. These policies included rural communications, public housing, and universal public services such as education, health, utilities, and transportation. [FN158] The structural adjustment policies imposed *822 during the 1980s required privatization of state sector systems, including transportation, health care, pensions, and much of the education system; the elimination of government subsidies; and the reduction of government spending on those social programs that remained. [FN159] As a result, there are few schools to which workers can afford to send their children. Available schools are typically makeshift structures, or even old school buses, with few resources. [FN160] The cost of food and medicine has increased; staple items in the Mexican diet have quadrupled in price. [FN161] Adequate health care systems are lacking and the transportation system is over-burdened and inadequate. [FN162]

NAFTA tax exemptions on most imports used in the manufacturing process and on products sent back to the United States for sale and distribution have diminished local resources. [FN163] During the 1990s, tax collections as a percentage of gross national product declined. [FN164] The low or no-tax incentives used to attract *823 foreign capital do not provide adequate financing to support an infrastructure in a city that has experienced rapid population growth resulting from the success of such inducements. [FN165] If taxes are collected, however, it is not
certain that funds will be invested in public works or in assets to benefit foreign investors. [FN166] In 2000, Cd. Juárez's budget was only slightly more than that allocated to El Paso's police department, although its population is twice as large as El Paso's. [FN167] Municipalities such as Cd. Juárez are said to have “mortgaged their slim revenue base for years to come in order to attract the factories.” [FN168]

Cd. Juárez does not control its wealth. [FN169] Industrial parks with modern buildings, clean exteriors, landscaped views, water towers, outdoor electrical lights, highways, and private airports coexist with communities of corrugated tin hovels, dirt paths, and raw sewage. [FN170] The mayor of Cd. Juárez recently described the paradox of the export zone: “[e]very year we get poorer and poorer, even though we create more and more wealth.” [FN171]

*824 5. The Social Fabric of Ciudad Juárez

Until the mid-1990s, Cd. 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. [FN172] Rising rates of violence have accompanied the environmental degradation and sprawling squatter settlements inhabited by a rapidly increasing migrant population. [FN173] Much of the criminal activity is related to drugs and is attributed in large part to the combination of an increase in cross-border NAFTA-related commerce and the tens of thousands of unemployed in the city. [FN174] To escape detection, drug traffickers have used the local population, many of whom are desperate for a means of living, to smuggle greater numbers of smaller drug quantities. [FN175] There are now an estimated 800 neighborhood gangs in addition to major drug trafficking cartels. [FN176] Moreover, drug traffickers have become sophisticated businessmen, exploiting the advantages of borderless commerce. In fact, former legitimate businessmen have become drug traffickers as a result of the demise of the domestic economy. [FN177] NAFTA trade has increased the volume of transportation and large numbers of trucks crossing the border are not inspected. [FN178]

Economic liberalization strategies have also contributed to the development of a gun culture in Cd. Juárez. New NAFTA regulations have resulted in increased sales of U.S. firearms and *825 ammunition imports. [FN179] Border cities like Cd. Juárez are now considered favored locations for obtaining guns. [FN180] Despite the protests of human rights organizations in México, U.S. gun manufacturers have lobbied México's Congress to change its domestic laws to raise the legal limit on the number of guns per domicile. [FN181]

The full range of criminal activity, from the trafficking of people and guns, the increase in the number of guns, the smuggling of stolen goods, and money laundering schemes, has been described by México's former ambassador as “a phenomenon of NAFTA.” [FN182] Kidnappings, once rare events in México, have soared since the first half of 1990 to 1,500 per year. [FN183] This climate of fear, climbing crime rate, drug culture, and atmosphere of a militarized zone have developed into the emblematic representations of globalization south of the border.
Cd. Juárez has been transformed by economic liberalization policies. Populations have been dislocated; workers, particularly women, have been exploited. A comprehensive explanation for the murders in Cd. Juárez must take into account the demise of organizations that protect workers, the degradation of physical space, the lack of resources for social services, and the conditions that contribute to drug trafficking.

III. Global Economics and Their Progenies: Theorizing Gender Murders in Context

The murders of Cd. Juárez require an analysis that considers a range of theories related to political economy and the socioeconomic injustices that global economic liberalization *826 produces. [FN184] Theories about the murders must be examined through the perspective of daily life in Cd. Juárez, a city transformed by global economic policies that favor the flow of capital and unfettered markets over the interests of workers drawn to Cd. Juárez in search of a better life. The city has plunged headlong into an export economy, and its salient characteristic has been the degree to which this change has implicated the demise of social controls. These circumstances invite scrutiny of the murders with attention to this context.

Such an approach does not negate the importance of existing theories or minimize the importance of individual decisions and responsibility of criminals. Rather, it seeks to bring into perspective a more nuanced understanding of the relationship between socio-economic systems that contribute to and depend on the subordination of poor communities and gender oppression in the form of gender-based murders. Without undertaking this task, the murders are more likely to recede into distant and garish spectacles while the root causes remain unrevealed and unaddressed.

A. Crime in Context: Economic Liberalization, Crime, and Deviancy

The Cd. Juárez murders are correctly understood as sadistic, cruel, and deviant, whether they are the acts of individuals who kill for profit, for thrill, as a cover-up for other crimes, or for yet unknown reasons. Explanations for these crimes have considered individual behavioral culpability (e.g., serial killers) and group-based behavioral theories (e.g., organ theft ring, snuff film makers, corrupt police, wealthy industrialists’ sons). [FN185] Although there is no single theory that explains the murders of Cd. Juárez, an analysis of the structural considerations shifts the paradigm from one that locates Cd. Juárez on the periphery of the Third World to *827 one that places Cd. Juárez at the center of a global process. [FN186]

1. Economic Liberalization and the Production of Victims The transition to an export economy has produced a category of victims: poor women workers who are subordinated, if not rejected, from social protections in the workplace as well as in their communities. The living conditions in Cd. Juárez have disrupted socio-economic norms, producing a state of crisis and
anxiety that impedes social cohesion.  [FN187] Vast numbers of people live in essentially permanent conditions of indigence, without the possibility of relief or prospect of remedy. Life on these terms involves more than questions of livelihood. Indeed, intolerable living conditions have created insecurity and fear.  [FN188] The reach of market influences has extended beyond the economic and entered the realms of daily life. These circumstances have given rise to the conditions described as “a set of social processes by which large bodies of populations are irreversibly kept outside or thrown out of any kind of social contract.”  [FN189]

This is particularly true for women maquila workers. In the maquila sector, the image of women possessing inherent tendencies within (or outside of) the labor force has been constructed as a means to justify low wages and has taken on new purpose. Women are portrayed in ways that subject them to disrepute.  [FN190] No longer concerned with the need to formulate descriptions of women as model recruits, new stereotypes have developed related to the characteristics of women on the assembly line. Women workers are now represented as inherently unsuitable for training and unworthy of any investment by virtue of their gender, suggesting that they lack significance in the world beyond the workplace.  [FN191] They are denounced as flighty, irresponsible “girls [without] any responsibilities” who “just come [to Cd. Juárez] to meet friends, boys, [and] have fun,” and are demonized as rash and untrustworthy.  [FN192] They are victimized first by attribution and then by acts of violence.

Violence is perpetrated against women whose place in the hierarchy of market values render them as readily interchangeable cogs in the wheel of production.  [FN193] They are vulnerable precisely because they are easily expendable; they are deprived of human rights because they are denied their humanity.  [FN194] Women are more easily excluded from the social contract by the employment strategies that cast them as culpable for the general state of labor's exploitation.  [FN195] Low-wage jobs in the labor-intensive export zones have been perceived to be the result of the employment of women.  [FN196] Maquila women generally are disparaged as the cause for workplace instability, high turnover, and the justification for labor flexibilization.  [FN197]

*829 These circumstances produce a link between gender victimization in the workplace and gender violence that is deliberate and direct. Gender bias in workplace strategies is more readily implemented when it is justified on the basis of gender bias in larger social systems.  [FN198] Similarly, gender discrimination in the workplace influences behavior and contributes to a climate of gender hostility.  [FN199]

In these circumstances, where segments of the population are understood as excluded from the social contract, it is reasonable to perceive the murderers as individuals who believe themselves to be acting out the mandates directed by society, and to interpret their actions by the conditions that produced them.  [FN200] This is the social enactment of the disdain for poor working women, their status assigned according to their economic function.  [FN201] This phenomenon occurs in circumstances where market values both predominate and determine human value to the exclusion of other measures of social worth.  [FN202] Such circumstances may be evident in the depiction of women maquila workers whose condition of disposability in the workplace has extended to the shallow graves where their bodies lie.
2. Economic Liberalization and the Production of Perpetrators

Social disorganization theories propose that structural factors, *830* including economic insecurity, stressful working conditions, the lack of community kinship and absence of social support networks, and uprootedness are the sources of the multiple ways in which communities experience social disruption and fall victim to high crime rates. [FN203] Conditions of poverty and inequality have been demonstrated to produce “alienated individuals [who] have little to gain by conforming.” [FN204] These theories have applicability to Cd. Juárez, which suffers from structural violence, both physical and psychological, experienced as a deprivation of physical, mental, and emotional needs and which acts to erode the values of poor communities from within. [FN205]

The factors that underlie social disorganization theories are at work in Cd. Juárez. With the end to a steady increase in the standard of living and the decline in the crime rates prior to the implementation of economic liberalization, crime has soared as never before in México's history. [FN206] Population growth in communities without public services or private support have been identified as breeding grounds for crime. [FN207] Migrants from the south, unfamiliar with the north, and without the resources of kinship networks, live in squalor, often on the streets and at the margins of society, where they are vulnerable to crime and drugs. [FN208] Communities that suffer from such circumstances are *831* less likely to possess the means to deter crime. [FN209]

Shanty town dwellers, stigmatized as socially inferior, are vulnerable to a range of physical dangers, all of which are conditions long recognized as contributing to criminality. [FN210] Uninhabitable housing conditions have been associated with a high incidence of violent crime and social disorganization. [FN211] The transient nature of cardboard housing creates residential rootlessness and instability, thus further contributing to crime and ineffective law enforcement. [FN212]

Residents of Cd. Juárez experience the effects of privatization daily in realms of hopelessness. The closing of schools and the lack of health care serve to deny the possibility of a better future for children. [FN213] Cd. Juárez residents experience daily varying degrees of chaos, and the reversal of economic trends only contributes to the fear and despair arising from a deepening formlessness that unravels the social fabric. [FN214] Populations *832* suffering such conditions become fearful and experience a loss of control such that “desperate fragmented solutions to problems can more easily take hold.” [FN215] Powerlessness and resentment loom large. [FN216]

Working conditions on the assembly lines further contribute to the likelihood of increased violence. [FN217] Workers produce what they cannot buy and live within sight of a well-being they cannot reach. [FN218] Maquila work is alienating, fragmented, and dangerous, and it has taken its toll on the physical and mental well-being of workers. The pressures of just-in-time production schemes, inequitable wages, the lack of opportunity for advancement, and chronic insecurity have contributed to the creation of a frustrated, humiliated, and increasingly hostile
workforce. [FN219]

The socio-psychological consequences of structural violence serve to authorize lawlessness as the moral order shifts and societal norms lose their legitimacy. [FN220] Such circumstances are everywhere in Cd. Juárez, where crime and violence, particularly street crime, kidnappings, and public killings have become almost daily recurrences prompting social commentators to note that “there has been a total crack in society.” [FN221] The increase in suicide, accidents, mental illness, and delinquency has also been attributed to economic policies and market reform. [FN222]

The focus on social disorganization as an explanation for the murders is neither a denigration of the people nor the place. [FN223] Indeed, the pattern of increased violence and rising crime rates in Cd. Juárez is consistent with recurrent violence in other countries similarly caught up in economic liberalization projects. [FN224] The murders of Cd. Juárez are replicated elsewhere, sometimes in similar form, such as the case of the epidemic gender murders of Guatemala City. [FN225] The murders illustrate that the synthesis of abstract virtues, such as free markets and efficiency, with privatization and the abandonment of social welfare programs results in despair and death.

The idea of deviancy to describe the murders may also be used to describe political economic relationships in effect in Cd. Juárez. [FN226] To put it another way, current global economic policies in Cd. Juárez that depend on the demise of the domestic economy, the consolidation of cheap labor, and the production of poverty as “an input on the supply side” are neither natural nor inevitable. Instead, they reflect an outcome with a long history of exploitation of the many for the benefit of the few and should be seen as outside acceptable moral standards.

B. Gender Conflict in Context: Economic Liberalization, Gender Relations, and Backlash

It is crucial to examine the function of gender conflict as a motivation for homicide in order to obtain a comprehensive account of the murders in Cd. Juárez. Such an analysis must consider the relationship of market institutions and global capital to gender conflicts, thereby avoiding the imaginary divide between the global economy and violence against women. [FN227] The development of the export economy has restructured relations between men and women in families and communities in ways that affect survival strategies, social expectations, and the very idea of the future. An examination of these changes helps to untangle myths from reality with regard to the concept of gender backlash and further clarifies how such a phenomenon is produced.

