Comparative Criminal Justice: Theoretical Perspectives

▶ CHAPTER OUTLINE

■ Introduction

The criminal justice systems of the world's 195 countries represent diverse ways in which crime, law, and justice are pursued and perceived around the world. At the same time, these systems have similar issues and challenges. Such diversities and similarities raise many scientific curiosities and theoretical puzzles. Why are the world's systems of criminal justice different from one another? How are those

differences historically, politically, and culturally created and embedded? How are the world's systems of criminal justice also becoming more and more similar? Why are they increasingly facing similar challenges? The core theoretical question is: How are the world's different systems of criminal justice connected? What are the overarching cultural, civilizational, and global processes that are making these systems connected and integrated, and how is that connectivity shaping the thoughts, ideas, and philosophies about crime, law, and justice among the world's societies today? This chapter will describe four theoretical perspectives that explain this connectivity among the world's systems of criminal justice: modernization theory, civilization theory, world-systems theory, and globalization theory.

■ Modernization Theory and Comparative Criminal Justice

Modernization is one of the most dominant theoretical perspectives in contemporary social science, including sociology, political science, anthropology, comparative law, comparative education, development economics, and comparative criminal justice. Modernization theory has generated an enormous amount of literature in the last 5 decades in all branches of social science. The roots of modernization theory go back to the days of the development of social science in the middle of the 19th century in Europe, when different branches of social science emerged to bring the scientific method into social analysis. One of the first projects of social scientific analysis was to theorize about the social, economic, and cultural transformations that were unfolding in Europe in the wake of the disintegration of feudalism and monarchical political systems. Modernization theory emerged in the context of that time of great transformations in Europe to theorize about the nature of the emerging modern society and the future of humanity's search for a good society. The classical theorists of modernization developed a number of hypotheses that are still at the core of social science, including criminology and criminal justice.

Crime and Modernization: The Classical Ideas

One of the major hypotheses of modernization theory is that with the progress of modernization, societies are more likely to change from agricultural to industrial economies. With this change in the economy, politics is more likely to move from monarchy and absolutism to democracy. With the transition to industrialization, urbanization, and democracy, crime is more likely to grow. However, as industrialization advances and democracy matures, the crime rate is more likely to drop. The second hypothesis is that modernization is primarily a process of cultural change from tradition to modernity. Modernity is not just an industrial economy or a huge process of urbanization. It is a complex set of cultural values that put a premium on democracy, individualism, secularization, equality, science, reason, and rationality.

   The modernization theorists of 19th century classical sociology and social science in general, such as Karl Marx (1818–1883), Gabriel Tarde (1843–1904), Emile Durkheim (1858–1917), Georg Simmel (1858–1918), Ferdinand Tönnies (1855–1936), and Max Weber (1864–1920), theorized about relations between crime and modernization. Marx was excited to see the disintegration of feudalism and the birth of capitalism in front of his eyes in Europe

in the middle of the 19th century. But in his analysis of the structure of the capitalist economy in his *Das Kapital* (1867/2007), Marx theorized that it is inherently an exploitative economic system. Under capitalism, crime would be endemic among the working class because of their pauperization, alienation, powerlessness, and dehumanization.

Of all the classical sociologists of the 19th century, Tarde was one who was formally regarded in his time as a criminologist. He was the director of criminal justice at the Ministry of Justice in France, which published his ideas about crime and justice in *Comparative Criminality* in 1886 (New World Encyclopedia, 2008). Tarde (1912) theorized that crime is not a biological phenomenon, but that it is social in origin. He hypothesized that the crime rate will be higher in societies where the strategic and ruling elites fail to maintain a balance between modernity (innovations) and tradition (the maintenance of cultural patterns). Tarde's idea that crime is a learned behavior, learned from peers and in association with others, predates Edwin Sutherland's differential association theory.

German sociologist Simmel, in his *The Metropolis and Mental Life* (1903/1971) theorized that modern cities and modern life are more likely to generate crimes because of conflicts between the demands of radical individualism and the demands of collectivity. In his *The Philosophy of Money* (1978), Simmel predicted the negative effect of consumerism on crime and deviance in modern societies. From the same generation of German sociologists, Tönnies (1957) theorized that with modernization, societies are more likely to move from gemeinschaft (community) to gesellschaft (society). Whereas gemeinschafts are characterized by the dominance of informal social relations and informal social control institutions, gesellschafts are rational organizations dominated by formal laws and formal social control institutions. The crime rate is more likely to be higher, according to Tönnies, in societies that have lost the influence and the power of their informal social control mechanisms.

Max Weber, another leading theorist of modernity who came from Germany, claimed that societies undergoing modernization are more likely to develop rational-legal authority and rational bureaucracy in all spheres of life, including law and justice. The societies experiencing modernization are more likely to develop a political regime based on the rule of law and rational-legal authority. In a modern state, Weber claimed, the monopolized use of physical force must be based on legitimate and rational-legal systems. In a rational-legal system, laws are formulated by legitimate governmental authorities, and they are not affected by charisma or religion. The states that are based on charismatic authority or traditional authority and traditional legal systems are less likely to progress toward modernity. For Weber, a modern criminal justice system based on the rule of law cannot emerge in a state based on traditional authority and traditional legal systems (Gerth & Mills, 1958).

