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NOTE: Don't Hate the Player, Hate the Game: Gangs and their Operation as a Criminal Enterprise in an Alternate Illegal Economic Market

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Highlight

Abstract: Despite efforts of law enforcement and of the Courts to put an end to gangs and their criminal businesses, they have yet to be successful. This failure is primarily due to the inability to strike at the root of the issue-the most powerful player, or the 'head' of the gang. However, finding the 'root' is only part of the problem. In fact, due to the overpowering influence in America of the economics of supply and demand, there will never be a solution to the 'problem' of a gang run black market. Since there is a demand for both legal and illicit goods and services, and because there are both legitimate and illegal suppliers, sellers, and customers, the above ground and black market economies will always operate in tandem.

This paper will explore the historical context of Prohibition's influence on the development of speakeasies to meet a specified demand for alcohol in the 1920's. It will use that example to draw a comparison to the opportunity for gangs (as suppliers) in today's economy to meet a necessary demand for drugs by examining the black markets' influence on supply and demand, as well as the presence of gangs in U.S. cities where marijuana, despite its' legality, is still one of the hottest commodities on the black market.

Part I will delve into the history of underground illicit markets, focusing specifically on the roaring 1920's.

Part II will provide a brief overview of the economic relationship between supply and demand generally, and its functionality within the American economy.

Part III will look at gangs, their purpose, and their structure as a hierarchy, including the disposability of members at each level, focusing on the necessity to keep the market functioning due to the demand for products. When viewed through an economic lens, it will be clear that gangs are more than just organized chaos and violence, but rational actors engaging in complex risk assessment, shadowing the legitimate U.S. economy as it exists today.

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Part IV will look into what has been done to combat the presence of a gang run black market in the past. It will also offer a bleak look into the future by examining the existence of the ever-present gang problem in Colorado where the state has legalized marijuana (despite continuing illegality under federal law).

Finally, *Part V* will ultimately demonstrate that the 'gangs' themselves are not the root cause of the illegal market they dominate. It is the market itself that is the root of the problem. For that reason, there is nothing that can be done to battle the problem of an illicit economy or underground black market because it is not really 'underground'. The illegal market both works alongside and operates in tandem with the legitimate American economy; because of both markets' reliance on supply and demand and the same Americans as consumers, where the legal market fails, consumers can rely on the 'underground' economies' willingness to fill gaps in supply.

Don't hate the player, hate the game.

Text

[*211] I. The Cyclical Nature of Prohibition

Prohibition: effectuated by the Eighteenth Amendment on January 16, 1919 with the aid of the Volstead Act, banned "the manufacture, sale, or transportation of intoxicating liquors."² Prohibition, taking place from 1919-1933³, was the first time in contemporary American history wherein a major part of the U.S. economy was based on an illicit product.⁴ The focus of legislation and law enforcement shifted to those who violated [*212] the amendment, and the widespread manufacture and sale of liquor became, as Warren G. Harding declared at his Second Annual Message, a "nationwide scandal."⁵ President Harding went on to say that violations of Prohibition were "the most demoralizing factor in our public life."⁶ This ban on alcohol and the extremely negative views towards violators thereof, were the catalysts for the creation of underground alcohol laboratories, bars, and storefronts, more commonly known as speakeasies.⁷ Since a commonly purchased product was now outlawed, traditional suppliers were also shut out, thus leaving an open space for a new supplier in the market. These new suppliers were the owners and operators of illegal speakeasies. By shifting the market underground⁸, due to a recent lack of suppliers in the legal market, both the newfound suppliers as well as the customers were moved underground as well. By moving the market underground, the key players also lessened their chances of detection by law enforcement officials because of the conspicuous nature of the newly illegal alcohol market.

² Robert Post, *Article: Federalism, Positive Law, and the Emergence of the American Administrative State: Prohibition in the Taft Court Era*, [48 WM. & MARY L. REV. 1, 4 \(2006\)](#).

³ See generally Post, *supra* note 2.

⁴ See generally Nora V. Demleitner, *Article: Organized Crime and Prohibition: What Difference Does Legalization Make*, [15 WHITTIER L. REV. 613, 621 \(1994\)](#).

⁵ See Post, *supra* note 2.

⁶ Post, *supra* note 2, at 11 *citing* Warren G. Harding, Second Annual Message (Dec. 8, 1922), in 3 *The State of the Union Messages of the Presidents, 1790-1966*, at 2636 (Fred L. Israel ed., 1967).

⁷ Post, *supra* note 2, at 6.

⁸ Underground as meaning a shift to illicit goods; not sold within the legitimate U.S. marketplace, but instead in the illegal market.

The outlawing of alcohol during Prohibition, notwithstanding the already high demand for the substance, [*213] forced the market to move entirely underground. Instead of focusing on the demand, the real reason behind why alcohol is such a popular commodity, prohibition instead focused solely on the means to the end, the suppliers. By focusing on the suppliers, prohibition actually was beneficial for the underground and illicit economy because it removed legal competitor suppliers, while increasing the demand for the commodity itself. Prohibiting the manufacture and sale of alcohol, as opposed to eliminating the *demand* for those goods or services, only drove purchasers and manufacturers to become increasingly less conspicuous, by driving them further underground.⁹ Prohibition certainly did not force illegal alcohol suppliers, consumers, or sales to disappear completely.¹⁰ Then, when paired with the Great Depression, one of the greatest economic recessions in our nation's history, and the need to acquire wealth to stay afloat, many members of legitimate enterprises turned away from their legal trades and opted for the more lucrative, alcohol related jobs to be found in the underground market.¹¹ A simple cost/benefit analysis conducted by many of these tradesmen demonstrated that the demand for illicit [*214] alcohol was so great and the detriments of getting caught low enough, that because of the economic crisis that the time, they had 'nothing to lose.' Illegal markets flourish when those responsible for their operation deem it more profitable to operate underground, as opposed to functioning within the legal, above ground economy.¹² That is precisely what occurred here.