*835 1. Economic Liberalization and the Production of Backlash

The murders of Cd. Juárez are often attributed to acts of reprisal against women perceived to be responsible for the loss of men's jobs. [FN228] Similarly, increased employment of women
outside the home is said to contribute to heightened domestic violence within the home. [FN229] These theories may rest on a distortion of cultural characteristics even as they describe the consequences of the loss of identity and economic devastation as a result of chronic unemployment. To be useful, such theories must begin with an analysis of gender violence that considers the use of gender renderings both historically and in context. In historical terms, Mexican women have often been portrayed as “long-suffering objects of gratuitous violence,” [FN230] while the image of Mexican men has been deeply etched in the discourse of machismo, hot-bloodedness, and violence. [FN231] As historical depictions, such constructions are misleading and contribute to the blurring of the relationship of violence to economic conditions in Cd. Juárez. [FN232] These characterizations suggest that crime is cultural and serves to separate gender injustices from questions related to political economy.

Gender relations in México have not been static. [FN233] Rigid *836 characterizations of the responses to women's employment deny the possibility of a variety of reactions to women's increased role in the labor market, including those that have led to an “erosion of machismo.” [FN234] Backlash theories tend to eclipse other studies of gender relations that suggest that men accept women as co-workers and recognize the importance of the contributions of women's wages. [FN235] If in fact gender backlash contributes to the murders of women, there has been little effort to consider how the dynamic is produced or to examine the way in which both men's and women's identities are constructed in current economic conditions. Without such consideration, the possibilities for community agency and solidarity against destructive economic forces are limited.

Escalating conflict in gender relations cannot be attributed simply to the increasing presence of women in the workforce. [FN236] Women have long worked outside the home. [FN237] Nor are they *837 taking jobs previously held by men. [FN238] Certainly, men whose identities are linked to their ability to provide financially for family needs have been affected by the failure to fulfill such roles. [FN239] The impact of the loss of the central feature of one's productive life cannot be measured. But as studies demonstrate, it is the cumulative affect of rising male unemployment coupled with the demise of income-producing alternatives for working class families in general that have contributed to catastrophic conditions affecting gender relations. [FN240]

Without attention to context and absent sufficient interrogation of underlying social structures, backlash theories reflect the type of totalizing thinking about gender violence that “construct[s] men as ‘universal agents’ of violence and women as ‘universal victims.’” [FN241] Such theories also rest on the under-theorized notion that women's employment is, in fact, causally related to crime. [FN242] Because such theories discourage investigation into the production of gender animosity, they contribute little to an understanding of the sources of gender violence. [FN243] Rather than sorting through the *838 complicated experiences of violence for women and men, backlash theories, which often offer little more than incomplete descriptions, serve to discourage affinities between poor working men and women.

2. Economic Liberalization and the Transformation of Household Relations
Economically liberal policies impact gender relations within families and communities. [FN244] The literature in this area has mainly focused on the increased responsibilities of women and the burdens placed upon women to provide resources both within and outside of the home. [FN245] Less attention has been paid to the debilitating impact on families and the transformations within household relations. [FN246]

The loss of resources and diminution of opportunities to provide for basic family needs have impacted households in drastic ways. It has weakened the family as a site for managing economic exchanges outside of the workplace. Poor households are no longer able to rely on social exchange networks and norms of reciprocity that often develop through relationships formed in the workplace but function in the realm of non-work related activities and personal spaces. [FN247] These networks extend from household to household and often have served as a means of survival outside of the formal economy through bartering, exchanges, and the sharing of resources. [FN248] Their loss has created *839 further impoverishment. Men excluded from the labor force are divested of opportunities to develop home-based social networks to cushion the effects of their inadequate wages. [FN249] Women who no longer work either as wage-laborers or earn income from selling goods produced in the informal economy have experienced the erosion of economic well-being in both spheres. [FN250]

Unemployment has disrupted day-to-day patterns and disturbed social dynamics vital to stable familial relationships. The well-being of individuals is deeply impacted by the loss of jobs, because a crucial element in their lives is now absent. [FN251] Those outside the workplace are divested of opportunities to develop home-based social networks to communicate and mediate disagreements is exercised. [FN252] The stigmatization of unemployment and loss of place in the working world engenders a disorientation that affects relations within the family. [FN253]

The new household regimens that have developed have empowered neither men nor women. When family income is inadequate for subsistence, women can hardly appreciate the benefits of diminished hierarchies within the family that often occur as a result of their increased employment outside of the home. [FN254] The exploitation and discrimination against women *840 workers taints any rewards associated with employment and increases the difficulty of meaningful acquisition of power within families and society. The previous set of conventions that serve to subordinate women has shifted to a system where both men and women are dispossessed of minimal levels of economic power and left with few alternatives.

Mercedes Gonzalez de la Rocha has examined the impact on families and household dynamics in urban México in which members are dependent on wage labor and who found themselves lacking an adequate subsistence base. [FN255] She notes that the collapse of routines that affect physical and emotional well-being, coupled with a process of social isolation and stigmatization, has adversely affected the unemployed. [FN256] Entire families have experienced instability and uncertainty as new economic arrangements have transformed the roles of both men and women. The division of tasks and the fruits of their accomplishments
under the previous social structure may not always have been allocated in a manner that served men and women equally, but it did assume purpose and achieve household order, self-respect, and a semblance of economic stability. [FN257] Long-established household arrangements based upon the performance of certain tasks, whether collectively undertaken or performed according to gender-ordered dictates, have plunged into disarray. The household and familial obligations that bound men and women together in a common endeavor have been rendered either unnecessary or impossible to fulfill. [FN258] Male members of the family who grew corn and other food staples are no longer able to carry out such tasks. [FN259] Their migration north in search of work as wage laborers has not been successful either. Female members upon whom the family relied to provide food from family crops *841 have also been drawn into a wage labor economy inadequate to meet family needs. [FN260] As the market economy has eviscerated previous household arrangements, there have been few opportunities to develop constructive alternative conventions by which men and women can discharge mutual responsibilities toward each other and their families.

Daily routines have been so disrupted and unemployment is so rampant in Cd. Juárez that the immigration of household members may appear as the only solution. [FN261] Households thus suffer further destabilization. The transition from the “resources of poverty” to the “poverty of resources” has hindered family members from fulfilling obligations within the home to each other. [FN262] These community characteristics correlate with gender violence. [FN263] The stress and disorder of the market has been replicated in households and has manifested itself in increased rates of divorce, separation, household volatility, and gender violence. [FN264]

C. State Impunity in Context: Economic Liberalization, Governance, and the Rule of Law

A number of organizations and institutions have criticized the *842 handling of the murder cases and have issued their own reports calling for changes to the practices of police and the criminal judicial system, accusing both of engendering a climate of impunity. [FN265] Demands upon the state from victims' families and various human rights groups expose the acute failures of state systems, including legal systems, that have contributed to gender violence and the lack of accountability for criminal acts. Human rights groups have directed their denunciation against the highest levels of the federal government as well as local officials for the failure to investigate the murders in a timely fashion, for negligence and incompetence, and for the apparent indifference to women's rights. [FN266] Perhaps most significantly, the families of the victims have lost faith in the police; indeed, many have initiated their own investigations. [FN267] They criticize government institutions for their unwillingness to discharge their obligations to protect the public, particularly women. [FN268] Such condemnation accurately describes the state's dereliction, lack of political will to correct its deficiencies, and its role in contributing to an environment that provides tacit acceptance of the murders. But without considering the determinants of the failures of the state, the implications of the state's inadequacies and the solutions that might address them cannot be fully developed.

Calls for reform urge the state to respond to the crimes, prevent further murders, and afford justice to victims' families primarily through rule of law strategies and the restructuring of México's justice system. [FN269] These demands, however, avoid key questions of political power and obscure from view the 'realpolitiks' of market-based governance that have supplanted the functions of state government and redirected legal systems. [FN270] Economic globalization strategies have impaired the ability of the state to perform traditional functions and contributed to delegitimizing the rule of law as a means of addressing gender violence. Not only has the control of economic systems moved beyond the boundaries of the state, but state systems affecting security and crime have been subordinated to the governance mechanisms of the market. [FN271]

1. Economic Liberalization and the Functions of the State

The demand for state accountability, as formulated in the context of the murders of Cd. Juárez, evokes a conceptual notion of the state as a concentrated political and juridical entity with the resources and authority to intervene for the benefit of the polity. [FN272] This account overlooks the ways in which conditions imposed by international financial institutions weaken the state's ability to discharge such functions. [FN273] Although the sovereign state is understood to be the entity responsible for public safety, the stranglehold of economic liberalization policies and conditions attached to the use of IMF and World Bank funds, as well as agreements with the United States requiring cuts in public spending and the privatization of public functions, raise questions related to the capacity of government to carry out its responsibilities. [FN274] The willingness of México's administration to implement structural adjustment programs that began almost two decades ago has weakened the power of the government to protect its citizens. [FN275]

The loss of resources to support public functions, including policing, has an evident role in the inability of the state to respond to the increasing levels of violence. Rising crime has, in part, been attributed to the inability of the Attorney General to handle a sufficient number of criminal cases. [FN276] In some Mexican cities, the salaries of the police are among the lowest; officers must often use their own pay to purchase their uniforms, and guns and police equipment are lacking. [FN277] State tax policies, which could potentially mitigate the problems of police and judicial corruption associated with poor pay and lack of investigative resources, are manipulated by international financial institutions and transnational corporations. [FN278] Economic globalization that transfers profit on exports out of México has made it all but impossible to acquire and redirect wealth to the state institutions upon which victims rely for effective law enforcement. [FN279]

These conditions have produced a mass exodus of law enforcement from city and state police agencies, and the situation is expected to worsen. [FN280] As the crime rate increases, the criminal justice system remains incapable of providing protection to residents. Resources with which to train staff in the use of forensic laboratory equipment and to pay for the crime prevention technology are insufficient. [FN281] Crime investigators have been laid off and the police academy for training new recruits for Cd. Juárez has been closed since 2001. [FN282] The
low pay for law enforcement officials creates ideal conditions for widespread corruption among police officers.

Moreover, police privatization schemes are proliferating throughout México. [FN283] This has led to gaps in policing authority as well as violence and corruption in the absence of public accountability. [FN284] On the other hand, police security among the maquila-owned factories is state of the art: the areas are fenced in and guarded around the clock by police and private security guards. [FN285]

Certainly, difficulties with police practices are not new. There is a history in México of police complicity with criminals in a range of illegal activities. [FN286] Yet, it would be unduly facile to describe the current situation in México as one that wholly emerges from this experience. Current economic policies that reduce public funds for training and police salaries and that have replaced corporatist policies with authoritarianism as well as the increased militarization of society have contributed to the present crisis of corruption in law enforcement agencies. [FN287] As the authority of the state has weakened, corruption has increased and organized crime has developed an “alternate state.” [FN288] Militarization, repressive police tactics, and state impunity in response to the increased violence are not only a consequence of the growing insecurity occasioned by current economic policies, but are also a result of the reduction in the police force. [FN289]

Demanding that the state act while ignoring challenges to economic policies masks how poverty and crime are generated, and fails to recognize that the state's efforts to respond to the problems have been severely undermined. Strategies for crime prevention and human rights protections can thus no longer be linked to the political project of a state whose authority often falls short in its ability to solve problems created by actors and circumstances outside its boundaries. [FN290] Transnational corporations that contribute to the conditions in which human rights abuses are committed may act in ways that avoid the reach of traditional state governance. [FN291] Such institutions often exact conditions from host countries that facilitate the maximization of profit with little regard to costs to the environment or human rights. [FN292] The dependency of the state on transnational economic actors weakens government incentives to prevent and seek redress for human rights violations. [FN293] Under these circumstances, demands to enhance law enforcement without combating the economic conditions that contribute to corruption and malfeasance may only serve to encourage the development of a police state with excessive and unregulated powers and use of torture. [FN294] In the end, it may be that the term “impunity” ought not simply describe the state but also the multinational corporate actors who act contrary to the interests of the majority of Mexicans. [FN295]

2. Economic Liberalization and the Rule of Law

The murders in Cd. Juárez have been largely attributed to the shortcomings of México's legal system. [FN296] Mexican courts have been described as weak, and corruption and malfeasance have plagued judicial processes. [FN297] As a result of the pressures of local and international human rights groups, a federally appointed Special Prosecutor was assigned in
January 2004 to examine the legal system's handling of the criminal cases, and federal police were authorized to share responsibility for security in Cd. Juárez. [FN298] Within six months, the Special Prosecutor issued a report with findings of at least eighty-one instances of official misconduct within the justice system. [FN299] Judicial processes have since been professionalized, but victims' families have been less reluctant to work with the federal prosecutors in the role of coadyuvantes or joint assistants. [FN300] There have also been improvements in the state penal code to address crimes against women. [FN301]

Although activists have had some success in applying a human rights framework focusing on civil and political rights to reform the legal system, these measures alone have not reduced the occurrence of violence, and the murders have continued. [FN302] Thus, new rounds of recommendations have followed, calling for increased authority for the Special Prosecutor, the incorporation of gender perspectives into policing and judicial practices, and judicial review of those cases that have already been prosecuted. [FN303]