French sociologist Durkheim, in his books *Division of Labor in Society* (1893/1964), *Suicide* (1897/1951), and *The Rules of Sociological Method* (1895/1964), elaborated a noble conception of crime and justice. Durkheim theorized that crimeless society is not possible, nor is it desirable. It is because of crime that there exists a system of law and justice in society, and a system of law and justice is the foundation of social order and social solidarity. According to Durkheim, individuals in a society must be socialized to conform to its moral and normative standards. However, because socialization always remains incomplete,

individuals must be controlled through laws and penal sanctions to conform. The function of criminal justice is thus imperative for the maintenance of social order. Durkheim hypothesized that with modernization, societies are more likely to move from a stage of mechanical solidarity dominated by collectivism and repressive laws to organic solidarity dominated by individualism and restitutive laws. He predicted that societies undergoing industrialization and urbanization are more likely to produce a high rate of crime because of the rise in anomie—a state of economic and social disorganization. The classical thinkers in social science in general, and sociology in particular, were therefore skeptical about the directionality of modernity and the effect of the death of traditionalism on social order (Etzioni, 1996; Nisbet, 1969; Shils, 2006). Most of them hypothesized that modernity is more likely to generate a high rate of crime because of the breakdown in informal social control mechanisms and too much reliance on legalism, formalism, professionalization, and bureaucratization.

Crime and Modernization: The Contemporary Ideas

The first generation of modernization theorists of the 19th century theorized and hypothesized about the nature of change from tradition to modernity and the predicament of crime and justice in the context of change and transformation. Modernization theorists of the second generation—social scientists and sociologists in the 1960s and 1970s—such as Talcott Parsons, Marion J. Levy, Daniel Lerner, Alex Inkeles, Shmuel N. Eisenstadt, Neil J. Smelser, and Robert Bellah theorized and hypothesized about how modernization is possible. Who are the agents of change, and what are the driving forces of change from tradition to modernity? Some of the theories and hypotheses of the second generation of modernization theorists are also relevant for cross-national analyses in crime and justice. The progress of modernization, as viewed by most modernization theorists, is a process of gradual change and evolution. In the process of modernization, a society's institutions are more likely to go through a process of differentiation, integration, and institutionalization. The differentiation process implies the emergence of a certain amount of autonomy for all social institutions, for example, the autonomy of the economy from politics, politics from the economy, and politics from religion. The process of differentiation and autonomy creates, in turn, the need for integration and institutionalization. Institutionalization is the process of sustained institutional growth within the cultural framework of modernity. In most traditional societies, for example, criminal justice is highly politicized and is used as a means of imposing political controls and deriving political legitimacy. In most countries of Asia, Africa, and Latin America, criminal justice is not a highly differentiated and autonomous institution of law and justice. The lack of judicial independence is a widely prevalent fact of law and justice in developing countries. Because of the lack of autonomy and differentiation from politics, and in some cases from religion, criminal justice systems in most developing countries are unable to integrate and institutionalize the norms and values of modernity.

The possibility of modernization, according to the second generation of modernization theorists, depends on both internal and external forces of transformation. Internally, the need for a cultural transformation often comes through the leadership of modernizing elites. The Tokugawa elites in Japan after the Meiji Restoration in 1868, for instance, made deliberate

decisions to modernize their law and justice system, particularly through the importation of modern law enforcement strategies from Germany. In the late 1970s, in the wake of China's expanding market economy, the Chinese Communist Party elites, under the leadership of Deng Xiaoping, made deliberate decisions to modernize the Chinese criminal justice system by developing a new code for criminal law and criminal procedure. Externally, the modernization process can advance through a process of diffusion from relatively more modern societies. The process of diffusion of the values and the institution of modern criminal justice in developing countries began to expand during the spread of colonialism in the 18th and 19th centuries—the first wave of modernization. The second wave of modernization began during the 1990s, after the end of the Cold War and at the beginning of a new process of globalization.

One of the strongest hypotheses originating with the second generation of modernization theorists is that the social institutions undergoing modernization are more likely to have a higher level of legitimacy, adaptability, competence, and performance. A modern social institution such as a state, a system of education, or a system of criminal justice is more likely to depend on science, innovations, and evidence-based knowledge. A modern legal system is more likely to be dominated by professional jurists trained and educated in modern law and theories of jurisprudence. A social system is likely to move from a lower to a higher level of adaptive capacity with the development of new cultural values. More importantly, the modernization theorists claim, the societies undergoing modernization will be increasingly homogeneous with respect to their dominant economic, political, and social structures, including law and justice.

Crime and Modernization: Some Empirical Evidence

In recent decades, a considerable amount of literature has grown to test some of the hypotheses of modernization theory with cross-national crime and justice data, particularly from developing countries (Heiland, Shelley, & Kato, 1991; Shelley, 1981a). There are three major sets of empirical literature (1) literature on economic modernization, transitions to a market economy, and crime trends; (2) literature on political modernization, democracy, and crime trends; and (3) literature on cultural modernization and criminal justice. Many social historians who examined the relations between crime and the rise of industrialization and urbanization in Europe in the 19th century found that, when taking a long-term historical perspective, the rise of modernization is associated with a remarkable decline in violent crimes. A considerable number of recent empirical studies, however, have shown that during the time of economic modernization (rapid industrialization and urbanization), the crime rate has increased in all advanced countries of the West. Industrialization and urbanization, in their formative stage of expansion in a country, are more likely to produce a state of social disorganization characterized by poverty, unemployment, income inequality, neighborhood disintegration, community breakdown, and family disruption. Social disorganization is related to a high rate of crime and delinquency (Shaw & McKay, 1969; Thomas & Znaniecki, 1918–1920). Although industrialization and urbanization began in Western countries in the mid-19th century, these accelerated after World War II, particularly from the early 1960s. The crime rate in Western countries also began to climb from that time of accelerated pace

of industrialization and urbanization. As Levinson (2002) found: "During the thirty years spanning 1962 to 1995, the more economically developed and industrialized countries of the world, as measured by gross domestic product (GDP), have had higher crime rates than the less developed ones" (p. 1716).