The enactment of the Volstead Act in 1919 was responsible for the ban on all manufacturing and trading of liquor [which was defined as having a 0.5% alcohol content]; enforcing the Act was an enormous task that the government was simply unprepared and ill equipped to enforce.¹³ Citizens in states that had already had prohibition statutes, "dry states" as they were known, and those who were not already dry, both resented the Federal government's "police power" all the same.¹⁴ But, because there was a demand for alcohol, the supply simply moved out of the open view of the government, and retreated underground-to the black market. Although the underground market was more conspicuous than the legitimate economy, (or a sale 'out in the open') during this time, the risks of prosecution for being identified as a criminal supplier increased, and what increased [*215] simultaneously were the profits for those who could maintain their black market business while avoiding detection.¹⁵

The effects of alcohol prohibition on underground criminality was not a unique occurrence; the history of the 1980's demonstrated eerily similar dynamics with illegal drugs coined as 'The War on Drugs.'¹⁶ Economic disparity during Industrialization in the period after the Second World War¹⁷ created a pressure cooker for

⁹ Igor V. Dubinsky, *Comment How Bad Boys Turn Good: The Role of Law in Transforming Criminal Organizations Into Legitimate Entities by Making Rehabilitation An Economic Necessity*, [5 DEPAUL BUS. & COMM. L. J. 379, 409-410 \(2007\)](#).

¹⁰ *Id.*

¹¹ *Id.* at 384.

¹² *Id.*

¹³ Post, *supra* note 2, at 23.

¹⁴ Post, *supra* note 2, at 26 *citing* Lincoln C. Andrews, P *rohibition Enforcement as a Phase of Federal Versus State Jurisdiction in American Life*, 129 ANNALS AM. ACAD. POL. SOC. SCI. 77, 82 (1927).

¹⁵ Dubinsky, *supra* note 9, at 384-386.

¹⁶ See generally Lua Kamal Yuille, *Article: Blood In, Buyout: A Property & Economic Approach to Street Gangs*, [2015 WIS. L. REV. 1049 \(2015\)](#).

¹⁷ Between the years 1940 to 1980.

disadvantaged and minority youth and young adults.¹⁸ Many of these young adults, looking for an escape, or perhaps an economic opportunity that had been denied to them, turned to drugs and the drug trade.¹⁹ While cocaine had the reputation of being the drug of choice for the upper class, commonly referred to as an "upper" because of its speedy effects on the user, when drugs began to seep into disadvantaged areas in the 1980's, cocaine, as seen previously in its powdered version, took a new form.²⁰ The white powder cocaine loved and sold in the suburbs and corporate America began to appear on the streets instead as crack rock.²¹ The lack of purity in the alternative 'rock version' of the substance meant that it was **[*216]** much cheaper to produce and therefore less expensive to buy.²² Due to the low price tag, the influx of crack into lower socioeconomic communities proved to be a deadly combination because the low street value provided unrestricted access to the underclass.²³ The increase in drug consumption increased the demand for the drug, and the large number of available potential "employees" (who could sell the drugs) aided in facilitating the supply. As in any industry, when there is demand, there is an opportunity for supply; because of the highly addictive properties of crack-cocaine, the arrival of the substance into urban environments created not only a demand, but an entirely new population of customers, and in turn, addicts.²⁴

II. A Touch of Supply and Demand-The American Way

a. Demand

These interactions established a market. In a typical market transaction, large companies are the suppliers filling the demand for a particular commodity. However in the black market, organized crime typically emerges to fill a need for a service or product.²⁵ The basic principles of the business world are simple: supply and demand. When there is more of a product than the corresponding demand, the product saturates the market **[*217]** and its price goes down; when there is a high demand for a product but low inventory, or limited sellers of the good, then the product will be worth more money. Because social and cultural phenomena aid in the creation of demand within the market, and because "legal rules are subservient to the law of the marketplace,"²⁶ when the law prohibits the sale and use of goods that are in high demand, organized crime rings, like gangs²⁷ in particular, step in to fill the demand. "The illegal drug market is itself a cauldron of criminality ... drug money is also the lifeblood of

¹⁸ Yuille, *supra* note 16, at 1059-60.

¹⁹ *Id.* at 1060.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 1059, 1060.

²⁵ Demleitner, *supra* note 4, at 614.

²⁶ Dubinsky, *supra* note 9, at 384, *citing* Steven Wisotsky, *Beyond the War on Drugs, in The Drug Legalization Debate* 103, 107 (James A. Inciardi ed., 1991).

²⁷ A gang, defined by the National Criminal Justice Reference Service is a group of three or more individuals, who engage in criminal activity and identify themselves with a common name or signote *Special Feature: Gangs*, NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE, OFFICE OF JUSTICE PROGRAMS. <https://www.ncjrs.gov/gangs/> (last visited April 24, 2020).

criminal gangs." ²⁸When viewed through an economic lens, a gang's functionality and ultimate success, like any other American corporation, relies upon the principles of supply and demand.

b. Supply

Due to the unavailability of employment opportunities, and the scarce number of jobs in low income neighborhoods, many residents of these areas pursued 'jobs' in their own locale by way of gang involvement and dealing drugs. ²⁹This rationale has [*218] been explored through history in various capacities, with one of the most relevant being the Harrison Narcotics Tax Act, which was enacted on December 17th 1914, prohibiting the production, sale, and use of certain drugs.

³⁰After the Harrison Narcotics Tax Act was enacted, almost every street corner in the inner cities had new jobs waiting for young entrepreneurs, specifically those willing to get their hands dirty; they would be the suppliers of the illicit products in the highest demand, drugs (and other illicit goods).

³¹Because gangs possessed both the infrastructure, as well as the will to distribute the drugs, the only other component needed for a successful business is the employees willing to do the work. At-risk youth present in the area were easy targets to become foot soldiers for the gangs. Residents in these areas become trapped in this cycle [of recurrent gang membership] because they are often funneled directly into gang membership and its attendant criminal activities.

³²Because of racial biases, even those who choose to seek employment elsewhere are often unsuccessful. Furthermore, because of the history of the community and lack of 'legitimate' role models [i.e. someone involved in something other than an [*219] illicit trade] many youth follow by example and ultimately turn to gang life in general, and more specifically, dealing drugs.

³³Regardless of their reasons for joining the gang, new recruits thrust themselves into the economic world as it exists around them, in this scenario, into the illicit underground economy. Mostly, new gang recruits are young minority kids.

³⁴Therefore, while their Caucasian classmates are buying and using drugs, then graduating school and going to work in a legal market, these (often minority) gang members are doing things differently. These gang members are participating in their own underground lucrative businesses [through illicit drug sales and other criminal activities] contributing to the successful function of their own *criminal* market. ³⁵

c. Market Interaction

Continually, once the underground market is created, there are relatively few, if any, obstacles preventing its success. Although critics may argue that the demand for illegal commodities would decrease, and while that may be true generally, any decrease should not be understood to effectively end the demand entirely. ³⁶Due to the

²⁸ Steven B. Duke, *Commentary: Drug Prohibition: An Unnatural Disaster*, [27 CONN L. REV. 571, 577 \(1995\)](#).