The legal system continues to be criticized for the failure to treat the murders as a pattern of violence against women, rather than as individual criminal acts. [FN304] The legal system's failure to provide redress has been described along gender fault lines with little reference to the relation between the rule of law and economic globalization. [FN305] While these proposals advance important and necessary themes in ending violence against women, they do not address the relationship between the legal system and new economic policies that are at the root of the social costs of economic inequalities and other conditions that give rise to the murders.

a. Transformation of México's National Laws

México's legal system has undergone significant transformation since the 1980s. During the mid-1990s, legal reforms were implemented pursuant to World Bank directives to assure the responsiveness of México's judicial system to economic liberalization strategies. [FN306] The reforms urged a strengthened constitutional court system, more independent judges, efficient administration of justice, and improved access to the justice system. [FN307] Implementation of legal reform, however, has been driven by market needs, primarily concerned with defining and enforcing private rights, investment and expropriation disputes, and creating legal mechanisms to facilitate market reforms. [FN308] In this regard, law-making and legal reform have been undertaken as a crucial project to accomplish the tasks of economic globalization. [FN309]

In order to attract foreign investors, México has had to alter its national legal processes and commit to binding privatized investor-state arbitration. [FN310] New laws opened México's natural resources and banking system to foreign investment and control. [FN311] Similarly, México's once strong consumer protection laws have been weakened. [FN312]

Labor laws with the greatest potential to provide safeguards for maquila workers have been undermined. Labor laws in México are of historic significance and are known as some of the most expansive and progressive in the world. [FN313] Federal labor laws derive from México's
Constitution, which provides comprehensive protection for workers, a focus on class interests instead of individual rights, and worker protection from management. [FN314] In addition, these laws regulate wages and hours, working conditions, job security, and medical and other benefits, including housing. [FN315] Laws facilitate union organization, collective bargaining, and the right to strike. [FN316] Labor laws also target women for specific protection and provide benefits throughout pregnancy and during the breast-feeding period, and provide for the right to day care. [FN317] Dispute resolution mechanisms are available in the workplace, labor tribunals, and the courts. [FN318] México has also ratified several international treaties *852 protecting workers' rights. [FN319]

Nevertheless, these formal rights have not been enforced in México. [FN320] Since the economic liberalization trend began, new arguments have been made for reforming labor law in terms that suggest that strong labor protections undermine the ability of transnational firms to lower costs and compete effectively. [FN321] Proponents of economic liberalization and institutions financing such projects have pushed for reform of labor laws and reduction of worker benefits to conform to the new employment strategies of the export zone. [FN322] Mexican labor law specialists have reported that U.S. labor practices, which serve to discourage union organizing drives, have been adopted with increasing frequency. [FN323]

*853 Such reform has not been easy to accomplish given the constitutional nature of labor law protections, but changes have been implemented that encroach on workers' rights. [FN324] As advocated by the World Bank, pension systems have been fully privatized. [FN325] Monitoring of occupational health standards has moved to voluntary compliance mechanisms, and while domestic industries have attempted to cooperate with such programs, maquilas, on the other hand, have responded poorly, if at all. [FN326] Laws governing workers' housing have also been weakened. [FN327] Mexican President Vicente Fox recently proposed a labor reform package that would curtail workers' rights to strike, to bargain collectively, and to call for a vote to gain representational rights or supplant a pre-existing union. [FN328] The proposal has been described as “a major assault on the basic rights of Mexican workers” and one which “would deal a serious blow to workers' human rights.” [FN329]

Even without formal legal changes, the practice of disregarding existing laws has been invigorated with new *854 strategies formulated by transnational corporate management. [FN330] Rights to maternity leave and child care have been undermined by corporate policies that seek to reduce labor costs. [FN331] Mostly U.S. maquilas have defended their discriminatory hiring practices against pregnant female job applicants by claiming that Mexican laws only apply to current employees. This distinction is disavowed by Mexican labor lawyers and is an analysis at odds with U.S. labor laws. [FN332] Other protections, such as overtime and the legal work week, are rendered inapplicable because workers are forced to work excess hours to earn sufficient wages on which to survive, and thus have no incentive to seek redress. [FN333]

b. NAFTA and the Rule of Law

In addition to domestic labor reforms, supranational legal developments have altered legal
rights for Mexican workers. Although NAFTA does not incorporate new substantive labor law standards, its corresponding labor side accord, the North American Agreement on Labor Cooperation (NAALC), does address such issues. [FN334] NAALC, which is said to encourage parties to enforce their own domestic labor laws, has been criticized as an administrative labyrinth that fails to bind private employers and provides workers with no tangible solutions for labor law violations. [FN335]

*855* NAALC’s jurisdiction covers eleven enumerated areas of labor law. [FN336] Nevertheless, it is nearly impossible to ascend NAALC’s administrative levels where enforcement powers may materialize. [FN337] At the higher levels of the dispute mechanism, worker protections narrow and certain categories of protection are eliminated from review. [FN338] Moreover, the most progressive of Mexican labor laws, which are not recognized in the United States, lose their utility as only “mutually-recognized labor laws” may be reviewed. [FN339] There is no jurisdiction to adjudicate violations related to the rights to form a union, to strike, and those against unlawful termination or employment discrimination. [FN340]

Of the two dozen cases that have been submitted alleging serious violations, from a denial of the right to unionize, to wage claims, hazardous working conditions, and discrimination against pregnant women, none have made their way through all of the enforcement levels of the NAALC process. [FN341] Women workers have not benefited from NAALC because it limits claims regarding employment discrimination and equal pay to the second tier of labor rights and, therefore, renders them ineligible for the *856* imposition of sanctions. [FN342] Labor issues affecting women, such as family leave, child care, discriminatory treatment by unions, and sexual harassment, are excluded from the agreement altogether. [FN343] Due to coercion and constraints on time and resources, workers have been unable to avail themselves of the legal process that takes place in the United States. [FN344] Additionally, they have often been required to settle claims for amounts less than that to which they are entitled because of their dire economic circumstances. [FN345] NAALC’s disappointing results have been attributed to the reluctance of the United States to pressure the Mexican government because of concerns that labor protections interfere with economic liberalization strategies and the needs of transnational corporations. [FN346]

Law reform has been accomplished not only by the refashioning of state courts and processes which have constitutionalized market driven ideologies, but also by the relocation of adjudication processes to sites outside of the nation-states into realms controlled by private transnational institutions and actors “organized around one great lex mercatoria.” [FN347] These reforms have taken precedence during the emergence of the export zone and have contributed to the conditions in which the murders of women occur, indicating the need for context and specificity in making demands for improvements to the law.

IV. There Is an Alternative: Strengthening Labor Laws to Reduce Gender-Based Violence

It is difficult to set forth blueprints for ending the egregious conditions plaguing Cd. Juárez where the circumstances of economic globalization are manifested in their most extreme manner. The structural formation of the export economy seems to defy consideration of even modest alternatives. [FN348] As one scholar has noted, “[a]lmost total saturation of the processes of capitalist domination makes it hard to envision forms of feminist resistance which would make a real difference in the daily lives of poor women.” [FN349] The difficulty in framing an analysis that implicates political economy in the murders of women in Cd. Juárez is made more challenging by the need to propose legal solutions that might address these concerns.

This is undoubtedly an ambitious project. It requires incorporating current legal scholarship on the effect of economic liberalization on legal systems and the rule of law to gender violence and the murders at issue. [FN350] It demands attention to existing global governance structures in which transnational corporations have supplanted national governments as the determinants of economic and institutional models as well as their corresponding legal frameworks. Failure to attempt to do so would be tantamount to capitulation to such problems and to abandoning the law as a realm within which to contest these circumstances.

Claims for stronger legal systems in response to the murders must first acknowledge the ways in which law has acquiesced to market forces and thus contributed to the socioeconomic conditions that produce violence. It must also recognize the governance deficits that exist as a result of the authority transnational corporations have gained that exceeds the power of states. The task must be to invigorate the debate about the relationship of law to economic globalization and develop approaches that will raise the prominence of gender, poverty, and inequality in the search for legal solutions. Advocates must use the framework of human rights law not only to criticize the role of the state, but to hold accountable transnational corporations and international financial institutions as violators of such rights. [FN351] In doing so, it is not sufficient to engraft gender perspectives into the current laws that govern market relations without questioning the premises that underlie economic liberalization.

A. Codes of Conduct and the Improvement of Labor Standards

Codes of conduct - voluntary regulatory schemes designed to improve the types of workplace, environmental, and social conditions that exist in Cd. Juárez - must be considered as one means by which to confront the economic instability and social dislocation brought about by economic liberalization policies. These private governance mechanisms have proliferated and often incorporate specific protections for women workers. [FN352] The codes have the potential to positively impact corporate behavior. [FN353] At the same time, they are a reflection of a crisis of public governance. [FN354] Codes privatize human rights standards, but enforcement is left to the voluntary actions of those actors most likely to violate them in the first place. [FN355] The role of NGOs in monitoring and certifying compliance with voluntary codes has raised concerns about industry bias in enforcement efforts and the undermining effect of the “NGO-Industrialization Complex” on the role of unions, states, and international organizations.
in tackling corporate misdeeds. [FN356] International codes, such as the U.N.'s “Global Compact,” have served as a basis for U.N. cooperation with the private sector but have also been criticized as a “blue-washing” process which “allow[s] some of the largest and richest corporations to wrap themselves in the United Nations' blue flag without requiring them to do anything new.” [FN357]

This is not to suggest that codes have no use in improving conditions for poor workers. Some firms have yielded to pressure to pass stricter standards and allow independent monitoring groups to measure their actions. [FN358] The approval by the U.N. Sub-Commission on the Promotion and Protection of Human Rights in August 2003 of the “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights” demonstrates further progress in the field of international codes of conduct. [FN359] The norms are described as “more comprehensive and more focused on human rights than *860 any of the international legal or voluntary codes of conduct.” [FN360] Their legal authority, it is argued, is based in treaties and customary international law, and has been proposed as a restatement of international legal principles with compulsory applicability. [FN361] Although codes cannot substitute for the state's responsibilities, they may ameliorate some abuses while also serving as a provisional alternative and an organizing strategy for workers and consumers.

One proposal for making codes meaningful would require retail and brand companies who purchase and sell products produced in export zones to share the burdens and responsibilities of code standards. Oxfam's comprehensive study on trade and codes concluded that retailers and clothing brands systematically push their costs onto producers who pass them on to women workers. [FN362] Arguing that codes that focus on the points of production capture only half the story, Oxfam has proposed a radical paradigm shift in the operation of codes by requiring code standards on purchasing practices as well. [FN363] Retailer practices that demand unrealistic delivery deadlines are likely to be the cause of excessive overtime and sub-contracting. [FN364] Frequent switching between producers to save costs undermines producers' commitments to complying with codes. [FN365] Similarly, retailer demands for improved working conditions in export zone factories without adjustments to price or delivery times inhibits code compliance. [FN366] Codes that regulate both purchasing and production practices are more equitable and have a greater likelihood of ameliorating the exploitative working conditions that contribute to violence against women.

B. International Labor Laws

The legal lynchpin in any reform efforts that help to bring *861 about an end to violence against women in Cd. Juárez is the strengthening of enforceable labor law protections. Such proposals are congruent with the goal of ending the murders of women in Cd. Juárez. The labor movement itself may be best suited to challenge the particular forms of political economy that erode the capacity of communities, households, and individuals to survive. [FN367] Women's

exploitation in Cd. Juárez has been linked to low levels of unionization and support for unions has been indicated as a means to counter violence. [FN368] Furthermore, labor law protections are co-extensive with political rights. Progressive labor laws run “parallel to democratic governance in society at large” and “provide a countervailing force against abuse of power in the polity as a whole.” [FN369]

The challenges here are formidable. The legal complexities related to the task of strengthening labor laws arise from the configuration of the border’s foreign owned export economy. [FN370] These arrangements require the development of a “comprehensive legal-realist mapping of the interaction along multiple labor law systems and the economic consequence of that interaction.” [FN371] It necessitates the analysis of multinational corporations whose current form has raised new accountability issues. [FN372] Particular attention must be given to the plight of women workers and the role of unions in defending workers in the context of economic globalization. [FN373]

*862 A range of legal strategies have been urged in this regard. Scholars and practitioners have argued the benefits of expanded protections of multilateral treaties with enforcement mechanisms that give meaning to human rights and labor protections. [FN374] Others have discussed the possibility of pursuing remedies under unilateral initiatives, such as the 1984 General System of Preferences labor rights amendment, which deny preferences to countries that trade in goods produced in violation of the law’s labor standards. [FN375] Similarly, there is the prospect of protecting human rights through the enforcement of the Tariff Act of 1930 [FN376] which guards against labor abuses as a means to prohibit unfair trade competition. [FN377] Attention has also been paid to regional trade accords as a site to enhance worker protections and human rights. [FN378] There is a growing literature promoting the use of the WTO’s unfair trade protection provisions as a source to prohibit exploitative labor practices. [FN379] Pursuing claims under the Alien Tort Claims Act [FN380] has also emerged as a strategy to combat human rights abuses, including sexual violence and workplace sexual harassment, suffered as a result of the practices of transnational *863 corporations. [FN381] Although all of these strategies may be imperfect standing alone to remedy the harms addressed in this article, they express ideals worth debating and may result in tangible improvements in the circumstances for women.