Based on data collected from the United Nations World Crime Surveys (developed and underdeveloped countries, 1970–1994), Fajnzylber, Lederman, and Loayza (2001) conducted a cross-national study of what causes violent crime. Their study revealed that income inequality is positively related to a high level of violent crimes. Using data drawn from INTERPOL and the World Health Organization, Messner (1989) examined the relations between homicide rates and economic discrimination and found that "indicators of economic discrimination against social groups are significantly and positively related to homicide rates" (p. 597).

Since the 1980s, scholars in comparative criminology and criminal justice have been closely observing developments in the area of crime, law, and justice in China. These developments have been observed in the context of China's transition to a market economy and modernization that began in the late 1970s under the leadership of Deng Xiaoping. Since then, China has rapidly moved from predominantly agricultural to predominantly manufacturing and service industries. Between 1980 and 1993, China's GDP grew at a rate of 9.6%. China is aggressively becoming a market economy based on the growing dominance of its private sector (Zhang, 1996). What is intriguing, however, is that the total crime rate in China has also gone up during the time of modernization (Zhao, 2008). One of the recent empirical studies (Liu, Messner, & Zhang, 2001) that examined the patterns of crime in China based on a large volume of official crime data found that "the total crime rate tripled from 55.91 per 100,000 population in 1978 to 163.19 per 100,000 population in 1998" (Liu et al., 2001, p. 10) and that the "increasing trends in Chinese crime rates evidently apply to both violent and property offenses" (Liu & Messner, 2001, p. 18). The researchers concluded their study by saying, "Our analysis demonstrates the utility of applying the modernization theory to the explanation of recent developments in crime in China" (Liu & Messner, 2001, p. 18). Other studies have shown that modernization in particular has brought new types economic crimes such as bribery, contract corruption, party corruption, tax evasion, smuggling, and embezzlement to China (Liu, 2005; Schultz, 1989).

Similar developments in crime, particularly in economic crimes, are observed in the transitional and modernizing economies of Russia, the countries of Eastern Europe, and the Baltic Republic (Kim & Pridemore, 2005; Pridemore, 2005; Zhao, 2008). Kim and Pridemore (2005) conducted an empirical study of crime trends in Russia at the time of its transition to a market economy. Using data collected from the Russian Ministry of Interior and an index of socioeconomic change, they found that the "late 1980s and the transition years of the 1990s produced dramatic increases in Russian crime rates. Data . . . show that property crime rose steeply, though not as much as homicide" (Kim & Pridemore, 2005, p. 83).

In his study of the characteristics of homicide trends, victims, and offenders in transitional Russia, Pridemore (2007) found that the "Russian homicide rate doubled during the 1990s and is now among the highest in the world. During this same period, Russian citizens experienced swift, widespread, and meaningful political, economic, and social change"

(p. 331). Similar crime trends are also observed in the countries of Central and Eastern Europe, including Bulgaria, Croatia, Hungary, Poland, Romania, Slovakia, and Slovenia. During the late 1980s and the 1990s—the time of the transition to a market economy—the homicide rate, theft, and other economic crimes increased in all Central European countries. The reported homicide rate increased about 39% in Hungary and about 9% in Romania in the beginning of the economic transition in the late 1980s. During the same period, reported motor vehicle theft increased 15% in Poland and 6% in Hungary. According to one study, "Data from the International Criminal Police Organization (ICPO) from 1990 to 1997 indicate that crime rates in many Central European countries may indeed be stabilizing at levels higher than pre-transition years" (Stamatel, 2002, p. 641).

Even though a considerable amount of empirical literature has shown a correlation between economic modernization and high crime rates in Western societies during the initial period of their economic modernization, and in postcommunist societies at the time of their transition to a market economy in the 1980s and 1990s, such correlations are highly complex and multifaceted. As Shelley (1981a) observed: "The relationship between industrialization and urbanization and changes in levels and forms of criminality is shown never to be [a] simple linear one . . . . [A] complex relationship exists among different variables associated with the process of development and . . . crime" (p. xv).

Using data collected from INTERPOL, Arthur (2002) conducted a study of crime trends in 11 African countries. He found that violent crime decreased in those countries during the time of their economic modernization between 1961 and 1984. He claimed that the "impact of development on crime was positive" except for minor property crimes (p. 499). Studies have also found that economic modernization in the countries of East Asia including Japan, South Korea, Taiwan, and Hong Kong in the 1980s and 1990s was not associated with higher levels of crime (Rushton & Whitney, 2002). Japan maintained one of the lowest rates of homicide in the world during its past 5 decades of modernization (Leonardsen, 2005; Roberts & Lafree, 2006). "Japan's homicide rate dropped 70% in the last 50 years, and the nation now has one of the lowest homicide rates in the world" (Johnson, 2008, p. 146). Crime rates and patterns and modernization are connected, but there are no linear relations.

The modernization theorists have also hypothesized that countries undergoing modernization are more likely to move from authoritarian to democratic political systems, and the progress of democracy is more likely to be associated with lower levels of crime. The hypothesis, in other words, is that the crime rate is likely to be lower in countries characterized and governed by democratic political systems, but higher in countries with authoritarian systems and failed states (Prillaman, 2003). The countries with democracies are more likely to have low levels of crime, homicides, and corruption. Crime trends are more likely to be controllable under democratic political systems because of effective resource distribution, limits to extreme deprivations and discriminations (Pridemore & Trent, 2010), inclusive politics, wide levels of political participation, institutionalization of effective and transparent governance, and effective and independent law enforcement and judicial systems (Halim, 2006; Lin, 2007). Analyzing the United Nations data, Sung (2006) observed that "In authoritarian states, criminal justice systems rely on a larger law

enforcement–punishment apparatus for order maintenance and produce higher rates of arrests, prosecution, conviction, and incarceration" (p. 311). He further observed that "By contrast, in liberal democracies, justice is sought as the defense of civil liberties, through the due process of law, which . . . leads to a higher rate of case attrition in criminal justice process" (p. 311).