²⁹ *Id.* at 575-77.

³⁰ HARRISON NARCOTICS TAX ACT, PUBLIC ACTS OF THE SIXTY THIRD CONGRESS, Ch. 1 [28 Stat. 785](#) (1914) https://www.naabt.org/documents/Harrison_Narcotics_Tax_Act_1914.pdf.

³¹ Duke, *supra* note 28, at 592.

³² Zachary E. Shapiro, Elizabeth Curran, Rachel C.K. Hutchinson, *Cycles of Failure: The War on Family, The War on Drugs, and The War on Schools Through HBO's The Wire*, 25 WASH. & LEE J. CIVIL RTG. & SOC. JUST. 184, 206 (2018).

³³ *Id.*

³⁴ See generally Duke, *supra* note 28; see generally Yuille, *supra* note 16.

³⁵ See generally Yuille, *supra* note 16.

³⁶ See generally Steven Wisotsky, *Exposing the War on Cocaine: The Futility and Destructiveness of Prohibition*, 183 WIS. L. REV. 1305 (1983).

continuing significant [*220] demand³⁷, paired with the ability and willingness to supply, the illicit markets' reach and effects can be further perpetuated. Since most drug use in the United States is illegal,³⁸ a drug user, regardless of race, religion, or ethnicity, must inevitably be getting their supply as a product of the underground illicit economy. The illicit economy functions primarily in inner cities and urban areas where the demographic is mostly Black and Hispanic.³⁹ Those in the market for illicit goods come from all racial and national heritages, and thus the illicit economy has demonstrated that it does not discriminate and it has no racial boundaries. Where demand is so prevalent, and supply is so available, with street level salesmen on every corner providing open portals to the criminal underworld, it is no surprise that the black market is successful.⁴⁰ This underground market is out in the open, if you know what to look for. The drug dealers that line the block like light posts may very well be members of gangs.⁴¹

Although the threat of detection by law enforcement is consistently looming, these low level street dealers do not have to fear being caught.⁴² First, the likelihood of getting arrested [*221] is low due to the lack of law enforcement; "there are simply not enough police officers--and never will be--to saturate every conceivable venue where drugs might be sold."⁴³ Furthermore, these gang members may not really care if they are caught because if they are caught, in the event that they do serve jail time as a consequence, they are released with an even higher status, a 'promotion' if you will, by means of 'street cred'.⁴⁴

Finally, there is no *real* incentive to stop; "like any industry, organized crime is directed by the pursuit of profit along well defined lines."⁴⁵ Those operating in the black market are lucky enough to have those lines of supply and demand well defined by the legitimate, above ground economy, and simply have to follow suit and avoid detection to be successful. The same way a stockbroker would not quit and abandon his clients, his paycheck, and his career merely because he lost money on one bad investment, a gang member is incentivized to remain a member of the gang because (1) it is his job, (2) he has clients, (3) there is work to be done, and some drug dealers are committed to the gang lifestyle (whether that is because of his own personal reasons, or for fear of what could happen to him if he tried to abandon his gang life), and most importantly, and (4) there is [*222] still a demand for his product despite the commodities' status as 'illegal' and the risks associated with its sale.⁴⁶

Perhaps therefore, it is not the mere violence of a gang or the violent tendencies of its individuals that drives gangs to commit crimes. Rather, the driving force behind gangs as a criminal organization is really the need for economic survival, and the opportunity to become a top supplier in a thriving market full of illicit demand. In the legitimate marketplace, the actions taken by gangs to ensure their economic success would be acknowledged as

³⁷ At the very least considering the addicted population note

³⁸ According to Federal Law.

³⁹ Duke, *supra* note 28, at 590.

⁴⁰ Duke, *supra* note 28, at 591.

⁴¹ See generally David Rutkowski, *A Coercion Defense for the Street Gang Criminal: Plugging the Moral Gap in Existing Law*, 10 ND J. L. ETHICS & PUB POL'Y 137, (1996).

⁴² Duke, *supra* note 28, at 591.

⁴³ *Id.*

⁴⁴ Sara Lynn Van Hofwegen, *Note, Unjust and Ineffective: A Critical Look At California's Step Act*, [18 S. CAL. INTERDISC. L. J. 679, 690 \(2009\)](#).

⁴⁵ Demleitner, *supra* note 4, at 617 *citing* President's Commission on Organized Crime, *The Impact: Organized Crime Today* 28 (1986).

⁴⁶ See Rutkowski *supra* note 41, at 147, 150-55; see generally Dubinsky *supra* note 9.

having a good work ethic. Like most traditional employees who work because they have bills to pay or need food to eat, it is a gang member's job to participate in the business the way that he does, and like a traditional business, there is competition. Rival gangs are each other's main competitors in the underground economy and interestingly enough, 'victims' of gang violence are often rival gang members - the competitors.⁴⁷ As an example, when a rival gang member encroaches on territory that doesn't belong to him and tries to sell drugs, that sale, for the gang member who already occupies that territory, may be the difference between whether he earns his pay that day and is able to provide for his family or **[*223]** whether he "must" ⁴⁸end that rival's life for being on the wrong turf. Therefore, any choice that a gang member makes (i.e. whether or not to kill that 'victim') although based on many factors, like respect from his own gang and gang rivalries, will also be significantly based on the prospective economic gain either to himself or the gang as a whole. ⁴⁹That member is not killing for the sport or thrill of killing, he has instead carefully weighed the costs and benefits of the action and is choosing to act based on the monetary or economic gain to be had from the act. ⁵⁰Since the principles of supply and demand are our economy's guiding principles, gangs, like any other business, model their business plans in the illegitimate economy after the legal one. ⁵¹Then, when a gap in supply appears in the traditional legal economy, gangs capitalize on an open opportunity, using the already existing demand paired with their newly set up criminal enterprise ready to supply, thus making up the difference, filling the gap, and providing consumers with the commodities in demand. ⁵²

The problem we are faced with is extremely unconventional, because it does not *infect* our "above ground" economy. It affects, but does not *infect* the legitimate economic sphere that **[*224]** we are functioning in as a society, which is why there is no available remedy. This is true for drugs as well as other illegal goods such as faux designer watches or bags. These goods are not permeating the same retail locations where their legal counterparts would be; instead, they are existing just along the outskirts of the legal market, being sold elsewhere, with lower quality materials, for a cheaper price, still *affecting* the legitimate economy.