Developments in the area of international labor standards may have the greatest potential to affect public and private standards with regard to human rights and the well-being of communities, especially maquila workers. [FN382] Since the creation of the International Labor Organization (ILO) in 1919, the international community, particularly the countries of the Americas, has recognized the benefits of defining and monitoring international labor standards. [FN383] These conventions bear on the conditions of women maquila workers in Cd. Juárez, especially since the countries of the Americas, even those that have not ratified particular ILO conventions, are bound by them. [FN384]

The ILO, however, lacks enforcement mechanisms. [FN385] Yet *864 these circumstances have created a renewed interest in the ILO, ranging from proposals to incorporate ILO principles
into regional trade agreements to proposals to delegate to the organization itself the
responsibilities of monitoring and enforcement. \[FN386\] Whether and how the ILO is
strengthened is a subject of debate and concern.

A recent internationally commissioned report issued on “the interaction between the global
economy and the world of work” identified the need to integrate the ILO’s core labor standards
within development strategies. \[FN387\] The report was less concerned, however, with the
broader set of workers' rights that form the basis for organizing efforts. \[FN388\] Other concerns
with the report's recommendations relate to the prospects of non-state actors implementing and
modifying ILO standards and a retreat from the ILO as the centerpiece of monitoring and
enforcement efforts. \[FN389\]

In response to these concerns, there have been proposals to revise and strengthen the ILO so
that it will have new tools and clear authority to use flexibly and in accordance with the differing
levels of development within countries. \[FN390\] “Radical pragmatism” has been urged in
formulating solutions to the complex circumstances of the internationalization of labor law in
order to allow for local, regional, and global determinations of labor standards. This would
include fully transparent enforcement mechanisms by which to justify disparate performance
before a centralized authoritative body, such as the ILO. \[FN391\] Trade agreements should
require both the implementation of social *865 programs to assist women and an ongoing study
of the impact of economic liberalization on women in all sectors of the economy. \[FN392\] These
proposals, if realized, would have significant impact on conditions in Cd. Juárez, and if
implemented with recognition of the politics of gender, may particularly benefit women.

V. Conclusion

Solutions aimed at the reform of economic institutions, and legal systems of the type that
will ameliorate the conditions in Cd. Juárez, are likely to occur primarily as a result of the
resistance of social movements that incorporate the leadership of women. \[FN393\] Social
movements of this sort speak to the promise of an international federation of unions with the
ability to check the power of multinational corporations. \[FN394\] They offer what may be
considered utopian solutions. \[FN395\] Certainly, such solutions may reject the predominance of
the laws of the market, but they also reject isolationism and the closing off of international trade
and investment. Instead, as expressed in the Alternatives for the Americas:

[A]lternative rules to regulate the global and hemispheric economies based on a
different economic logic: that trade and investment should not be ends in themselves, but
rather the instruments for achieving just and sustainable development. *866 Our proposal
also promotes a social logic that includes areas such as labour, human rights, gender equity,
the environment, and minorities—that is, previously excluded issues and people. While our
critique and proposal have a technical basis, they also spring from an ethical imperative.
We refuse to accept the market as a god which controls our lives. We do not accept the
inevitability of a model of globalization which excludes half or more of the world's population from the benefits of development. We do not accept that environmental degradation is the inevitable and necessary evil accompanying growth... A profound ethical imperative pushes us to propose our own model of society, one supported by the many men and women united in hope for a more just and humane society for themselves and future generations. [FN396]

Utopian solutions have been identified as the transfers of wealth from “high-wage to low-wage countries” as an alternative means of development using a “different form of capital flow (public rather than private).” [FN397] Such solutions include the implementation of new strategies to end and reverse the effects of discrimination against women. [FN398] They demand that the state guarantee the protection of human rights and lead a “consensual economic strategy” that promotes the social well-being of its citizens by protecting those who are affected by the inequities generated by the market. [FN399] They recognize that because women throughout the globe are adversely affected by economic liberalization, decision making processes on global economic policies must include a wide range of women's groups, including women's caucuses in labor unions, women's labor unions, and other grassroots organizations. [FN400] Such demands are grounded in *867 feminist theory and practice and are likely to be a source of social change. [FN401] Indeed, globalization has brought about the circumstances for improvements in the arena of social justice by creating the challenge to search for solutions for men and women affected by economic injustices while remedying the distinct form of harm suffered by women. [FN402]

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[FN2]. See infra Part II.C.


[FN8]. Nathan, supra note 6, at 25.

[FN9]. Id.

[FN10]. Id.

[FN11]. See infra notes 48-49 and accompanying text.

[FN12]. Id.


[FN14]. Id.

[FN15]. See infra note 48.

[FN17]. See infra Parts II.A and II.B.

[FN18]. See infra Part II.C.

[FN19]. See infra Part III.

[FN20]. See infra Part IV.


[FN22]. See Deborah Z. Cass, International Business and Commerce, in The Oxford Handbook of Legal Studies 593, 594 (Peter Cane & Mark Tushnet eds., 2003) (noting, for example, that current legal scholarship proceeds from the consensus about the benefits of liberalization and the legal framework that supports it); Amy L. Chua, Markets, Democracy, and Ethnicity: Toward a New Paradigm for Law and Development, 108 Yale L.J. 1, 15 (1998) (noting that the dominant legal scholarship in the area of law and development has been to “urge the rapid and full-blown liberalization and marketization of developing world economies”).


[FN24]. Bowden, supra note 1, at 49 (describing Cd. Juárez as the “‘[w]indows' on the coming times”).

[FN25]. See NAFTA, supra note 5.


[FN28]. See Nathan, supra note 6, at 25.
[FN29], See supra note 7.

[FN30], See Washington Valdez, supra note 7 (stating that as of June 23, 2002 “[a]s many as 80 more girls and women are missing and unaccounted for”).


[FN33], Cevallos, supra note 32 (stating that many of the 300 victims have disappeared on the way to or from work).


[FN35], Colonias is a Spanish term for neighborhoods but refers to unincorporated rural slums lacking infrastructure and suffering high rates of poverty. See Roderick R. Williams, Cardboard to Concrete: Reconstructing the Texas Colonias Threshold, 53 Hastings L. J. 705, 705 (2002).


[FN38], Id.

[FN39], Burnett, supra note 31 (describing the discovery of yet another body as “becoming a common occurrence”).

[FN40], Bowden, supranote 1, at 25.

[FN42]. Thompson, supra note 37.

[FN43]. Id.; Nathan, supra note 6, at 30.


[FN45]. Jeff Barnet, Police Under Fire as Violence, Corruption Continue, Frontera NorteSur (July 2000), at http://www.nmsu.edu/~frontera/jul_aug00/feat2.html (reviewing statistics from the Department of Legal Medicine in the state attorney general's office).

[FN46]. Nathan, supra note 6, at 30.

[FN47]. Barnet, supra note 45.

[FN48]. Arrest patterns for the murders were established as early as 1995, when authorities seized an engineer employed at a maquila plant, declared him guilty of a score of murders, and proclaimed the end of the crime wave. Over a six-year period, the police arrested six bus drivers whose routes passed through the maquila sector and tortured them into confessing to the murders. In 2003, an American citizen living in Cd. Juárez and her Mexican husband were charged with committing some of the murders and tortured into confessing. The murders have continued since their incarceration. The families of the murdered women, as well as the communities that support them, have protested the torture of those who have been arrested and have been skeptical of their guilt. For descriptions of the arrests and torture reports, see Gaspar de Alba, supra note 26, at 7-9; Sam Dillon, Rape and Murder Stalk Women in Northern México, N.Y. Times, Apr. 18, 1998, at A3; Guillermoprieto, supra note 32, at 84, 88; Thompson, supra note 37; Diana Washington Valdez, Who's Guilty? A Look at Suspects, El Paso Times, June 24, 2002, at 1A.

[FN49]. Gaspar de Alba, supra note 26, at 9.

[FN50]. Washington Valdez, supra note 34.

2, 2002, available at http://www.csmonitor.com// 2002/0502/p03s01-ussc.htm; Mary Jordan, In México, Police Error or Political Execution?, Wash. Post, Feb. 12, 2002, at A1; Thompson, supra note 37 (noting the shooting death of the defense lawyer in February 2002, who police claimed, was mistaken for a fugitive). No charges were filed against the police who shot him. Thompson, supra note 37.

[FN52]. Such groups include Amnesty International, the Inter-American Commission on Human Rights, Human Rights Watch, the Lawyers' Committee for Human Rights, the U.N. Commission Committee on the Elimination of Discrimination Against Women, the Washington Office on Latin America, a U.S. Congressional delegation, the Los Angeles City Council, and other human rights and grassroots organizations. See Intolerable Killings, supra note 6; IACHR, supra note 41; Nick Pacheco, Resolution Urging the Investigation of the Murders in Ciudad Juarez, 28 Aztlán: J. Chicano Stud. 203, 203 (Fall 2003) (adopted by the Los Angeles City Council); Chris Kraul, Juarez Killings Breed Fierce Anger, L. A. Times, Mar. 8, 2003, at 1 (reporting on organizing efforts and marches to call attention to police failures); Diana Washington Valdez, U.N. Investigates Deaths of Juarez Women, El Paso Times, May 19, 2001, at 3B.

[FN53]. See supra note 48 and accompanying text; see generally Norma Jean Almodovar, For Their Own Good: The Results of the Prostitution Laws as Enforced by Cops, Politicians, and Judges, 10 Hastings Women's L.J. 119 (1999) (criticizing law enforcement procedures for cases in which the victims might be prostitutes).

[FN54]. Thompson, supra note 37 (quoting one woman who says she will never stop talking about her dead daughter); Washington Valdez, supra note 34;

[FN55]. Kraul, supra note 52.


[FN57]. Burnett, supra note 31.

[FN58]. Id. (noting that Feb. 2003 marked the tenth year of serial murders in Cd. Juárez); Nathan, supra note 44 (reviewing Señorita Extraviada, a documentary on the murders directed by Lourdes Portillo).


[FN60]. Guillermoprieto, supra note 32, at 86 (noting that although the theory has not been substantiated, most Mexicans attribute the murders to organ theft); Mark Stevenson, Mexican Prosecutors Claim Organ Trafficking Behind Border Murders of Dozens of Women, Associated Press, May 1, 2003; Intolerable Killings, supra note 6 (noting that theories and rumors have proliferated).
[FN61]. Emma Pérez, So Far From God, So Close to the United States: A Call for Action by U.S. Authorities, 28 Aztlán: J. Chicano Stud. 147, 149 (Fall 2003); Thompson, supra note 37; Intolerable Killings, supra note 6.

[FN62]. Guillermoprieto, supra note 32, at 86; Pérez, supra note 61, at 149; Thompson, supra note 37 (reporting on the descriptions of cult cutting in victims' scalps, and the manner in which some bodies were laid out in the desert); Intolerable Killings, supra note 6.

[FN63]. Guillermoprieto, supra note 32, at 86 (describing the theories of the “scions of México's ruling elite” or “juniors” killing as part of a hunting spree); Pérez, supra note 61, at 149 (noting accusations against international wealthy maquila owners and their sons who “play rough”).

[FN64]. Washington Valdez, supra note 48.

[FN65]. Guillermoprieto, supra note 32, at 86; Washington Valdez, supra note 34. Law enforcement has been accused of complicity in the crimes committed by drug traffickers or other organized crime groups. Intolerable Killings, supra note 6. Official corruption is described as so pervasive in México that there is speculation that the murderers gained their initial experience committing crimes while serving as former police and government agents. Jeff Barnet, Critics Attack Failed Security Measures, Frontera NorteSur (May 2000), at http://www.nmsu.edu/~frontera/may00/feat2.html.


[FN67]. Nathan, supra note 44 (noting comments by Gov. Francisco Barrio who was governor during the 1990s).

[FN68]. Gaspar de Alba, supra note 26, at 6 (noting the innuendos that women “ask for it”); Nathan, supra note 6, at 26 (noting that many of the victims were said to frequent bars, a pastime for women considered inappropriate); Intolerable Killings, supra note 6 (quoting the former state public prosecutor who said about women who went out late at night to bars, “[i]t's hard to go out on the street when it's raining and not get wet”).


[FN70]. Almodovar, supra note 53, at 119 (noting that local officials believed that some of the victims were prostitutes, which in turn created disincentives in the investigations); Monárrez Fragoso, supra note 41, at 163.

[FN71]. Monárrez Fragoso, supra note 41, at 157 (noting that the state authorities blamed women for going to late night bars and having poor family relationships).

[FN72]. Bowden, supra note 1, at 39 (recounting the response of the police to the rape and murder of a young girl whose mother was accused of negligence); Wright, supra note 69, at 557
(noting that the maquila association attributed the murders to weak family values).