Empirical evidence also exists about relations between crime and democracy. According to the Economist Intelligence Unit's (EIU's) 2006 and 2008 global studies, there are only about 30 countries in the world that are full democracies (Kekic, 2007). Of the world's 30 full democracies, the top 15, in order of their rank, are Sweden, Norway, Iceland, the Netherlands, Denmark, Finland, New Zealand, Switzerland, Luxembourg, Australia, Canada, Ireland, Germany, Austria, and Spain. The 30 full democracies include about 17% of the world's countries and only 13% of the world's 7 billion people (2012 estimate). These top democracies are also the countries that have the lowest total crime rate, particularly the lowest homicide rate, in the world. In the top 15 countries, the homicide rate is less than 1.5 per 100,000 population (United Nations Office on Drugs and Crime, 2009). According to the EIU's Democracy Index, the top 14 authoritarian states include the African states of Chad, Mauritania, Egypt, Morocco, Rwanda, Burkina Faso, Nigeria, Niger, Angola, Algeria, Swaziland, Gabon, Zimbabwe, and Togo. These are also the countries that have the highest rates of homicide in the world. Their homicide rates are more than 20 per 100,000 population (United Nations Office on Drugs and Crime, 2009).

The relations between democracy and crime trends can also be understood in terms of the nature and extent of public corruption in a country. Transparency International, based in Berlin, Germany, and Global Integrity, based in Washington, D.C., are two of the major international research organizations that measure the growth of public corruption in all major countries. According to the Corruption Perceptions Index of 2009 published by Transparency International, the world's top 10 countries since 2002 that had the lowest rate of corruption include New Zealand, Denmark, Singapore, Sweden, Switzerland, Finland, the Netherlands, Australia, Iceland, and Norway. With the exception of Singapore, these countries are at the top of the EIU's Democracy Index.

Studies have also shown that public perceptions about crime and justice are strongly related to the progress of democracy. The people of a country with high crime and violence rates are more likely to have a low level of support and legitimacy for their progress (Perez, 2003). Democracy, in other words, cannot succeed in a country with high levels of crime, corruption, and violence. In a cross-national study conducted on the basis of 2003 data from Afrobarometer and Latinobarometer, Fernandez and Kuenzi (2006) found that victimization and perception of crime influence citizens' attitudes toward democracy. Analyzing data from four countries (Chile, Nicaragua, Nigeria, and Malawi), they observed that "a citizen's perception of public safety is as important [a] factor as any socio-economic variable in predicting support for and satisfaction with democracy" (p. ii). A report from the African Human Security Initiative (2009) similarly observed that the "Legitimacy of the legal system in Africa has become fundamental to the establishment of the rule of law and the resultant efficacy of regimes and criminal justice systems" (p. 3).

For the modernization theorists, cultural modernization is a precondition for economic and political modernization. A shift in core values, choices, and preferences related to a particular institution must precede structural and institutional changes and transformations. It is the framework of culture that binds a structure together. Democratic political institutions in a country are less likely to grow and evolve without a democratic political culture. Similarly, a modern institution of criminal justice, the modernization theorists would claim, cannot grow and evolve without developing a new set of core values about modern law and justice. The modernization theories thus bring three major analytical directions for comparative criminal justice: the effect of industrialization and urbanization on crime types and trends; the effect of political modernization and democracy on criminal justice; and the growth of cultural modernity in criminal justice. The focus of analysis is not on any particular society or on a particular country's system of criminal justice, but on the institutional and cultural processes of modernity in criminal justice among all of the world's societies. The modernization theory makes it imperative to examine how criminal justice systems of different countries grow and change in response to the choices and challenges of modernity (Shelley, 1981b).

■ Civilization Theories and Comparative Criminal Justice

The notion of civilization has been at the center of social science discourses since the birth of social science in the 19th century. Before the birth of modern states in the 18th century, civilization was the frame of reference for understanding different groups, races, cultures, and religions among the world's societies. Marx's study of British colonial rule in India and of the Asiatic Mode of Production; Comte's theory of the coming of an era of industrialism and the dominance of science; and Weber's study of the rise of modern capitalism and the nature of the world religions (Judaism, Hinduism, and Islam) were all conceptualized in the context of the rise and dynamics of modern Western civilization. The 195 countries of the present world belong to different civilizations that traveled different routes of social and political evolutions, and different trajectories of history.

The earliest human civilizations arose about 10,000 years ago with the invention of agriculture and rudimentary farming technology. Then civilizations spread into the river valleys of India, China, and Egypt. With the progress of civilization, there has been progress in human knowledge and technology and the modalities of culture. The earlier civilizations of Greece and Rome and the Islamic civilization of the 11th and 12th centuries not only created complex systems of law, bureaucracy, and governance, but also began the evolution of civilized human manners and behaviors. In the beginning of the 13th century, the dynamics of world civilization began to move to the West. The Renaissance in the 13th century, the Reformation in the 16th century, the growth of modern science in the 17th century, and the Age of Enlightenment in the 18th century created a unique civilization in the West. It is this unique civilization, as Weber claimed, that created the notions of a modern rational capitalist economy, a modern rational state, a modern system of rational law, a modern system of rational science, and a modern system of rational bureaucracy. A vast trajectory of modern

social science theory has been in the direction of understanding the nature and peculiarities of modern Western civilization. With respect to the civilization frame of reference in comparative criminology and criminal justice, there are three competing perspectives, including the theory of the civilizing process developed and expanded by Norbert Elias (1939/1994), the theory of the clash of civilizations developed by Samuel Huntington (1996), and the theory of civilizational complexes and intercivilizational encounters developed by Benjamin Nelson (1981).