And so, a problem is created; the problem being: an illegal market functioning as its own economic sphere *in tandem* with the legitimate economy, using the same principles as its legal counterpart, and appealing to the same consumers. *This illegitimate economy is functioning at the same time, in the same space, and essentially alongside our economy.* Running this economy is organized crime, mainly gangs.

Gangs do not function in the United States economy in the way most American businesses do; gangs operate their enterprise in the alternative markets of the criminal world. ⁵³A gang is a one stop supply shop for illegal goods, which is how, like any good business, gangs profit and succeed in the markets they dominate.

III. Gangs as a Hierarchy

[*225] Gangs function in an organized capacity; this makes it extremely easy to shadow, and in a way, parallel the typical American business. ⁵⁴The gang structure itself is quite simple: organization, leadership, and hierarchy. It is a system that operates from the top down; the bottom consists of the "throw away foot soldiers" who are

⁴⁷ See generally Dubinsky, *supra* note 9.

⁴⁸ One again, because it is his job.

⁴⁹ Dubinsky, *supra* note 9, at 380.

⁵⁰ *Id.*

⁵¹ See generally Dubinsky, *supra* note 9.

⁵² *Id.*

⁵³ See generally Yuille, *supra* note 16.

⁵⁴ See generally Dubinsky, *supra* note 9; see also Demleitner, *supra* note 4 at 617.

disposable to the gang, i.e. those who can easily be replaced.⁵⁵ Then, as in any legitimate business, there are sales employees, managers, directors, and finally, the highest positions like the CFO and CEO. Despite different names, like foot soldier, or YG, and OG⁵⁶, gangs function in a similar manner.⁵⁷ In both the illicit and legal supply chains, an employee often begins at the bottom and works his way up the 'corporate ladder'; the higher one moves, the more power he has. The same is true for a gang member.

Once organized, by focusing on the gaps in supply primarily for illicit goods, the gang fills the empty space in the above ground economy, by fulfilling society's demand for illegal items using the black market.⁵⁸ Gangs effectively create and maintain a "society that seeks to operate outside of the control of the [*226] American people and their government."⁵⁹ In the gang business, as compared to a typical American business however, the rules are stricter, the stakes are much higher, both for the individuals and the gang unit, and the decisions one makes are often between life and death.⁶⁰

a. No Love for a "G"

As previously explained, gangs function in a hierarchical structure similar to any traditional business model.⁶¹ However, the one main difference between the two counterparts is the level of risk that accompanies competition.⁶² Competition between illegal suppliers poses many risks, including: a) the threat of harm to the individuals involved, b) the threat of harm to the community, and c) the threat the competition created by multiple illegal sellers poses to the legitimate economy.⁶³ Due to the nature of the business (dealing with illegal goods), the risks posed by the gangs' operation in an underground economy extends past just the people in the gang to the people living and working in the area in which the gang operates.⁶⁴ The gangs also pose a risk to the legitimate functions of society and government.⁶⁵ These risks can range from simply the presence [*227] of drugs and gangs on the streets, to as serious as arms dealing and gun violence. The legitimate economy in which society functions is affected by the illegal economy because both economies share customers; these customers are contributing to the underground economy to purchase what the legal markets lack, meaning that they are spending less money in the legitimate economy and potentially even relying on the underground market to 'one stop shop' and buy additional needs. This is the "game" of gang-run economic markets-despite illegality of the commodity, when a gang notices a demand for a product, they will ensure that they are available to be the supplier.

⁵⁵ Demleitner, *supra* note 4, at 616-17.

⁵⁶ See Peter Hermann, *Gang Code Deciphered*. THE BALTIMORE SUN, (May 28, 2009, 10:55 am), https://www.baltimoresun.com/bs-mtblog-2009-05-gangs_and_codestory.html, (explaining that YG means Young Gangster, and OG stands for Original Gangster).

⁵⁷ See generally Demleitner, *supra* note 4.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Demleitner, *supra* note 4, at 617.

⁶² *Id.* at 616.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

While one would assume there to be obvious and noteworthy differences between above ground markets and those run by gangs, there is not enough stark contrast between the two and their functionality to draw bright line distinctions between them aside from the nature of their products - one being illicit and the other legal. *In fact, it is because of their similarity that the alternate underground market is able to exist.* Where the legitimate above ground economy fails to meet a demand, [following the same economic model but with illegal products] a gang will enter to fill the supply.⁶⁶

In a similar manner to a legitimate business, the 'employees' in both gangs and legal companies are replaceable [*228] due to the strength of the company or the gang itself. Therefore, despite the highly valued and powerful "upper management" positions in a gang, when the 'top dog' loses power - i.e. he is arrested or killed - though business may slow down, it does not screech to a halt.⁶⁷ This is because it is not the 'players' who keep the gang functioning at its peak ability. Although a gang will be affected momentarily by the loss of an upper echelon member of its ranks, the market (the 'game') controlled by gangs, is not so easily affected. If the demand still exists, another gang member, or (in an extreme, competitive case, another gang) will step in to supply the demand. It is not the 'player', but the 'game' itself. The 'game' is the marketplace. It is the demand for illegal goods that the gang can, will, and already are supplying.

b. Money Over Everything

As Lil' Wayne once said, "the money is the motive."⁶⁸ This principle is ever present in illegitimate and legitimate business as well. Promotions, hiring, firing, and all other actions within a business revolve in some capacity, around business imperatives, and what that particular individual is worth for the company as a whole; when an employee is found to [*229] have fallen below his quota for example, his job may be at risk. There is a cost-benefit analysis that a legitimate above ground company as a whole must engage in when it comes to conducting its business. There is no reason why it would be any different regarding gangs. When the lens through which we view gangs is changed from an "organizational" one to a supply and demand focused perspective, the gang is more easily viewed as "a method of executing a criminal enterprise" as opposed to merely a group revolving around organized violence.⁶⁹ When gangs are viewed in this capacity it allows the viewer to look past the surface issues and ultimately come to the conclusion that *it is not the gang itself that is at the root of this problem.*

c. The Root of the Problem, For Good.