[FN74]. Mary Jordan, In México, an Unpunished Crime, Wash. Post, June 30, 2002, at A1 (describing México as “the country that made the term machismo famous”); Thompson, supra note 37 (reporting the labeling of these crimes as “hate crimes” against women whose increasing independence and control over family funds has created a backlash).


[FN76]. Silberschmidt, supra note 75, at 665.


[FN78]. Intolerable Killings, supra note 6.


UN General Assembly in 1979, was intended to provide an international bill of rights for women. See Leornard Pertnoy, The “C” Word: Collegiality Real or Imaginary, and Should it Matter in a Tenure Process, 17 St. Thomas L. Rev. 201, 224 n.84 (2004).

[FN84]. Intolerable Killings, supranote 6.


[FN86]. Cohen, supra note 85, at 52-53.


[FN89]. Id. at 101-02; Salas, supra note 3, at 33 (describing the neoliberal processes in México that resulted in a weaker state less likely or capable of intervening in the economy and changes in regulatory systems in favor of business interests).


[FN95]. Elisabeth Malkin, A Boom Along México's Border, N.Y. Times, Aug. 26, 2004, at W1 (noting that U.S.-owned companies locate their factories in México not only because of cheap labor but because geographical proximity allows them to avoid holding expensive inventory by
demanding that Mexican factories continuously ship supplies).

[FN96]. México has embraced market liberalization strategies advocated by the World Bank, the IMF, and the influence of the Washington Consensus free-market development policies that were first applied in Latin America. Carlos Alzugaray Treto, Governance, Security, and Interamerican Relations, in Neoliberalism and Neopanamericanism 47-48 (Gary Prevost & Carlos Oliva Campos eds., 2002) (noting the heightened degree of influence had by “Washington's unquestionable hegemonic will and capacity” on economic policies of the region); see also Daniel Yergin & Joseph Stanislaw, The Commanding Heights 236 (1998); cf. Tina Rosenberg, Globalization, N.Y. Times Mag., Aug. 18, 2002, at 28 (describing the inability of South Koreans to disagree with the IMF).

[FN97]. Mercedes González de la Rocha, The Urban Family and Poverty in Latin America, 22 Latin Am. Persp. No. 2, at 12 (1995) (describing the impact of the free trade zones on the economies of Mexican urban areas); see María Eugenia Padua, México's Part in the Neoliberal Project, 8 U.C. Davis J. Int'l L. & Pol'y 1, 13 (2002) (noting that scholars of many disciplines have set out to critique the neoliberal project in México because of its failure to achieve adequate economic benefits).

[FN98]. Cooney, supra note 91, at 66-68 (noting that Cd. Juárez is one of the weaker cities with regard to successful independent labor union efforts where company unions are prevalent, function with impunity, and prevent effective worker representation).


[FN100]. Flexibilization is understood to involve labor cost flexibility (wages), external numerical flexibility (employment-at-will), internal numerical flexibility (work time arrangements), functional flexibility (modifying tasks as needed), and informal flexibility (replacing “standard” employment with part-time or other unstable work). Orly Lobel, The Slipperiness of Stability: Contracting for Flexible and Triangular Employment Relationships in the New Economy, 10 Tex. Wesleyan L. Rev. 109, 111 n.3 (2003); see also Edward J. McCaughan, México's Long Crisis, 20 Latin Am. Persp. No. 6, at 17-18 (1993) (associating México's crisis with labor flexibility policies).

[FN101]. Elizabeth Fussell, Making Labor Flexible: The Recomposition of Tijuana's Maquiladora Female Labor Force, 6 Feminist Econ. 59, 64 (2000) (noting that pressure from U.S. investors to control labor unions is a crucial factor in enabling the expansion of the maquila sector); see Elizabeth C. Crandall, Will NAFTA's North American Agreement on Labor


[FN105]. Moody, supra note 88, at 99 (noting that maquila industries have combined greater technology with lower wages). Business Week has acknowledged that the maquila labor force is increasingly well-trained. Id.; Cooney, supra note 91, at 64-65 (noting that despite the increasing skills of maquila workers, they are treated and paid as though they were unskilled).

[FN106]. See Oxfam Int., Trading Away Our Rights, Women Working in the Global Supply Chain 7 (2004) (describing the effects of a 30% cut in production time in the past five years due to just-in-time manufacturing); Wright, supra note 93, at 98 (noting increased demands on labor as a result of new market-sensitive production techniques); see also Cooney, supra note 91, at 64 (discussing the extended work week and higher levels of productivity); Moody, supra note 88, at 97 (describing these labor processes as “management by stress”).


[FN108]. Susan Tiano, Maquila Women: A New Category of Workers?, in Women Workers and Global Restructuring 193 (Kathryn B. Ward ed., 1990) (observing the “paradox” of jobs created by the maquila programs and rising unemployment which doubled in the first fifteen years of the program).


(noting the significant decrease in the number of people regularly employed in paid positions and the introduction of many workers into the “subsistence-level” work in the informal economy).

[FN111]. Roman & Arregui, supra note 104, at 56 (noting the dramatically sharp decline in the number of strikes over the past 15 years). In 1982, there were 947 strikes compared with thirty-four in 1997. Id.

[FN112]. Steve Scifferes, Mexican Growth ‘Too Slow,’ BBC News, at http://news.bbc.co.uk/1/hi/business/3233832.stm (Nov. 24, 2003); Econ. Pol. Inst., Rethinking the Global Political Economy, at http://www.epinet.org/content.cfm/webfeatures_viewpoints_global_polit_econ (transcript of speech given at Asia-Europe-U.S. Progressive Scholar's Forum (Apr. 11-13, 2002)) (describing a recent study by economists in México, Canada, and the United States that found that there was a decline in real wages accompanied by an upward redistribution of income and an increase in informal sector employment).


[FN114]. Cooney, supra note 91, at 63 (noting that maquila wages are half that of manufacturing wages); Fussell, supra note 101, at 60, 67 (noting that maquila workers earned less than those working in local commerce or services, and self-employed workers); Kathryn Kopinak, Gender as a Vehicle for the Subordination of Women Maquiladora Workers in México, 22 Latin Am. Persp. No. 1, at 30 (1995) (noting that wages paid by transnational corporations to the maquilas were lower than what had been paid to traditional Mexican industry).


[FN116]. Maquiladora Workers Can't Meet Basic Needs on Plant Wages, supra note 115.

[FN117]. Susan Tiano, Patriarchy on the Line 222 (1994) (noting that in the past thirty years, Mexican women have entered and remained in the workforce in unprecedented numbers). Mexican women are described as maquiladora heroines. See Norma Iglesias Prieto, Beautiful Flowers of the Maquiladora xix (1994) (noting the industry's description of the preferred workforce as docile, disciplined, healthy, and productive young women); Wright, supra note 93, at 96.

[FN118]. Nathan, supra note 6, at 25.

[FN119]. A. Maria Plumtree, Maquiladoras and Women Workers: The Marginalization of
Women in México as a Means to Economic Development, 6 Sw. J.L. & Trade Am. 177, 184 (1999) (noting that more than two thirds of advertisements in a Mexican newspaper for maquila employment were directed at women). Plumentree describes the signs: ‘Personal Femenino [sic]’ (Women personnel) wanted. Id. Leslie Salzinger, Making Fantasies Real: Producing Women and Men on the Maquila Shop Floor, NACLA: Rep. on the Ams., Mar-Apr. 2001, at 13, 14 (noting advertisements seeking “señoritas” or “damas”). Help-wanted signs posted in front of maquila factories indicated explicitly that employment was limited to women. Fran Ansley, Standing Rusty and Rolling Empty: Law, Poverty, and America’s Eroding Industrial Base, 81 Geo. L.J. 1757, 1844 n.337 (1993) (describing signs outside of maquilas soliciting operadoras or personel feminino or women workers).

[FN120]. Jennifer Mandina, NAFTA’s Contribution to the Discrimination of Mexican Women in the Maquiladoras, 9 Buff. Women's L.J. 25, 27 (2001-2002); Salzinger, supra note 119, at 14 (noting one manufacturer who stated that 85% of the workforce is made up of women, who are more disciplined, pay more attention to what they do, and get bored less than men do).

[FN121]. Salzinger, supra note at 23, at 37 (describing the factory “pink line”).


[FN123]. Benería, supra note 109, at 176 n.12; Salzinger, supra note 23, at 46 (noting that despite preferences for women, by the 1980s, men were 45% of the maquila workforce).

[FN124]. Wright, supra note 93, at 109. Although women continued to be the preferred hires, they were offered unstable and flexible jobs. Benería, supra note 109, at 128.

[FN125]. Pastoral Juvenil Obrerea, The Struggle for Justice in the Maquiladoras: The Experience of the Autotrim Workers, in Confronting Globalization 181 (Timothy A. Wise et al. eds., 2003); see Biemann, supra note 34, at 15 (arguing that low salaries suggests that “pimping takes place on a corporate level”). Studies estimate that maquila wages are as low as $4.00 per day. Wright, supra note 69, at 554.

[FN126]. Arriola, supra note 122, at 765.


[FN128]. Although Human Right Watch initiated a campaign to end pregnancy testing, studies demonstrate that such practices remained pervasive. See Juvenil Obrerea, supra note 125, at 181 (reporting that pregnancy tests have continued even after NAFTA regulations outlawed them); Arriola, supra note 122, at 784-85; Biemann, supra note 34, at 8 (also noting that women who are pregnant are fired from work); see also Marta Lamas, Standing Fast in México: Protecting


[FN130]. Cooney, supra note 91, at 71-72.

[FN131]. Salzinger, supra note 23, at 30, 64 (describing male managers as “voyeurers” and women workers as “the center of attention”); see also Arriola, supra note 122, at 783 (describing groping and molestation on the factory floor, accompanied by threats of termination if women workers did not give in to the male supervisors' sexual demands).

[FN132]. Iglesias Prieto, supra note 117, at 37 (noting that women considered “fat” were not hired because they were told they could not tolerate the heat in the factory); Nathan, supra note 6, at 27 (noting that plant managers admitted to recruiting women who looked like models).

[FN133]. Nathan, supra note 6, at 27 (noting that plant managers favored women who wore short skirts, and heels); Salzinger, supra note 119, at 13, 19 (describing rows of maquila workers with red lipstick and manicured fingers, who are encouraged to wear miniskirts and are examined for their appearance as well as their productivity by male floor managers).

[FN134]. Alicia Gaspar de Alba, The Price of Free Trade is Dead Women, 24 UCLA Today No. 2 (Sept. 23, 2003), at http://www.today.ucla.edu/2003/030923voices_freetrade1.html. For a related study about the production of gender roles as a means to achieve greater productivity from the male work, see Elizabeth Ogelsby, Machos and Machetes in Guatemala's Cane Fields, NACLA: Rep. on the Ams., Mar-Apr. 2001, at 17 (describing techniques designed to “masculinize” harvest labor, the use of industrial psychologists to recruit and train cane cutters, high calorie diets, weight training regimes, amphetamines, and the use of Rambo movies and “exotic dancers” as entertainment).

[FN135]. Iglesias Prieto, supra note 117, at 75 (noting that the beauty contests organized by the maquilas are designed to distract workers from the exploitation they suffer); Arriola, supra note 122, at 779-80 (describing the well-known “La Flor Mas Bella de la Maquiladora” beauty contest).

[FN136]. Nathan, supra note 6, at 27.

[FN137]. Id. (noting that men on the line are equated with women and considered pathetic bread winners).

[FN138]. Id.; Salzinger, supra note 119, at 18-19 (observing that gender identities “are defined by management in the structure of the plan but they are reinforced by workers”).
[FN139]. Iglesias Prieto, supra note 117, at 10-11, 21-22 (describing the dangerous and noxious conditions in the factories).

[FN140]. Id. at 43.

[FN141]. Julie Light, Engineering Change: The Long, Slow Road to Organizing Women Maquiladora Workers, at http://www.corpwatch.org/issues/PID.jsp?articleid=691 (June 26, 1999) (noting that a 1996 study in the International Journal of Occupational and Environmental Health found that between 15-20% of maquila workers had to leave work due to health and safety issues arising at work). Another study in the American Journal of Industrial Medicine found that 21% of maquila workers had problems related to repetitive stress injuries and 45% of workers were exposed to toxic materials. Id.

[FN142]. Wright, supra note 93, at 93, 97; see David W. Eaton, Transformation of the Maquiladora Industry: The Driving Force Behind the Creation of a NAFTA Regional Economy, 14 Ariz. J. Int'l & Comp. L. 747, 774 (1997) (noting that maquila workers have no option other than sub-standard housing).


[FN144]. Bowden, supra note 1, at 30-31.

[FN145]. Id. at 31, 34, 82 (describing such deaths as “epidemic”). In those colonias, with minimal electrical services, defective wiring is a common cause of fires. Id. On Aug. 26, 2004, this author toured Anapra, the largest colonia in Cd. Juárez. A single electrical line ran along the main road of the neighborhood. Builders Without Borders describes the “hundreds of cables spliced into [the main line], haphazardly running down the roads.” Spotlight Program-Builders Without Borders (Aug. 11, 2004), at http://www.usgbc.org/News/usgbcnews_details.asp?ID=964.