Theory of the Civilizing Process: Norbert Elias

Norbert Elias's theory of the civilizing process presents a broad macrohistorical perspective about the gradual decline of crime and violence in Western civilization (Fletcher, 1997). Elias theorized that the rise of modern states from the womb of the feudal absolutist monarchies is the reason crime and violence declined in most areas of Western civilization. He said that "a wealth of contemporary observations suggest that the structure of civilized behavior is closely interrelated with the organization of Western societies in the form of states" (1939/1994, p. xii). Modern states have a complete monopoly on using the physical force of violence in order to control and contain violence. His hypothesis is that crime and violence are more likely to decline with the birth of the modern state. In his view, in a modern state, "the whole apparatus which shapes individuals, the mode of operation of the social demands and prohibitions which mould their social habitus, and above all the kinds of fear that play a part in their lives are decisively changed" (Elias, Dunning, Goudsblom, & Mennell, 2000, p. xiii).

The modern states emerged, Elias further theorized, as a result of the evolution of civilizing processes—evolution in the manners and behaviors of people. He argued that with the growth of civilizing processes in the West, people internalized a sense of self-control. People learned to control impulsivity and to restrain what Freud called the blind forces of instinctual gratification (e.g., the Id). Social control became more a matter of self control. People had, in Elias's word, a *psychogenetic* evolution in manners and behaviors, and this affected the rate of violence in the whole civilization. He further theorized that with the development of civilizing processes, people also go through a process of "sociogenetic" transformations. Whereas the psychogenetic process involves the evolution of an internalized sense of social control (what Freud defined as the superego), the process of sociogenetic evolution, according to Elias, involves the birth of a shaming structure that defines the boundaries of morality and normative standards of behavior and decency in a society. Modern states emerged in the context of these dual civilizing processes of evolution in the behavior of people. As Elias said: "The sociogenetic and psychogenetic investigation sets out to reveal the order underlying historical changes, their mechanics and mechanisms" (Elias et al., 2000, p. xiii). He did not, however, claim that the Western "civilized mode of behavior is the most advanced of all human possible modes of behavior" (Elias et al., 2000, p. xiv). The core of his theory is that the control and containment of violence in a society must proceed with the progress of civilizing processes—strong states and social and psychological transformations in the manners and behaviors of people. With the progress of civilizing processes and the decline of violence, the modes and modalities of punishment are also likely to be civilized in nature.

A considerable number of studies in recent years have been conducted, particularly by historians of crime and justice, to examine Elias's thesis of civilizing processes in the context of the history of violence in Western civilization (Eisner, 2003; Fletcher, 1997; Gurr, 1981; Johnson & Monkkonen, 1996; Mennell, 2007; Monkkonen, 2006). In his study of the historical trends in violent crime in Europe, Gurr (1981) found that "typical [homicide] rates may have been about twenty homicides per 100,000 population in the High and late Middle ages, dropping to ten around 1600, and ending after an extended downsizing at about one in the twentieth century" (as quoted in Eisner, 2003, p. 84). Gurr claimed, as shown in **Box 2-1**, that this trend is a "manifestation of cultural change in Western society, especially [the] growing sensitization to violence and the development of increased internal and external control on aggressive behavior" (Gurr, 1981, p. 295, as quoted in Eisner, 2003, pp. 84–85).

Theory of Civilizational Clash: Samuel Huntington

Modernization theorists have a vision that the world under modernization will be increasingly homogenous in terms of its core values and institutions. The people of different countries will not be eating the same food, wearing the same kind of clothes, and believing in the same God, but they will be increasingly similar in their aspirations for liberal democracy, equality, individualism, and a system of justice compatible with human rights and dignity. After the Cold War, the proponents of modernization believed that the world had begun the construction of a liberal civilization of a global nature (Fukuyama, 1993). In the mid-1990s, when the democracy movement was swiftly engulfing the world and many were dreaming of a new world order of peace and progress for the world's societies, Harvard political scientist Samuel Huntington (1996) presented a new vision of conflict among the world's nations—a new paradigm of a clash of civilizations. He was not offering a theory on comparative criminal justice, but his theory of the clash of civilizations is relevant for any cross-national analysis of social and cultural institutions, particularly criminal justice, which is at the crossroads of a society's politics, ideology, faith, morality, and culture.

Huntington begins with the assumption that the unit of analysis for understanding changes and transformations in the world today is not a nation-state but a civilization. There are, in his view, eight major civilizations: Western, Chinese, Japanese, Hindu, Islamic, Orthodox (Russian), African, and Latin American. The world's nations are divided into these eight civilizations. Each of these civilizations is primarily, according to Huntington, a cultural entity that has grown over a long period of time. Each civilization has a culture that understands and interprets politics, authority, ideology, equality, freedom, law, and justice differently. Each civilization has a broad cultural perspective of what is moral and immoral, what is good and bad, and what is just and unjust. Each civilization is based on certain underlying moral and philosophical themes, thoughts, and ideologies that justify the way people do the things they do. There are some economic and technological similarities among these civilizations, yet culturally, Huntington believes, they are far apart. Some of these civilizations are becoming increasingly modern but not Western in cultural terms. There are major cultural differences, he claims, between the civilizations of the West and the rest, particularly between Islam and the West. Modernization will not result in a westernization