American citizens want the items that gangs are supplying: guns, drugs, organs, humans, animals, etc.; these gangs are getting the items to the people who want them⁷⁰ and they are doing so in a way that only a gang (or other criminal organization) can, illegally. The problem here is simply that there is a demand, and thus, a market for these goods. Some scholars have even described that demand as "insatiable".⁷¹ Without elimination of the entirety of the illegal market, a [*230] demand for its commodities included, there will be no way to eliminate gang's involvement in, and control over the supply. In fact, by abstaining from and not taking advantage of the demand for illegal goods, the gangs would be doing themselves a disservice. By doing what we have historically

⁶⁶ See Dubinsky, *supra* note 9, at 384.

⁶⁷ Abdala Mansour, Nicolaus Marceau, & Steve Mongrain, *Gangs and Crime Deterrence*, 22 THE J. OF L., ECONOTE, & ORG. 315 (2006); see also Demleitner, *supra* note 4.

⁶⁸ LIL WAYNE FT. GUCCI MANE, *Steady Mobbin* (Young Money Entertainment 2009).

⁶⁹ Demleitner, *supra* note 4, at 619.

⁷⁰ Including a subset of people who are technically qualified, yet still unable to purchase some of these goods legally, an idea which will be explored more fully in a later section.

⁷¹ Wisotsky, *supra* note 36, at 1308.

done to battle this problem, such as outlawing entirely or imposing harsh sanctions on the use, production, and sale of a banned product, we are, in effect, creating *more* gang members by sanctioning and locking up the current gang members, merely exchanging one set of 'players' for another set of brand new recruits. Locking up one member only empties a space (creating a demand) and allows others to be easily recruited (supplied) to quickly fill that position. As can be seen, *supply and demand is inherent in the world of gangs.*

"It takes two to make a black market."⁷² If consumers demand a product, any supplier looking to profit could (and should) step in to meet the demand. Even though the trade of illicit goods carries with it the potential for harsh sentences as well as other consequences and penalties for breaking the law, when engaging in a cost-benefit analysis to maximize profits, any market-savvy drug dealer, knowing the demand for illicit products is high, also understands the benefit that could come to both him and his gang for stepping in to supply a [*231] market in need. And so, as long as a demand is present, no amount of gang dismantlement could really solve the problem; the problem is not the gang, it is the market itself.

IV. A Bleak Future

The future outlook for the dual illicit and legitimate U.S. economies looks bleak. With a continued demand for illicit drugs, guns, and other illegal goods-acquired primarily by way of an underground market, this alternative economic sphere will continue to flourish.

a. Valiant Efforts

For years, the United States has tried to combat gangs; and none of our proposed or attempted solutions have been successful yet. We have explored what happens when we target the low level street salesmen; they get locked up and then they are almost instantly replaced by other, eager foot soldiers.⁷³ To make matters worse, after being locked up, that 'low level salesman' is released with two additional important credentials for his illegal business curriculum vitae, a) the knowledge he has acquired in jail as to the business of and life as a gang member, and b) street cred because of his time incarcerated.⁷⁴ By arresting low level gang members, law enforcement is actually creating better and stronger, more respected gang members, who, [*232] once released, become active gang members again and who have the potential to serve as expert recruiters for new members.⁷⁵ Some states, such as California, have tried means of suppression through legislation rather than a direct intervention or prevention scheme to combat the problems posed by gangs.⁷⁶ However, all of these suppression schemes included targeting individual gangs or gang members and attempting to interfere with the operation of their criminal activities, respectively, which have proven to be some of the least effective ways of combating the gang problem as a whole.⁷⁷

It has been suggested that because of the economic role gangs play in society, perhaps paying gang members to leave gangs may prove to be a successful way of combating the problem.⁷⁸ Because gang membership is sometimes based primarily on economic incentives and as a means to earn money, some scholars believe that if

⁷² Demleitner, *supra* note 4, at 619 (*quoting* Senator Charles Tobey).

⁷³ Demleitner, *supra* note 4, at 617.

⁷⁴ Hofwegen, *supra* note 44, at 690.

⁷⁵ See generally Hofwegen, *supra* note 44 (arguing that time spent in jail for low level gang members has actually been shown to turn them into more hardened gangsters).

⁷⁶ Specifically California's Step Act; See generally, *Id.*

⁷⁷ See generally, *Id.*

⁷⁸ Yuille, *supra* note 16, at 1051.

those members are given an alternative economic incentive to leave the gang, they may opt to do so.⁷⁹ While some gang members look to gangs for purely economic reasons, it cannot be assumed that all gang members are motivated to pursue membership for the exact same reasons. Even [*233] if we looked to the gang as a whole and adopted the idea that criminal organizations engage in cost benefit analysis with regard to illegal transactions (a view this article does support) and then provided an opportunity for the gang to disband with amnesty from prosecution, *the overall gang problem would still exist*. First and foremost, when considering an ideal gang recruit, swayed with the opportunities for vast economic growth, paired with the amount of economic disparity in the areas where these gangs operate, it is not surprising to know that there will always be an individual willing to take the risk and be a gang member.⁸⁰ More importantly, even if every criminal entity completely disbanded and was erased from existence for the time being, and assuming that it would take time to restructure an entirely new criminal entity, it still has not been proven that that disbandment of gangs would indefinitely deter anyone from founding a new organization focused around criminal business, namely a new gang.⁸¹ This is mainly because from a rational, cost-benefit, as well as an economic perspective, where the demand for the illegal products still exists, there is a need for a supplier; when the risk of supplying the products is low, and the accompanying reward is high, the risk is worth taking and an organization seeking a profit (another gang- as [*234] herein suggested) will step in. Furthermore, from a sheer deterrence perspective, providing previously powerful and potentially dangerous criminal syndicates with the opportunity to simply walk free (escaping prosecution) would not only demonstrate leniency to any and all future prospective criminal enterprise members, but it also lends an opportunity for these "career" criminals to continue to operate; the only difference would be that this time they would be conducting business in the open, with the opportunity to expand their businesses and customer bases without fear of detection, because there would be no foolproof way to be sure these gangsters were really putting their lives of crime in the past.⁸² None of the proposed solutions are appropriate for the problem we are currently facing. The focus must be shifted away from the individuals and away from an individualized analysis of monetary effects and incentives for pursuing a gang lifestyle. It is not about the individuals' themselves, but about how those individuals function as 'players' in the larger 'game' of the illegitimate criminal economic sphere. So, the question becomes: how do you beat the game itself?

b. Is There Really NOTHING That Can Be Done?