[FN146]. Bowden, supra note 1, at 34, 82. Although housing development is stagnant, there is no shortage of transactions of land sales for industrial parks. See Moody, supra note 88, at 110. A number of corporations have provided for improved employee housing, but assistance has been limited to a small percentage of workers and has not provided relief to the vast numbers of maquila workers and migrants drawn to the city. Eaton, supra note 142, at 774 (noting the plans announced by GM and Sony to contribute to worker housing stock); see Wright, supra note 93, at 105 (describing Delphi corporation’s plan to offer housing assistance to employees with at least one year’s seniority despite statistics demonstrating that the average tenure on the assembly line was ten months, thus assuring that most workers would not qualify for the aid).

[FN147]. Moody, supra note 88, at 109-10; see Jaime Preciado Coronado & Jorge Hernández,

[FN148]. Briones, supra note 143, at 309; Thompson, supra note 4 (noting that residents often buy water from itinerant vendors from trucks parked along the edges of the neighborhoods).

[FN149]. Bowden, supra note 1, at 41; Cooney, supra note 91, at 73.

[FN150]. Bowden, supra note 1, at 82; Cooney, supra note 91, at 73; see Eaton, supra note 142, at 781-82 (noting that many manufacturers dump their toxic waste illegally); Elizabeth A. Ellis, *Bordering on Disaster: A New Attempt to Control the Transboundary Effects of Maquiladora Pollution*, 30 Val. U. L. Rev. 621, 623, 630 (1996).

[FN151]. Eaton, supra note 142, at 781-82 (describing water pollution from the dumping of highly polluting chemicals and material into the water system); Juvenil Obrerea, supra note 125, at 177 (noting that transnational firms are overwhelmingly responsible for the pollution).

[FN152]. Eaton, supra note 142, at 782.


[FN155]. Eaton, supra note 142, at 781 n.183; Ellis, supra note 150, at 621-622; Grimm, supra note 129, at 211 (describing the births of about 100 children known today as the “Mallory Children,” born to mothers who worked in the Mallory Capacitors maquila in Matamoros and who were exposed to toxic PCB chemicals).

[FN156]. Ellis, supra note 150, at 631-32. These illnesses are also found on the Texas side of the border, but chemical emissions are two to six times greater in Cd. Juárez. Sam Howe Verhovek, *Pollution Puts People in Peril on the Border with México*, N.Y. Times, July 4, 1998, at A7.

[FN157]. Iglesias Prieto, supra note 117, at 22; Arriola, supra note 122, at 792.

[FN158]. After the 1930s, México nationalized key industries in order to preserve its resources for the nation and end what it considered “persistent and improper intervention in [the country's] foreign affairs.” Enrique Dussel Peters, *Polarizing México* 148-49 (2000) (noting that such social policies had been the foundation of development); Elizabeth Dore, In the National Interest, NACLA: Rep. on the Ams., Jan-Feb. 2003, at 20-21 (quoting President Lázaro Cárdenas); Enrique Krauze, Past Wrongs, Future Rights, N.Y. Times, Aug. 10, 2004, at A21 (noting that from the 1930s through the 1970s, México carried out agrarian reform, created social security institutions, widened the educational net and fostered four decades of economic growth with political stability).
[FN159]. Dussel Peters, supra note 158, at 68; González de la Rocha, supra note 97, at 16.

[FN160]. Although nominally free, parents in Cd. Juárez must pay for expenses for their children's education, which results in the denial of educational opportunities. Interview with Las Hormigas, in Cd. Juárez (Aug. 26, 2004); see also Thompson, supra note 4 (describing old school buses that serve as classrooms and provide no protection from the scorching sun). The World Bank has recommended drastic reductions in public investment in education, the privatization of schools, and the nullification of teacher contracts. See Adriana Puiggros, World Bank Education Policy, NACLA: Rep. on the Ams., May-June 1996, at 26.


[FN162]. Eaton, supra note 142, at 773-74.


[FN165]. Cooney, supra note 91, at 73 (noting that tax breaks given to manufacturers results in a transfer of the costs of basic services to poorly-paid workers). NAFTA provisions allow for the conversion of firms from export sector status to permanent domestic enterprises with tax paying obligations, but multinational corporations have threatened to withdraw rather that allow the Mexican government to pursue such transformation. See Juvenil Obrerea, supra note 125, at 174. Cd. Juárez has imposed a local tax on maquilas but at a very low rate, and it is not certain that such tax will be collected. Bowden, supra note 1, at 82. Corporations successfully negotiate tax incentives, including reduction in rates on payroll, city, and property tax. Perspectives: Case Study: Tax Incentives, U.S.-Mex. Free Trade Rep., 1997 WL 9049742 (reporting Motorola's negotiated tax incentives for its beeper production plant).

[FN166]. See Juvenil Obrerea, supra note 125, at 182; Wright, supra note 93, at 93, 106 (detailing the ORION proposal to redevelop Cd. Juárez into a city that would attract professionals and managers, including a proposal for a city beautification project and the construction of a Juárez Civic Center). Wright's findings demonstrate that ORION's proposal to design an economy around skilled professionals would depend on the ongoing exploitation of low-wage workers in labor-intensive maquilas. Id.
[FN167] Thompson, supra note 4.


[FN169] Cooney, supra note 91, at 76.


[FN171] Thompson, supra note 4.

[FN172] Dillon, supra note 79 (noting that México was considered one of the safest places in the hemisphere).


[FN174] Diane E. Davis, Law Enforcement in México City: Not Yet Under Control, NACLA: Rep. on the Ams., Sept.-Oct. 2003, at 17 (noting that criminal behavior also accelerated in México City related to NAFTA induced unemployment); Wright, supra note 93, at 93, 97; Thompson, supra note 4.

[FN175] Barnet, supra note 92; Nathan, supra note 44.


[FN178] Id. at 40 (noting that drug smugglers have expanded into legitimate business with significant transportation systems).


[FN180] Id. at 18.

[FN181] Id. at 19 (noting that the country’s Human Rights Ombudsman accused U.S. gun manufacturers of exporting the U.S. gun culture to México).


Narcotics Trafficking in México, 9 Cardozo J. Int'l & Comp. L. 231, 235 (2001) (noting that México now has the second highest kidnapping rate in Latin America).

[FN184]. See Nancy Fraser, Justice Interruptus 13, 15 (1997) (arguing that socioeconomic injustice is inherent in the current political economic social structure requiring theorists to critically examine and then link particular forms of oppression with economic subordination).

[FN185]. For a description of behavioral theories of crime by individual and group behaviors, see Michael J. Lynch et al., Critical Perspectives on Crime, Power, and Identity (2000).

[FN186]. Id. at 81 (describing an approach to crime that considers the behaviors of criminals as examples of wider social processes rather than as unique experiences).

[FN187]. Lynch et al., supra note 185, at 128; Boaventura de Sousa Santos, Toward a New Legal Common Sense 455 (2002).

[FN188]. CEDAW Report, supra note 7, at 46.

[FN189]. Boaventura de Sousa Santos, Nuestra America: Reinventing a Subaltern Paradigm of Recognition And Redistribution, 54 Rutgers L. Rev. 1049, 1050 (2002). These conditions have been described as “societal fascism.” Id.; see also Matthew C. Gutmann, Romancing Democracy 81 (2002) (noting the lack of hope for economic improvements).

[FN190]. See supra notes 66-72 and accompanying text.

[FN191]. Wright, supra note 93, at 103 (quoting a maquila manager who explained, “if you have a plant full of girls, then you're gonna have high turnover”).

[FN192]. Id. (quoting a maquila supervisor who denounced women workers for their lack of family orientation). That the maquilas used images of partying and dancing as part of their recruitment efforts is conveniently forgotten. See id. (describing radio ads to recruit new workers which played songs with lyrics describing partying and sex, and in which maquilas were described as a place to have fun and make friends).

[FN193]. de Sousa Santos, supra note 189, at 1051 (describing the collapse of expectations of victimized people and the risks of violence they face). The actions of three middle class youths in Brazil who murdered a landless peasant for “the fun of it” is said to be symbolic of this phenomenon. Id.; see also Elliott Currie, Market, Crime and Community: Toward a Mid-Range Theory of Post-Industrial Violence, 1 Theoretical Criminology 147, 164 (1997) (noting the indifference that develops in a culture overwhelmed by market values).

and a sense of acute vulnerability).

[FN195] See Benería, supra note 109, at 82 (noting that the feminization of the labor force has been linked to deteriorating working conditions).

[FN196] Id.

[FN197] Salzinger, supra note 23, at 34 (noting that stereotypes of femininity have shaped manager's expectations); Wright, supra note 93, at 103 (describing how industry spokesmen blamed Mexican femininity for high turnover and other ills that affect the maquilas).

[FN198] Wright, supra note 93, at 103.


[FN200] See Mark Seltzer, Serial Killers: Death and Life in America's Wound Culture 44 (1998) (describing serial killers as “oversocialized” individuals who believe they are “carrying out sentences that society at large has leveled”).

[FN201] See Shlomo Giora Shoham, Micro-Macro Criminology, in Varieties of Comparative Criminology, International Studies in Sociology and Social Anthropology 9, 52 (2001) (examining, for example, Holocaust murders, and describing those who committed the atrocities as thoroughly influenced by myths created at the macro-level).

[FN202] Keith Aoki, 100 Years of Solitude: The Alternate?? Futures of Latcrit Theory, 54 Rutgers L. Rev. 1031, 1043 (2002); de Sousa Santos, supra note 189, at 1051, 1081.


[FN204] Lynch et al., supra note 185, at 128.

[FN205] Peter Uvin, Aiding Violence: The Development Enterprise in Rwanda 68, 103, 110 (1998) (quoting Sohan Galtererg in defining “structural violence” as “those factors that cause people's actual physical and mental realizations to be below their potential realizations”).

[FN206] Id. at 110.

[FN208]. Id. (quoting migrants from Veracruz: “we live like dogs”); see Currie, supra note 193, at 160 (describing the problems of rootless communities).

[FN209]. Meares, supra note 203, at 1602 (referring to social disorganization theory, first developed by Clifford R. Shaw and Henry D. McKay in 1942, which hypothesized that social disorganization is the product of the weakening of community bonds and the absence of ties to powerful institutions). Communities with social organizational processes that serve as an infrastructure are more likely to develop a “norm highway,” which can resist crime and support the acquisition of neighborhood resources. Id. at 1604.

[FN210]. Seltzer, supra note 200, at 47 (describing the links between gruesome locations and gruesome murders); Richard C. Schragger, The *Limits of Localism*, 100 Mich. L. Rev. 371, 409 (2001) (noting that the physical conditions of a community that contribute to crime have been understood by urban planners since the beginning of the discipline of urban planning).

[FN211]. See Schragger, supra note 210, at 409 (noting that in Village of Euclid v. Ambler Realty Co., the U.S. Supreme Court validated zoning as a means of protecting the well-being of communities); see also Cait Clark, *Problem-Solving Defenders in the Community: Expanding the Conceptual and Institutional Boundaries of Providing Counsel to the Poor*, 14 Geo. J. Legal Ethics 401, 417 n.57 (2001) (noting the relationship between the physical deterioration of housing and increased crime).


[FN213]. Greg Bloom, Border Maquilas: An Overview, Frontera NorteSur (Sept. 2000), at http://www.nmsu.edu/~frontera/sep00/feat1.html (noting that Cd. Juárez is part of the border area that has the fewest number of students who complete their education).


[FN215]. Gutmann, supra note 189, at 141 (describing Mexicans' response to the fear of crime and resulting sense of powerlessness); Barbara Harriss-White, *Globalization and Insecurity* 189 (2002) (acknowledging that conflict theorists have demonstrated that the source of structural violence at the core of conflict and violence has been the unequal distribution of wealth and failure to meet basic human needs); Int. Council on Hum. Rts. Pol., Crime, Public Order and Human Rights 22, at http://www.ichrp.org/ac/excerpts/139.pdf (last visited Apr. 6, 2005) (noting
that a consequence of economic liberalization and the inequality of wealth opportunities is the increased uncertainty about proscribed behaviors.

[FN216]. Harriss-White, supra note 215, at 189.

[FN217]. Litwin, supra note 199, at 826 (describing workplace conditions that give rise to violence).

[FN218]. Id.

[FN219]. Id. at 842-43; see also Bloom, supra note 213 (reporting a riot by construction workers brought into Cd. Juárez as a result of the mistreatment they suffered).

[FN220]. Uvin, supra note 205, at 138 (describing the social processes by which people may become “increasingly unhampered by constraints on the use of violence”); see Lynch et al., supra note 185, at 98 (noting that a life based on poverty, dumpster-diving, and other forms of degradation fail to promote a desire to obey “the rules of the game”).