BOX 2-1

Global Homicide Rates and the Levels of Human and Economic Development

The 2011 *Global Study on Homicide: Trends, Contexts, Data* conducted by the United Nations Office on Drugs and Crime (UNODC) found that among the world's societies, violent crime and development are connected; violent crime retards human development and economic growth; and gender-based violence affects a large number of women around the world. The study observed that in some regions of the world, such as Central America, the rates and trends of violent crime are related to the rise of gangs, guns, drug trafficking, and other forms of transnational crime. In other regions, they are connected to family and intimate partner violence. In 2010, the highest numbers of homicides were found in the African region. Out of 468,000 homicides in 2010 in the world as whole, about 36% occurred in Africa, 31% in the Americas, 27% in Asia, 5% in Europe, and 1% in Oceania. Among the world regions, the highest rate of homicide was found in the African region. The average global rate of homicide was about 6.9 per 100,000 population. The average rate in the African region was about 17 per 100,000 population—more than double the global average. Since 1995, the homicide rate has consistently decreased in North America, Europe, and Asia, but it has alarmingly increased in Central America and the Caribbean region. The UNODC study confirmed the hypothesis that homicide rates and human and economic developments (i.e., advance of civilization) are connected, saying that high levels of homicides "are associated with low human and economic development. The largest shares of homicides occur in countries with low levels of human development, and countries with high levels of income inequality are afflicted by homicide rates almost four times higher than more equal societies. Homicide and property crime were affected by the global financial crisis of 2008/2009, with increases in homicides coinciding with drops in Gross Domestic Product (GDP)." The World Bank's *World Development Report 2011* similarly confirmed that high rates of homicides and low rates of economic growth are connected: "New poverty data reveal that poverty is declining for much of the world, but countries affected by violence are lagging behind. For every three years a country is affected by major violence (battle deaths or excess deaths from homicides equivalent to a major war), poverty reduction lags behind by 2.7 percentage points."

Source: United Nations Office on Drugs and Crime. (2010). *Global study of homicide: Trends, contexts, data.* Vienna, Austria: Author; The World Bank. (2012). *World development report 2011.* Washington, DC: Author.

of the rest of the world. Conflicts and clashes of ideas and ideologies between the West and the rest, and between Islam and the West are inevitable and unavoidable. Huntington says that the major origin of "conflict in this new world will not be primarily ideological or primarily economic. The great divisions among humankind and the dominating source of conflict will be cultural. The fault lines between civilizations will be battle lines of the future" (1993, p. 1).

In a cross-national analysis of crime and justice, there are many cultural issues that can be examined from the clash of civilizations theory. How and to what extent are ideas such as the rule of law, due process of law, equal justice, judicial independence, and protections against cruel and unusual punishment culturally valued and understood in different countries? How can these processes of modern criminal justice grow from within the cultural milieu of the countries under reform and transition? Why should some forms of facts and behaviors such as interpersonal violence, genital mutilation, child abuse, sexual harassment, or stalking be criminalized irrespective of the contexts of culture and civilization? How do modern ideas of reforming criminal justice conflict with those of indigenous cultures? Why are many international organizations becoming interested in revitalizing indigenous systems of community justice in many developing countries, particularly in Africa? Why do the Japanese have problems understanding Americans' fatal attraction to guns and the Second Amendment? Relatedly, why are Americans unable to comprehend how shaming can be such a strong force for social control in Japan? Why in many developing countries, even today, do people find it an act of supreme pleasure to participate in public lynching and vigilante justice? Huntington's theory of the clash of civilizations can help to frame many of these questions and issues that are at the core of comparative criminal justice.

Theory of Civilizational Complexes and Intercivilizational Encounters: Benjamin Nelson

Huntington gave us a theory that suggests using civilization as a frame of reference for the analysis of contemporary social and political events, including the problem of modernization in the world's societies. He claimed that the cultural boundaries of different civilizations are unique and that there are more differences than similarities among these civilizations, especially between the West and the rest. But Huntington gives us neither a theory about what a particular civilization possesses that contributes to its specific shape and specific boundaries of meaning and values, nor a theory about what is so unique to the West that renders it so incompatible with that of the rest. Benjamin Nelson's (1981) theory of civilizational complexes and intercivilizational encounters attempted to answer the questions about Huntington's theory. Nelson asked the same question that was at the core of the beginning of modern social science in the 19th century: Why did modernity come to the West and the West alone? Almost all civilizations had remarkable achievements in science, technology, art, literature, knowledge, and philosophy before the beginning of modernity in the 13th and 14th century. But still, why were the modern universalized notions of state, bureaucracy, science, law, and justice born only in the West? What was at the core of the cultural progress of Western civilization that gave its meaning and uniqueness as a universalizing civilization? Nelson theorized that a rationalization and universalization process remains at the core of Western civilization's progress. As Nelson noted, "From the twelfth century forward in western Europe, universalities and universalizations came to play an increasing part in all sorts of central settings and structures, especially in the most decisive spheres of theology, philosophy, law, and science" (1981, p. 8).

Nelson first begins his analysis with the development of the *structure of consciousness* concept. The structure of consciousness is at the core of the culture of a civilization.

The structure of consciousness is the totality of the moralities, logics, and rationalities that shape and drive human actions and that build the trajectories of symbolic culture and expression. What is the logic of reading the *Miranda* rights in a modern system of crime and justice? What is, for example, the logic of decriminalizing or criminalizing abortion? What is the logic of criminalizing marital rape? The culture of modern criminal justice can therefore be defined as a totality not just of some criminal laws and penal institutions, but also, at a higher level of generality, of the moralities, logics, and rationalities of some specific kinds of such laws and institutions. It is this totality of logics and rationalities that, according to Nelson, is the structure of consciousness. One needs to understand, Nelson argues, "what explains how people conduct and comport themselves; what explains the suppositions they apply in defining their patterns of interaction; what explains the ways in which they affiliate and organize [and] the way they map their world" (1981, p. 233).