This article has already addressed the replaceability of the "heads" of the enterprise, *the El Chapo's, if you will*, and [*235] suggested that targeting these bosses, just as targeting any other player, simply does not work.⁸³ In the same manner as the foot soldiers, despite his temporary or even long term reign of power, the "head" of the gang too, is very easily replaced.⁸⁴ Therefore, even if the most important player is imprisoned, the gang still functions.⁸⁵ It would be foolish to assume that once imprisoned, that a particular player's orders cease

⁷⁹ Yuille, *supra* note 16, at 1051-54.

⁸⁰ Dubinsky, *supra* note 9, at 423.

⁸¹ *Id.*

⁸² Dubinsky, *supra* note 9, at 423.

⁸³ See generally Elizabeth Leland and Gavin Off, *Blood Gang Leader Used Prison Cellphone to Order Hit on Prosecutor's Father*, THE CHARLOTTE OBSERVER (May 31, 2017) <https://www.charlotteobserver.com/news/local/crime/article152334207.html>, (providing an example from Charlotte, North Carolina wherein a Blood gang member ordered a contract killing from behind his cell walls by way of a contraband cell phone that found its way into the jail).

⁸⁴ See Demleitner, *supra* note 4, at 617.

⁸⁵ *Id.*

altogether. ⁸⁶In the network of prisons, gangs still have a system of getting the goods- the drugs, the instructions, or anything else they need to whomever they need it to get to, including orders from the boss, even if he is behind bars. ⁸⁷

This leaves the United States with not much hope to battle the problem of an illegal economy operating in tandem with the legitimate one because it is not just the individuals within the gangs causing the problem, it's the function of the gang's business as a copy-cat of the legitimate economy of the society in which the gang's illicit economy operates. It's not the gang, it's the business. It's not just the supply, it's the demand. **[*236]** It's not the player, it's the game. Even if every gang member was eliminated, whether they are a key player or low level member, it will not matter; someone new and another person after him, will be there to step in. Even if every known gang [as a whole] was eliminated, if a demand for illegal products or services exists, there will be another entity ready, willing, and able to take the open space to supply. When the goods demanded are illicit by nature, the only market to turn to is the illegal one.

c. Unfortunately, History Tells Us, There Is No Solution

One of the only plausible solutions to this problem focuses on the need to strike at the perceived "root" of the problem- the demand for illicit goods and the supply thereof. One proposed solution is supply reduction. ⁸⁸Supply reduction is a means by which illegal goods are made inconvenient to obtain, risky to possess, and expensive to purchase. ⁸⁹Because the black market subscribes to the same economic principles of supply and demand as the legal one, supply reduction, as discussed above, although helpful in raising the prices of illicit goods by making them more expensive to produce and distribute, and by penalizing those buying or selling those goods, will not succeed in completely eliminating the supply. ⁹⁰This is because economic **[*237]** theory suggests that people act rationally and aspire to acquire wealth, therefore only participating in business transactions in which they have weighed the costs and benefits, and deem said transactions worthy. ⁹¹This is the primary reason that despite sanctions, high prices, and illegality of the products, these markets continue to exist. The actors, after choosing their most financially promising line of work, have determined that the transactions they will engage in are more profitable than harmful to either them or their employer (the gang). ⁹²Because the suppliers know how fierce the demand is, [as rational actors] they also understand that limiting the total amount of goods and services in the market, although doing so may slightly lower demand, and in turn affect supply, will never completely put a stop to either. In fact, none of the previously mentioned 'solutions' would succeed in absolutely *eliminating* the demand for illicit goods. ⁹³

So how do we quash the demand for these illicit products? We know prohibition will not work. ⁹⁴When the government attempts to regulate a product high in demand, someone, somewhere, in the true American 'capitalist

⁸⁶ See generally Leland & Off, *supra* note 83.

⁸⁷ See Leland & Off, *supra* note 83 ; see also Gangs, FBI, <https://www.fbi.gov/investigate/violent-crime/gangs> (last visited April 24, 2020).

⁸⁸ Wisotsky, *supra* note 36, at 1319.

⁸⁹ *Id.* at 1320.

⁹⁰ Duke, *supra* note 28, at 575.

⁹¹ Wisotsky, *supra* note 36, at 1323.

⁹² Dubinsky, *supra* note 9, at 384; see also Demleitner, *supra* note 4, at 617.

⁹³ Wisotsky, *supra* note 36, at 1384.

⁹⁴ *Id.*

spirit', will make sure that there is a supply to meet the demand. One proposed strategy mentioned **[*238]** earlier was to reduce the demand for illicit goods, in particularly drugs, by significantly increasing the street price of these products by making them more expensive to produce and distribute. ⁹⁵Increasing the cost of the illicit goods did not have an effect on the demand itself; it did however increase the rate of crimes committed by dealers in order to afford their supply, and more significantly, by addicts in need of funds to support their habit. ⁹⁶

Therefore we have one of two situations: first, there is such little supply that the black markets' demand for the goods significantly increases, as was the case in Prohibition, thus creating and sustaining illegal markets. ⁹⁷Or, on the other hand, the government could do the opposite: they could opt to lower the demand by legalizing the currently illicit goods, thereby increasing the supply by way of accessibility through the legal market. However, this strategy would not succeed in eliminating the problem either. This solution would merely shift the problem to competition between the legitimate economy and the black market.

The latter would place the government and gangs in direct competition with one another, appealing to the same potential customer base, who now has the option to choose between two **[*239]** different avenues of supply, one licit and the other illicit. If the government were to begin to supply the recently illegal-turned legal goods operating in the above ground market, they would be (in the same way that gangs self-create territories) creating their monopoly in the legal market, while the gangs still exist in the alternate underground market. ⁹⁸The government interaction between supply and demand, by way of regulation or monopolization of a product in the economy is the antithesis of the American capitalist way, and further, would not even be a plausible solution to this problem. This would not be successful because it would lead to one of three things: first, it may not accomplish anything at all because consumers already have their suppliers (due to the previously illegal status of the commodity) and would continue to do their business with them. In the alternative, it could actually affect the dual markets by either a) driving more business underground, for fear of doing this type of once-illegal transaction with the government, or b) a final option, the legitimate economy would find itself in forced competition with the underground black market.

d. It Just Will Not Work- A Closer Look Into Colorado's Legal Marijuana Markets' Insignificant Deterrent Effect On The States' Gang Presence.