[FN223]. Social disorganization theories raise the complex issue of agency conceived as “the potentiality of ordinary people ... to act on their own behalf.” See Gutmann, supra note 189, at 72. The manner in which people react to the degrading circumstances of poverty is difficult to address without stereotyping poor people and rendering the culture of poverty as synonymous with an eviscerated culture of the poor. The “culture of poverty” is a term coined by anthropologist Oscar Lewis who studied the poor in México and offered that as a result of systemic conditions, certain traits were present in poor communities including strained or fractured family relationships, lack of impulse control, inability to plan for the future, and a tolerance for psychological pathology. See Anthony V. Alfieri, The Antinomies of Poverty Law and a Theory of Dialogic Empowerment, 16 N.Y.U. Rev. L. & Soc. Change 659, 664 (1987-1988). The “culture of poverty” has been criticized for its depiction of the poor as pathological, and historically inaccurate in light of the ongoing struggles of the poor to control their lives and their communities. See id. However, Matthew Gutmann cautions against “romantic notions of agency.” See Gutmann, supra note 189, at 42-43.

due to the transition to a market economy and growing income disparities); Raul Pierri, Globalization Begets Insecurity Begets Violence (Jan. 20, 2004), at http://www.commondreams.org/headlines04/0120-05.htm (quoting Joseph Stiglitz, “[e]conomic instability and social insecurity will lead to a rise in violence in the world because it is impossible to separate economic issues from social and political issues”).

[FN225]. See Edgardo Rotman, The Globalization of Criminal Violence, 10 Cornell J.L. & Pub. Pol’y 1, 26, 28 (2000) (describing labor exploitation in Guatemala City that has generated sexual violence directed toward women employees by factory managers). The murders also have in common those causal factors that underlie ethnic cleansing and genocide. See generally Uvin, supra note 205, at 110 (noting that “scapegoating” often occurs in societies with structural violence); Anthony W. Pereira & Diane E. Davis, New Patterns on Militarized Violence and Coercion in the Americas, 27 Latin Am. Persp. No. 2, at 3, 6 (2000) (noting that the violence is a product of “specific institutional dynamics, relationships and interactions”).

[FN226]. Lynch et al., supra note 185, at 126 (noting that crimes committed by corporations and those with access to means and wealth are the logical extension of capitalist political-economic relationships).

[FN227]. See Benería, supra note 109, at ix (warning that women's issues cannot be isolated from the socioeconomic conditions within which they exist).

[FN228]. See supra notes 195-197 and accompanying text.

[FN229]. See supra notes 75-76 and accompanying text.


[FN231]. Id. at 151-53 (characterizing these descriptions as having an archetypal quality); see also Gutmann, supra note 189, at 44 (noting that violence and manhood in México is an imaginary cultural trait).

[FN232]. Stern, supra note 230, at 155-56 (suggesting that such stereotypes avoid the critical issues involving the social analysis of masculinity, economic, social and power relations); see also Merle Kling, Violence and Politics in Latin America, in Conflict and Violence in Latin American Politics 218, 230 (Francisco José Moreno & Barbara Mitrani eds., 1971) (describing the ways in which pervasive political violence can be siphoned off into violence between individuals); Evelyn P. Stevens, Mexican Machismo: Politics and Value Orientations, in Conflict and Violence in Latin American Politics 80, 81 (Francisco José Moreno & Barbara Mitrani eds., 1971) (criticizing the social science literature of machismo for its inevitable description of the Mexican male as aggressive and anti-social).

[FN233]. See Mara Viveros Vigoya, Contemporary Latin American Perspectives on Masculinity,
in Changing Men and Masculinities in Latin America 27, 28 (Matthew Gutmann ed., 2003) (describing the shifts in gender relations generally in Latin America in response to ongoing economic, social, and cultural changes). Vigoya also notes that gender must be considered not only by an ordering of social practices determined by sex, but by class, race, and ethnicity. Id. at 52.

[FN234] Id. at 32.

[FN235] Id. (describing empirical findings of such acceptance as a result of changing household roles where more men have undertaken housework as a result of women's involvement in paid work); see also Altha Cravey, Women and Work in México's Maquiladoras 112 (1998) (noting that men in the export zone have renegotiated household tasks and have assumed childcare responsibilities while their wives work, help with cooking, laundry, and shopping); Gutmann, supra note 189, at 49 (noting that women in México are no longer looked down upon for working outside of the home); Tiano, supra note 117, at 222 (describing normative changes in Mexican households).

[FN236] Tiano, supra note 117, at 222 (noting that conventional beliefs that women's employment is thought to negatively affect their traditional roles in the home have given way to a different view that considers such employment as helpful and necessary to support the household).

[FN237] See Susan Eckstein, Women in Latin America, DRCLA NEWS, Winter 1998, at 2 (noting that women in Latin America in the 19th century, like women in the 20th century, have always worked, but also always earned less than men); Mercedes González de la Rocha, From the Resources of Poverty to the Poverty of Resources? 28 Latin Am. Persp. No. 4, at 72, 77 (2001) (noting that for the period of 1940 through 1970 women contributed significantly to household wages). This is not meant to dispute that, historically, there was a rigid system of gender subordination in México. See Steve J. Stern, What Comes After Patriarchy? Reflections from México, 71 Radical Hist. Rev. 54 (1998).


[FN240] See generally González de la Rocha, supra note 237 (describing household instability and diminished survival capacity due to a lack of resources in poor urban households in México).

[FN242]. Leslie Salzinger criticizes the use of “third-world girls snatching jobs from first-world (male breadwinners) ... as a set piece in political rhetoric and a magnet for first-world public anxieties.” Salzinger, supra note 119, at 12.

[FN243]. See Richa Nagar et al., Locating Globalisation: Feminist (Re)readings of the Subjects and Spaces of Globalization, 78 Econ. Geography 257, 261 (2002) (arguing that gender conflict is produced at the sites of global economic restructuring that constructs gender differences to benefit maquila production); Caroline Sweetman, Beyond Rhetoric? Male Involvement in Gender and Development Policy and Practice (June 2000) (arguing that gender stereotypes are used by those in power to exploit both men and women living in poverty), at http://www.brad.ac.uk/acad/dppc/gender/mandmweb/csweetmantext2.html.

[FN244]. Nagar, supra note 243, at 261 (noting that economic liberalization strategies encourage women's disproportionate role in work related to social reproduction).

[FN245]. See González de la Rocha, supra note 237, at 82-83 (describing the intensification of work for women as a result of structural adjustment programs).


[FN248]. González de la Rocha, supra note 237, at 84 (explaining how social networks compensate for low wages).

[FN249]. Id. at 90 (noting that unemployment results in the exclusion of a range of social experiences and opportunities).

[FN250]. Id. at 77, 87, 91 (describing the diminished economic role of women in petty commodity trade due to economic liberalization).

[FN251]. Kent Paterson, Downturn in Maquiladora Industry: Local Economy Contributes to
Increase in Crime & Violence in Ciudad Juarez, at http://retanet.unm.edu/LADB-articles/25080.html (Sept. 11, 2002) (reporting that family violence, including the murder of two children and increased domestic violence, was related to the stresses of unemployment).

[FN252]. Estlund, supra note 247, at 46-47 (observing that the workplace provides individuals with the opportunity to develop the skills necessary for civil engagement, including communication, compromise, and collective decision-making); Vicki Schultz, Life's Work, 100 Colum. L. Rev. 1881, 1887 (2000) (describing the importance of work to an individual's sense of self-worth).

[FN253]. Schultz, supra note 252, at 1889. Schultz notes that “[h]aving lost their place in the workworld, these men are lost to the larger world.” Id.


[FN256]. Id. at 90.

[FN257]. Stern, supra note 237, at 60 (describing gender patterns of hierarchical complementarity by which men and women performed separate but essential and interdependent household functions).

[FN258]. See id.

[FN259]. See id. (noting that, historically, Mexican women needed men to obtain access to peasant community property).

[FN260]. Id. at 58 (observing that food staples are now purchased instead of produced by women at home).

[FN261]. González de la Rocha, supra note 237, at 91 (noting that sons tend to disappear, partly through emigration); LaRue, supra note 177, at 45 (describing the devastation along México's border area, including a sharp increase in the unemployment rate accompanied by increases in immigration to the United States).

[FN262]. González de la Rocha, supra note 237, at 89.

[FN263]. See Social Ecological Risks of Violence Against Women, in Advancing the Federal Research Agenda on Violence Against Women 59, 60-61 (Candace Kruttschnitt et al. eds., 2004) (asserting the relevance of community characteristics, including social networks to rates of
violence against women).

**[FN264]** See Benería, supra note 109, at 27 (connecting the links between domestic violence, male unemployment, and household poverty); Uvin, supra note 205, at 137 (describing how “hatred of the other” combats low-self-esteem caused by chronic unemployment and particularly applies to young men who cannot fulfill the socially constructed ideals of manhood). For findings that indicate that intimate violence occurs with greater frequency in poor neighborhoods and in households facing economic crises, see Nat. Inst. of Just., When Violence Hits Home: How Economics and Neighborhood Play a Role 1-4 (Sept. 2004), available at http://www.ncjrs.org/pdffiles1/nij/205004.pdf; González de la Rocha, supranote 97, at 14-15, 24 (noting the inevitability of increased tension over scarce household resources).

**[FN265]** See supra note 52.

**[FN266]** The reports have criticized police forensic techniques as incompetent and inefficient, pointing to the failure of law enforcement agencies to coordinate their efforts. The use of torture as a means of exacting “confessions” has been condemned. See Almodovar, supra note 53, at 119; Letter from Congress, to President Vicente Fox (June 17, 2003) (encouraging, among other points, the coordination of law enforcement activities with the FBI), available at http://www.wola.org/Mexico/hr/ciudad_juarez/fox_letter.pdf.

**[FN267]** Washington Valdez, supra note 7. Those who have been critical of police practices have been met with threats and harassment. Gaspar de Alba, supra note 26, at 6 (describing activists as “rich, nosey women who just want to ‘save the poor’” and who are accused of self-aggrandizement); Pérez, supra note 61, at 148 (noting the accusations of threats by the police against anyone who came forward with information about the murders).

**[FN268]** See Intolerable Killings, supra note 6.

**[FN269]** See supra note 52 and accompanying text.

**[FN270]** Gary Gereffi & Frederick W. Mayer, The Demand for Global Governance 2, 3 (Sept. 2004) (arguing that we are witnessing a crisis in government as a result of globalized market institutions), at http://www.pubpol.duke.edu/people/faculty/mayer/SAN04-02.pdf.


unified political authority, the centrality of governments, and a sharp split between public and private authority” and “an image of power as juridically concentrated in the hands of the State”).

[FN273]. For an examination of the ways in which global economics interferes with the role of the state generally, see Ewelukwa, supra note 7, at 612 (noting that structural adjustment programs entail the “4 ‘Ds’ - deregulation, deflation, devaluation, and denationalization” and impact the role of the states with regard to public welfare functions); Saskia Sassen, The State and Economic Globalization: Any Implications for International Law?, 1 Chi. J. Int'l L. 109 (2000).

[FN274]. Orford, supra note 224, at 89 (describing the conditions attached to IMF and World Bank funding including privatization, cuts to public funding, and deregulation); see Michel Chossudovsky, The Globalization of Poverty 15 (1997) (describing structural adjustment policies that require the dismantling of state institutions); James Gathii, Human Rights, the World Bank and the Washington Consensus: 1949-1999, 94 Am. Soc'y Int'l L. Proc. 144, 145 (2000); Zoe Young, Market Gardeners, 30 TLS (July 23, 2004) (describing the hegemonic influence of these institutions worldwide through a “bombardment of bribes and threats”); Jeff Faux, Rethinking Global Political Economy, (Apr. 2003) (reporting that the former chief economist with the IMF admitted that no important decisions are made without first checking with the U.S. Treasury) at http://www.epinet.org/content.cfm/webfeatures_viewpoints_global_polit_econ.

[FN275]. Guillermoprieto, supra note 32, at 85 (noting President Fox continued the same policies of his predecessors regarding the weakening of the federal government).


[FN277]. López-Montiel, supra note 276, at 86.

[FN278]. See supra notes 163-165 and accompanying text; Alicia Ely Yamin & Ma. Pilar Noriega García, The Absence of the Rule of Law in México: Diagnosis and Implications for a Mexican Transition to Democracy, 21 Loy. L.A. Int'l & Comp. L. Rev. 467, 473-474 (1999) (noting that improving the compensation systems, for example, for judicial police, produces results in combating corruption). The Inter-American Commission on Human Rights noted that “[t]he lack of adequate physical resources and the low salaries result in glaring inefficiencies and create incentives for corruption to take place in the day-to-day tasks performed by the agents and to become the rule rather than the exception.” Id.


[FN283]. Jorge Regalado Santillán, Public Security Versus Private Security, in Transnat'l Crime and Public Security 181, 184 (John Bailey & Jorge Chabat eds., 2002); Davis, supra note 276, at 23-25 (noting that the emphasis on free trade and open markets has led to the rise of private security forces employed by foreign companies which have found easy profitability).


[FN285]. Arriola, supra note 122, at 762 (noting that warehouses and assembly buildings are surrounded by chain link fences and guarded twenty four hours a day by security forces).

[FN286]. Davis, supra note 174, at 23.


[FN288]. Pereira & Davis, supra note 225, at 3 (describing the shrinking and decentralization of the state along with increased repression).