Nelson described the following three structures of civilizational consciousness: "sacromagical" (type 1), faith (type 2), and rationalized (type 3). A civilization dominated by a sacromagical structure of consciousness is dedicated to preserving its collective harmony with utmost authoritative control on individuals. Its logic is the preservation of collective harmony and the collective consciousness. The ancient civilizations of China, India, Israel, Greece, and Rome, Nelson says, were based primarily on the sacromagical structure of consciousness. The faith-structures type of consciousness, according to Nelson, is primarily the structure of consciousness of the great world religions. It is also the consciousness of different mystical groups such as the Sufis of Islam. In Nelson's words: "The key to the faith-structures of consciousness is that individuals committed to faith feel themselves to be part of the truth, a manifestation of the divine in expression of the universal will or sovereign design" (1981, p. 95).

Civilization advances from one structure of consciousness to another, not primarily because of growth in the economy and technology, but, according to Nelson, because of certain historical predicaments—the turns and twists of history. This means that "people everywhere . . . inexorably find themselves in the midst of predicaments which call forth urgent responses in the way of passions, actions, efforts to achieve mastery and control through multiple forms of affiliation, organization, imposition, and imputation" (Nelson, 1981, p. 231).

Nelson subsequently theorized that only the Western civilization has been able to develop a rationalized and universalized structure of consciousness. The ancient civilizations of China, India, Israel, Greece, and Rome, and the early medieval civilization of Islam had the potential to evolve to a rationalized and universalized structure of consciousness. But it happened only in the West because of certain historical predicaments created by the Renaissance in the 14th century, the Reformation in the 16th century, the birth of modern science in the 17th century, the Age of Enlightenment in the 18th century, and the spread of industrialization in the 19th century. These historical events and movements created in the West a unique cultural perspective—a rationalized and universalized structure of consciousness—that is not seen as a dominant feature of any other civilization in the world. This rationalized and universalized

structure of consciousness embodies the logic of modern science; a modern sense of humanity, of a rational state, and of secularism; and a modern notion of individualism, of natural law, and of a rational system of law and justice.

It is in the sense of the structure of consciousness that Nelson used the concepts of civilizational complexes and intercivilizational encounters. The concept of civilizational complexes implies the existence of multiple structures of consciousness within the bounds of a civilization. In the West, the modern rationalized structure of consciousness is dominant, but there also exist other structures of consciousness (sacromagical and faith-structure consciousness) that compete and conflict with the dominant structure of consciousness. Competing and conflicting structures of consciousness—competing and conflicting moralities and logics of action—are also seen in other civilizations. With the progress of modernization, the rationalized and universalized structure of consciousness has been spreading in the civilizations of the non-West. The intercivilizational encounters began during the days of colonialism and produced intense intracivilizational debates and disputes about competing logics and rationalities of actions and expressions in all domains of life, including law and justice. In Nelson's view, the progress of modernization in any social and cultural sphere of a civilization can be understood by examining the debates and disputes that are expressed about the competing structures of consciousness. Nelson did not elaborate on his views of modernization in developing countries, but made some intriguing observations. He said that the developing countries "will not find it possible or desirable to preserve order or create newer civilizational cultural structures . . . . The new nations are unlikely to have structures defending the judicial rights of individuals, whoever they may be, against the powers of government" (Nelson, 1973, p. 102).

The theories of the civilizing process by Elias, the clash of civilizations by Huntington, and civilizational complexes and intercivilizational encounters by Nelson are macrohistorical perspectives about the nature and complexity of modernity and modern social, economic, and cultural institutions. What is common to all three perspectives is the notion that institutions of modernity, including law and justice, developed in the West, but they developed with the universalized logics and rationalities that are applicable to all of humanity, not just the humanity of the West. The process of modernization therefore is a process of the globalization of modernity, and it is an irreversible process of change and transformation in the whole world. But the universalizing logics and rationalities of modern institutions are not easily compatible with those of the countries belonging to other civilizations. For cross-national analyses in criminal justice, therefore, it is imperative to examine the logics and rationalities of different systems of law and justice in different countries, and the debates and disputes that arise in the context of their modernization.

■ World-Systems Theory and Comparative Criminal Justice

The modernization and civilization theories are primarily cultural in nature. They applied to the distinct nature and evolution of modern culture in the West and presented a cultural

analysis of the problem of modernization. The world-systems theory, developed by Imman-uel Wallerstein (1979), is based on an economic analysis of the problem of culture and modernization. It is based on the premise that all societies and regions of the world presently belong to a single world system of capitalism—a capitalist world economy (Wallerstein, 2000). The modern capitalist world economy, which has been spreading in Europe, in Waller-stein's views, since the 16th century, presently engulfs the whole world. Today, the economic production structure and the division of labor in all the world's societies and regions are formed and shaped by the logics and necessities of the world capitalist economy. In countries such as Sri Lanka, Cambodia, and Bangladesh, for example, women are working in garment factories and sweatshops because these countries are now producing for the world market. There is now a global market for all commodities, and all countries are fiercely competing to participate in the global market.

The Analytical Framework and Key Hypotheses

The proponents of world-systems theory claim that in social science, the unit of analysis is no longer a particular country, society, or civilization. The world capitalist system should be the unit of analysis and frame of reference in intersocietal and intercivilizational analysis of development and modernization. The political, legal, and cultural dynamics of the world's societies are shaped and framed by their specific location in the capitalist world economy (Chase-Dunn & Grimes, 1995). The world system of capitalism is asymmetrical. There is a capitalist core comprised of countries of the developed world, including the United States, Canada, Germany, France, and Japan. A large number of countries in Asia, Africa, and Latin America belong to the periphery of the world capitalist system. A sizable number of countries also belong to the semiperiphery of the world system. These are the newly industrialized countries of Asia and the Pacific and Latin America, including South Korea, Singapore, Taiwan, Thailand, Mexico, Argentina, and Brazil. World-systems theorists would include China, India, and Russia in the semiperiphery of the world capitalist economy.