[*240] It is important to study our own country's attempts to solve the problem, especially when its unique policy changes provide insight into the effects of the previously proffered solutions to the illicit market and gang problem. Here, we take a closer look at the state of Colorado. In 2000, Colorado voters passed Amendment 20, which lifted the prohibition on possession and use of medical marijuana. ⁹⁹Soon thereafter, Colorado expanded the scope of the already groundbreaking marijuana laws and adopted another amendment, this time making possession and use of marijuana legal not only for medical patients, but for *all* adults. ¹⁰⁰By 2012, Colorado's Amendment 64 was enacted, providing that all possession and use of marijuana by adults was legal in the state. ¹⁰¹

⁹⁵ Duke, *supra* note 28, at 575.

⁹⁶ *Id.* at 575-76.

⁹⁷ Wisotsky, *supra* note 36, at 1325.

⁹⁸ More on this topic in a later section.

⁹⁹ Sam Kamin, *Colorado Marijuana Regulation Five Years Later: Have we Learned Anything at All?* 96 DENV. L. REV. 222, 225 (2019).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

Studying the effects of legalization on the state of Colorado provides a first peek into what happens to the market when a substance that has been prohibited for approximately eighty years suddenly becomes legal.¹⁰² A few important and quite significant issues warrant exploration. First, the initial prohibition of marijuana and the demand that prohibition caused drove the entire business underground and, in turn, created a black market for the drug. Next, because the market already **[*241]** existed, it was not simply going to disappear. Because prohibition did not eliminate the demand, the supply simply moved out from the open, to the illicit businesses conducted in the shadows. Who controls the black market? Gangs.¹⁰³ Marijuana was being sold on the black market. So, once marijuana was legalized, there was no emergence of a new, separate marijuana market because a market already existed, the underground one. Legalization simply created another avenue for supply. Instead of creating a new market, legalization of marijuana created competition between the underground market, which had continued to function all the while, and the newly paved avenue for supply in the legal market that was just now coming to fruition.¹⁰⁴

Taking a step back and looking at this idea in a more removed sense, let's take an example:

*Large mega-corporations like Walmart, for example, have a reputation for putting smaller "mom and pop shops" out of business. Why? Because the mega company can produce and sell the same items for cheaper. Here, in the realm of illicit drug sales, it is the gangs who are the "mom and pop shops", and who have put the hard work into building their businesses and attracting customers. However, there is one major difference here; **[*242]** in the business of drug dealing, it is the 'mom and pop shop', the gang, that will eventually end up on top. First, in many instances, it is the gang (and not the mega-corporation) who can actually sell the product cheaper.¹⁰⁵ Furthermore, the gang will not be put out of business because they already have a pre-established relationship with the buyer, and [it may be worth considering] that because of the nature of the previously illicit business, many find that continuing to purchase their drugs through their dealer is what they will do, especially when their risk of detection is slightly shrouded by the overall (even if newfound) sense of legality of the product¹⁰⁶. At the end of the day, the ultimate question is, "My Guy versus The Man: who will you buy your pot from?"¹⁰⁷ While there are some people who may switch over to a more legitimate supplier, for reasons like quality control, in the same respect, there will be those who do not; especially **[*243]** those who cannot.¹⁰⁸ So, controlling for the fact that the sale of marijuana is still illegal pursuant to federal law, the legality of marijuana in Colorado did not eliminate the gang presence because many people*

¹⁰² *Id* at 229.

¹⁰³ See generally Duke, *supra* note 28.

¹⁰⁴ Kamin, *supra* note 99, at 242.

¹⁰⁵ Chris Frey, Interview: *"I Deliver to your House": Pot Dealers on Why Legalization Won't Kill the Black Market* THE GUARDIAN, (June 6, 2018), <https://www.theguardian.com/world/2018/jun/06/canada-will-cannabis-legalization-affect-black-market> (stating in his interview that the people who just want to smoke a little pot are not going to want to pay the prices the government will charge for marijuana, calling the tax-based price increase a 'sin tax').

¹⁰⁶ Dennis Romero, Gabe Gutierrez, Andrew Blankstein, and Robert Powell, *Foreign Cartels Embrace Home-Grown Marijuana in Pot-Legal States*, NBC NEWS, (May 29, 2018), <https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666>.

¹⁰⁷ Frey, *supra* note 105.

¹⁰⁸ Kamin, *supra* note 99, at 242 (describing some of these specific individuals, including children as well as those who come from out of state to buy marijuana in bulk to then resell elsewhere).

were still buying their drugs from the black market (via gangs) instead of buying from the gang's newest competitor, the legal dispensaries, licensed by the government. ¹⁰⁹

But, in that same light, it is worth taking a moment to distinguish the "invasive Walmart megastore vs. 'mom and pop shops'" situation from the legalization of marijuana (or other illicit products) by the government, which effectively makes the government an indirect supplier of the goods, and aids in the continuing existence of gangs thereafter. Unlike these mega-corporations which infect the space of "mom and pop" shops, gangs do not infect the business sphere in the same traditional sense; gangs exist along the shadowy outskirts of the legal economy and engage in self-regulation amongst themselves and **[*244]** other gangs. This self-regulation includes the distinction and separation of territorial boundaries to segregate customers as well as areas over which the gang dominates, thus creating a monopoly over individual territories for specific gang-run activities. ¹¹⁰The [gang run] underground market, for those organizations willing to take part, creates a monopoly; and, "the best of all monopoly profits is a quiet life." ¹¹¹This self-regulating territorialization, and in effect the "geographical monopoly" it creates, allows multiple different sets of gangs to operate simultaneously in the same market, but in separate spaces, without creating immense or constant competition between one another. ¹¹²This monopolization tactic is unique to criminal market enterprises, allowing the underground economy to operate somewhat smoothly by preemptively dividing areas of 'gang control' to avoid major "territory wars" over goods sold and money earned. ¹¹³