[FN289]. See Ochoa & Wilson, supra note 221; Stefano Varese, The Territorial Roots of Latin


[FN292]. See Cass, supra note 22, at 603 (noting criticisms of transnational corporations' demands for complete freedom of investment, capital goods, and services).

[FN293]. See Stephens, supra note 291, 56-59 (observing the difficulties in regulating multinational corporations who have both economic and political clout).

[FN294]. See Cass, supra note 22, at 604 (noting the ironic and dangerous efforts to root out corruption in developing states for the purpose of aiding market interests which created conditions for corruption in the first place); Ochoa & Wilson, supra note 221, at 6 (describing the militarization of Mexican society as a response to rising crime).


[FN296]. See Yamin & Garcia, supra note 278, at 505.

[FN297]. See id.

[FN299]. In July 2003, President Vicente Fox announced a plan to enhance law enforcement efforts in Cd. Juárez that included the appointment of a Special Prosecutor and Special Commissioner, both of whom have released reports after initial investigations. Primer Informe, Fiscalía Especial Para La Atención de Delitos Relacionados Con Los Homicidios de Mujeres en El Municipio de Juárez, Chihuahua, (June 2004), available at http://www.almargen.com.mx/archivo/fefuno.pdf.

[FN300]. See Brutal Cycle, supra note 281, at 13.

[FN301]. See id.


[FN303]. See Brutal Cycle, supra note 281, at 15.

[FN304]. See id.

[FN305]. See id.


[FN308]. See Patrick Del Duca, The Rule of Law: México's Approach to Expropriation Disputes in the Face of Investment Globalization, 51 UCLA L. Rev. 35, 37-42 (2003) (noting that although México has been described as “generally ... respectful of private property and private enterprise,” historically, it has used takings through the courts as a means to accomplish economic reform and national social welfare policies). México has recently incorporated a new constitutional design aimed at creating mechanisms to resolve investment and expropriation disputes. Id. at 35; see also Joseph R. Thome, supra note 271, at 692 (describing property and contract rights as crucial factors in evaluating Latin American legal systems' market orientation).

[FN309]. See Ansley, supra note 102, at 404-05, (noting significant law-making activity in the realm of the global economy).
[FN310]. See Del Duca, supra note 308, at 114 (noting a 1992 law allowing international legal processes to resolve controversies between Mexicans and foreign governments or individuals). Such changes were made to comply with Chapter 11 of NAFTA. See NAFTA, supra note 5.

[FN311]. NAFTA partners pressured México to amend its domestic laws and to pass a new Administrative Procedure Law by which transparency in proceedings would be assured, largely to allow foreign investors to affect legal reforms in México. Slover, supra note 306, at 117-18; Zamora, supra note 306, at 411, 418 n.36.

[FN312]. Larry B. Pascal, Reforms Modernize México's Financial Services Sector, 67 Tex. Bus. J. 46, 47-48 (2004) (noting that in 2000, as a result of pressure from foreign investors, México changed its laws to facilitate foreclosure and hasten collection procedures, including the imposition of criminal sanctions in the event a debtor fails to conserve assets for the benefit of the creditor).


[FN314]. See Mex. Const. art. 123; see also La Ley Federal de Trabajo (L.F.T.) art. 3 (Mex.) (describing a social right and obligation demanding respect for workers and decent working standards); Befort & Cornett, supra at 313, at 279 (noting that Mexican labor law prevents workers from bargaining away minimum rights established by law).


[FN318]. See Befort & Cornett, supra note 313, at 296-97 (describing enforcement mechanisms).


[FN320]. There are varied explanations for the historical failure of México's labor laws to live up

[FN321]. See John P. Tuman, Labor Markets and Economic Reform in Latin America, 35 Latin Am. Res. Rev. 173, 180-81 (2000) (reviewing several scholarly works that advocate labor law reforms to permit more flexibility in work rules at particular factories, and suggesting generally that union gains lead to reduced investment); see also Miguel Jáuregui Rojas, Toward a North American Economic Space, 11 U.S.-Mex. L.J. 1, 7 (2003) (calling for law reform to increase the competitiveness of the labor force and to make labor policy “less paternalistic and generally more flexible”).


[FN324]. For example, the Baja California state and Mexican federal courts ruled that strikers at the Han Yuong Maquila in Tijuana were acting in conformity with their rights under Article 123 of the Mexican constitution and the L.F.T. See David Bacon, Free Trade Endangers the Rule of Law on the Border, at http://www.washingtonfreepress.org/41/trade.html (last visited Mar. 6, 2005).


for workers so that employers no longer paid into a worker's housing fund for the construction of new homes, but instead would pay into individual accounts for housing loans, with the additional consequence of undermining labor power).


[FN329]. See id.

[FN330]. Marley S. Weiss, Two Steps Forward, One Step Back—or Vice Versa: Labor Rights Under Free Trade Agreements from NAFTA Through Jordan, Via Chile, to Latin America, and Beyond, 37 U.S.F. L. Rev. 689, 717-18 (2003); see also Acuff, supra note 313, at 400 (noting that transnational corporate employers calculated higher profits by paying fines for labor law violations than by complying with such laws).

[FN331]. Harlow et al., supra note 326, at 141.


[FN333]. Vilas, supra note 322, at 17.


[FN336]. NAALC, supra note 334, annex 1.

[FN337]. Most claims cannot proceed past the first administrative level where reports may be issued. Revised Notice of Establishment of U.S. National Administrative Office and Procedural Guidelines, 59 Fed. Reg. 16660, 16661, Section G (Apr. 1, 1994) [hereinafter The Guidelines]. If a claim reaches an arbitration panel, the panel may, but is not required to, impose a fine upon finding a violation of labor rights which would be paid to a labor rights enforcement fund rather than to aggrieved workers. Holt & Waller, supra note 335, at 42. Enforcement procedures under NAALC are available to governments only and workers have no recourse on their own. Id. at 43.
[FN338]. NAALC, supra note 334, art. 23; Holt & Waller, supra note 335, at 43.

[FN339]. NAALC, supra note 334, art. 23; Holt & Waller, supra note 335, at 43.

[FN340]. NAALC, supra note 334, art. 29 (limiting review to three categories: occupational safety and health, child labor, and minimum wage standards).


[FN342]. See Grimm, supra note 129, at 221-22.

[FN343]. Id.

[FN344]. See Juvenil Obrerea, supra note 125, at 189 (noting attempts to discredit workers seeking NAALC relief); Acuff, supra note 313, at 422 (noting the need to pursue state remedies before NAALC remedies). Workers were also unable to proceed because of expenses. Juvenil Obrerea, supra note 125, at 189.

[FN345]. Otero, supra note 334, at 659-60 (noting that the NAO determined it was precluded from making any findings regarding labor rights violations because workers, due to personal reasons related to financial difficulties, accepted severance pay).

[FN346]. See Heredia, supra note 320, at 38.

[FN347]. Sassen, supra note 290, at 38.

[FN348]. See Alzugaray Treto, supra note 96, at 47 (referencing the phrase “there is no alternative” used with such frequency by Margaret Thatcher to reinforce the idea of the liberal order of the market which earned her and her program the acronym “TINA”); see also de Sousa Santos, supra note 189, at 1049 (noting the current obstacles to considering alternatives). But see Timothy A. Canova, The Disorders of Unrestricted Capital Mobility and the Limits of the Orthodox Imagination: A Critique of Robert Solomon, Money on the Move: The Revolution in International Finance Since 1980, 9 Minn. J. Global Trade 219, 230 n.52 (arguing that “we have other alternatives” in response).

[FN350]. See Sassen, supra note 290, at 29-30 (noting that feminist scholarship on international law has not focused on the impact of non-state actors on questions of sovereignty and the state).


[FN352]. See Compa & Hinchliffe-Darricarrère, supra note 351, at 672-73 (describing, for example, the promulgation of a Maquiladora Code for implementation in México's export zone with specific protections for women workers). The Code, however, has failed to bring about meaningful reform. Id.

[FN353]. Gereffi & Mayer, supra note 270, at 21 (noting that proponents of codes argue that codes provide the basis of improved regulatory frameworks in transnational manufacturing settings).


[FN355]. Terry Collingsworth, ‘Corporate Social Responsibility,’ Unmasked, 16 St. Thomas L. Rev. 669, 670 (2004) (observing the business communities' efforts to nullify the ATCA and noting that “the already questionable idea of trusting corporations to self-police compliance with their broad codes of conduct is rendered ridiculous, given the aggressive refusal of these same companies to accept being bound to the minimal constraints of the ATCA”).


[FN358]. Gereffi et al., supra note 356, at 61.


[FN361] Id. at 912.


[FN363] Id. at 56-57.

[FN364] Id.

[FN365] Id.

[FN366] Id.


[FN368] Gloria Gonzalez Salazar, Participation of Women in the Mexican Labor Force, in Sex and Class in Latin America 183 (June Nash & Helen Safa eds., 1980) (noting the relationship between weak unions and harms to women); see William S. Stokes, Violence as a Power Factor in Latin America, in Conflict and Violence in Latin American Politics 156, 180 (Francisco José Moreno & Barbara Mitran eds., 1971) (linking combating violence with support for unions).

[FN369] See Diamond, supra note 367, at 98.


[FN371] Id. at 584.


Preferences: A 20 Year Review, 22 Comp. Lab. L. & Pol'y J. 199, 204-07 (2001) (observing that the GSP's labor protections have had a positive impact in some places where it has been implemented and that it has impacted labor clauses in other laws and trade agreements).


[FN377]. Ellenbogen, supra note 27, at 1315 (describing litigation against the U.S. Customs Service for their failure to investigate forced child labor in cocoa harvesting in Côte d'Ivoire).

[FN378]. Alternatives for the Americas, supra note 374, at 12.


[FN382]. Juvenil Obrerea, supra note 125, at 174 (noting that only the imposition of international labor standards can improve labor conditions in the maquilas). A comprehensive listing of labor law related remedies that might benefit trade and labor relationships is found in Ansley, supra note 102, at 410-13.

[FN383]. Alternatives for the Americas, supra note 374, at 43 (noting that all 35 countries of the Americas are members of the ILO and have ratified ILO conventions). The ILO's conventions include the abolition of forced labor (Conventions 29 and 105); the rights to collective bargaining, trade union action, and the right to strike (Conventions 87 and 98); equal pay for work of equal value and the prevention of discrimination in the workplace (Conventions 100 and 111); and minimum working age (Convention 138). The ILO Declaration states that “lasting peace can be established only if it is based on social justice.” See Declaration Concerning the Aims and Purposes of the International Labor Organization, art. I, 15 U.N.T.S. 35, ILO (Oct. 9, 1946).

[FN384]. Alternatives for the Americas, supra note 374, at 45 (noting that the 1998 ILO Declaration binds all member countries, even those that have not ratified its eight conventions).


[FN388]. Id. at 222, 240 (critiquing the report of the World Commission on the Social Dimensions of Globalization).

[FN389]. Id. at 263-64.

[FN390]. Id. at 264.

[FN391]. Barenberg, supra note 370, at 589.

[FN392]. Alternatives for the Americas, supra note 374, at 48.

[FN393]. The Zapatista movement is one such example. R. Aída Hernández Castillo, Zapatismo and the Emergence of Indigenous Feminism, NACLA: Rep. on the Ams., May-June 2002, at 39; see Chossudovsky, supra note 274, at 27 (observing that reforms are not likely to occur without “an enduring social struggle”); Cass, supra note 22, at 603 (noting that economic law institutions have been shaped by the tension between such entities and Third World social movements as opposed to gradual legal change); Gunewardena, supra note 163, at 212 (noting the documenting of the resistance of women workers in the globalized workplace).


[FN395]. Borrowing from Boaventura de Sousa Santos:

By utopia I mean the exploration by imagination of new modes of human possibility and styles of will, and the confrontation by imagination of the necessity of whatever exists, just because it exists, on behalf of something radically better that is worth fighting for, and to which humanity is fully entitled.

de Sousa Santos, supra note 189, at 1065.
[FN396]. Alternatives for the Americas, supra note 374, at 10.

[FN397]. Mark Barenberg, Law and Labor in the New Global Economy: Through the Lens of United States Federalism, 33 Colum. J. Transnat’l L. 445, 450 (1995) (identifying strategies to prevent the practice of social dumping and the movement of capital from high wage countries to low wage countries); see also Benería, supra note 109, at 166 (describing the Monterrey Consensus, a series of proposals from the U.N. Conference on Financing for Development in Monterrey, México in March 2002, which called for an international tax organization to develop a system of transfers from the richest to the poorest world regions).

[FN398]. Alternatives for the Americas, supra note 374, at 11.

[FN399]. Id. at 60.

[FN400]. See Jean Franco, The Long March of Feminism, NACLA: Rep. on the Ams., Jan.-Feb. 1998, at 10, 15 (warning of the danger of the professionalization or transnationalization of NGOs which “raises questions over how women's roles are being defined in the global economy and who is defining them”).

[FN401]. Benería, supra note 109, at 90.

[FN402]. Id. at 161.


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