Although the next two problems focus on issues with legalization itself, it is undeniable that legalization of a previously illegal substance is inextricably intertwined with the economic effects on the state in which it occurs, as is true with the introduction of any new product, good, or service into **[*245]** a market in which there is a customer base. As discussed previously, newfound legality of goods does not absolutely put an end to the underground supply. In fact, legalization simply increases the supply because now there are multiple ways to obtain the products; through the already existing illegal channel, and the newly formed legal supplier. Even assuming that some of those individuals who were buying drugs from the underground would take their business to a legitimate seller once legal, the problem of a gang run market does not cease. In Colorado, because there is no background check when purchasing marijuana, there is no way to deter gangs, other criminal enterprises, or criminals in general from purchasing legal marijuana and purposefully re-introducing it into the underground market, not only for the purposes of reselling it to make a profit, but also for the purpose of selling it to those who cannot buy it legally from a legitimate dispensary on their own. ¹¹⁴There is effectively no way to stop those who "shouldn't" be purchasing legal marijuana from acquiring it. As long as an individual is not a 'certain person' who is unable to purchase marijuana from a dispensary ¹¹⁵that person can effectively become a drug dealer by walking into a dispensary, legally obtaining the product, and then supplying it to those who are unable to **[*246]** legally obtain

¹⁰⁹ See generally Colorado Division of Criminal Justice Report on Impact of Marijuana legalization in Colorado, (Oct. 26, 2018), <https://www.colorado.gov/pacific/publicsafety/news/colorado-division-criminal-justice-publishes-report-impacts-marijuana-legalization-colorado> (indicating that the filing of organized crime cases, although they slightly declined in 2012 and 2013, have increased significantly since, demonstrating that gangs are still operating despite the legalization of one of their hottest commodities, marijuana).

¹¹⁰ Dubinsky, *supra* note 9, at 384.

¹¹¹ *Id.* at 385; see also J.R. Hicks, *Annual Survey of Economic Theory: The Theory of Monopoly*, 3 *ECONOMETRICA* 1, 8 (1935).

¹¹² Dubinsky, *supra* note 9, at 385.

¹¹³ *Id.*

¹¹⁴ Laura Graham, *Legalizing Marijuana in the International Law: The Uruguay, Colorado, and Washington Models*, 33 *WIS. INT'L L. J.* 140, 153, 156 (2015).

¹¹⁵ See Kamin, *supra* note 99, at 242.

that good on their own. ¹¹⁶Although there would be financial disincentives for purchasing marijuana for the underground market from the dispensaries licensed by the government (like price) it is possible, and maybe even probable because of the obvious upsides, like quality. In this situation, a "legal" purchase would effectively make the government part of the illicit supply chain. ¹¹⁷In a similar manner, the competition created between the underground and above ground economy, it is argued, actually creates more of a demand for the product than existed before it was available in the dual marketplaces. ¹¹⁸

The legalization of marijuana has not had a significant deterrent effect on the gang presence in Colorado nor has it had an effect on the gang's marijuana sales. ¹¹⁹Why? Because, "human behavior is economic behavior ... the particulars may vary, but competition for limited resources remains a constant." ¹²⁰And, because of this, regardless of the legal markets' ability to supply, there too will be the gangs' ability to do the same, *with* previously established customer relationships and far lower overhead. When two Toronto local marijuana dealers were asked about the interaction between the legalization of marijuana and **[*247]** the black market, one responded, "If the government prices pot too high ... they [the customers] will stick with the black market." ¹²¹

An exploration into the last two decades of Colorado's legalized marijuana business have been insightful. ¹²²However, because Colorado is still part of the United States, its economy, whether above ground or underground, is inevitably driven in large part by supply and demand.

It is also worthwhile to provide a contrasting example wherein almost the same principles apply, for example in the Soviet Union where, "the closest thing to a market economy ... was the prevalence of a "black market". ¹²³Government officials in the Soviet Union decided that those citizens whose relatives had recently passed were entitled to receive extra clothing for the winter from the government. ¹²⁴Immediately following this allocation of additional clothing for qualifying individuals, there was a spike in the sale of fake death certificates due to the benefit to be attained if a particular person fit into the **[*248]** favored group (i.e. having a relative who had recently passed). Society's demand for winter clothes and the governments' supply to meet that demand, dependent upon a condition (death certificate) created a market for that condition. Since the necessary condition relied upon a fraudulent document, and demand for the document was high, an underground market for the fraudulent documents was created. ¹²⁵As we have learned throughout history, when there is a demand, some entity, often one

¹¹⁶ Graham, *supra* note 114, at 153.

¹¹⁷ *Id* at 156.

¹¹⁸ *Id.*

¹¹⁹ See generally Kamin, *supra* note 99.

¹²⁰ Dubinsky, *supra* note 9, at 380, *quoting* Sid Meier's Alpha Centauri (Firaxis Games 1999).

¹²¹ See Frey, *supra* note 105.

¹²² As has the brief mention of the opinions of two local Toronto based marijuana dealers.

¹²³ Alan S. Greenspan, *Thoughts About the Transitioning Market Economies of Eastern Europe and the Former Soviet Union*, [6 DEPAUL BUS. L. J. 1, 10 \(1994\)](#); see generally Susan Dentzer, Jeff Trimble, Bruce B. Amster, "The Soviet Economy in Shambles," U.S. NEWS & WORLD REPORT, (November 20, 1989) at 25; see also David Fairlamb, *Tales of the Black Market*, INSTITUTIONAL INVESTOR, (May 1992), at 152.

¹²⁴ Dubinsky, *supra* note 9, at 384; see generally Greenspan, *supra* note 123, at 1 *quoting* the address given by Alan S. Greenspan, Chairman, Fed. Reserve Sys. Bd. of Governors.

¹²⁵ See generally Dubinsky, *supra* note 9.

embracing criminality, will swoop in to provide the necessary supply. ¹²⁶But the problem is not with the opportunistic organizations taking advantage of an opportunity for economic profit, the problem is the demand itself.

V. Final Thoughts

While never in the exact same way, history is cyclical. The Prohibition of alcohol was not the first time, and the War on Drugs will not be the last time that we will have the opportunity to explore the dynamics of underground supply by criminal organizations when the government outlaws a product. We will continue to witness how prohibition increases demand, or in the alternative, how legalization of that very same product (as marijuana in Colorado) increases the supply; and, how regardless of what action is taken, there will be both a legitimate and **[*249]** illegitimate marketplace operating at once due to the American capitalist principles of supply and demand. Like the tango, these dual economies operate in tandem and when there is demand for a product and there is an entity prepared to supply it, in a true American Capitalist spirit, a market will always exist.

When the nature of the goods in demand is illicit, fully or partially, gangs, in their operation as a criminal economic enterprise will step in as an illegal, yet *qualified* supplier.

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