World-systems theorists hypothesized that countries that belong to the peripheries are more likely to be economically exploited by the countries at the core of the capitalist world economy. A process of unequal exchange within the world economy is at the core of capital accumulation on a global scale. Because of the process of unequal exchange, the countries in the peripheries are structurally constrained to pursue economic production in terms of their own goals and necessities. The core countries control the ability of the peripheral countries to access the global market and high technology. Uneven development is an endemic feature of the modern world capitalist system (Goldfrank, 2000).

It is through this notion of the inevitability of uneven development that the world-systems theory becomes relevant for cross-national analysis of crime and justice. The uneven development and exploitation of the peripheries are more likely to be associated with social disorganization, anomie, urban poverty, income inequality, discrimination, and deprivation—the factors that are strongly correlated with high levels of crime and violence. One of the major contributions of the world-systems theory is that it presents

a perspective that suggests that a country's microsocietal issues, such as crime and justice, must be examined in the context of its larger economic status and location within the world system. Economic context has always been one of the central analytical directions in understanding the causes of crime, as well as crime trends and patterns. Social disorganization theory (Shaw & McKay, 1969), anomie theory, institutional anomie theory, strain theory (Agnew, 1992; Cloward & Ohlin, 1960), and critical theory (Quinney, 2001) are all economy oriented in explaining crime trends and patterns. Many of these traditional theories of criminology explain the economic context of crime in terms of industrialization, urbanization, poverty, unemployment, income inequality, and economic deprivation. These traditional theories, however, do not present a perspective on how economic contexts can be integrated within a broader framework of cross-national analysis. World-systems theory presents an argument that the effect of industrialization, urbanization, social disorganization, and social class and power on crime and criminality across nations can be more systematically examined in the context of the nature and dynamics of the world capitalist economy.

Crime Trends in the Core and the Peripheries

From 1980 to about 2008—for almost 3 decades—the world economy consistently expanded. The countries of the peripheries and semiperipheries became more integrated in the world economy in terms of international trade, private capital flow, and foreign direct investment from the core countries. "From 1980 through 2007, the world's financial assets—including equities, private and public debt, and bank assets—nearly quadrupled in size relative to world gross product (WGP). Similarly, global capital flows surged" (United Nations Organization, 2010, p. 76). The annual average net private capital flows to developing countries in 1996–1999, for example, was $120 billion. It increased to $403 billion in 2008. In Africa, the average annual net private capital flows in 1996–1999 was $5.3 billion. It increased to $15.3 billion in 2008. In East Asia and South Asia, annual average net private capital flows in 1996–1999 was $30.3 billion. It increased to $160.8 billion in 2007. In Latin America and the Caribbean, the annual average net private capital flows in 1996–1999 was $68 billion. In 2007, it increased to $112.2 billion. In the transitional economies of Eastern Europe and the Baltic Republic, the annual average net private capital flows in 1996–1999 was $1.6 billion. In 2007, it increased to $142.5 billion (United Nations Organization, 2010). New research has shown that with the advance of the world capitalist economy, the total crime rate has increased. During the same time period (1980–2008) of the rapidly expanding world economy, a United Nations study showed that "total recorded crime increased from 2300 to 3000 crimes for every 100,000 people" (UN-HABITAT, 2007, p. xvvii). The total reported crime rate, however, increased in the peripheral economies of Asia, Africa, and Latin America, although it declined in the core countries of North America. The 2007 UN-HABITAT report found that "In North America and Western Europe total crimes rates fell significantly over the two decades whereas in Latin America and the Caribbean, Eastern Europe, and Africa, total crime rates increased" (p. xvvii).

Crime Trends in the World System of Capitalism: Some Empirical Evidence

Research has shown that many countries of the periphery, which are becoming rapidly integrated into the world system in terms of trade and business, are also the countries that have a higher level of economic crime and corruption. The top 11 exporters of services among developing countries from 1990 to 2008 included (according to their rank in 2008) China, India, Hong Kong, Singapore, South Korea, Taiwan, Thailand, Turkey, Malaysia, Brazil, and Mexico. During the same period, crime rates rapidly increased in all these countries. Crimes rates also increased in countries that are at the bottom of the peripheries but are desperately trying to participate in the world economy. Cambodia, for example, is one of the Asian countries that is becoming rapidly integrated into the world system through its manufacturing and export of garments. One of the International Labour Organization's (2010) studies shows that garment "exports [from Cambodia] grew from nothing in 1994 to $1.9 billion in 2004. Roughly, two-thirds of sales are to the United States, and most of the remainder to the European Union" (2010, p. 1). The report also noted, "Garments make up almost 80 percent of all of Cambodia's exports, and almost 66 percent of its manufacturing workforce" (2010, p. 1). During the same period, crime and corruption rapidly increased in Cambodia. According to Transparency International's Corruption Perceptions Index of 2008, Cambodia ranks 166 out of 180 countries included in the survey. According to Transparency International's Global Corruption Barometer of 2009, Cambodia is one of the countries in Asia where people perceive that their public officials and civil servants (scores 3.5 out of 5, with 5 being extremely corrupt) and the judiciary (4.0 out 5) are highly corrupt. Similar inverse relations between a country's economic performance within the world system and its level of crime and corruption exist for many countries belonging to the peripheries and the regions that are in transition to market economies. In comparative criminal justice, an analysis of how a country's poverty (see **Box 2-2**), income, unemployment, and other economic conditions are affected by its location in the world system, and how these conditions generate social disorganization, unequal power relations, strains, and many challenges for criminal justice, has a great import.

■ Globalization Theory and Comparative Criminal Justice

Globalization theory is a perspective that integrates the key ideas of modernization theory, civilization theory, and world-systems theory into a single framework of analysis of the contemporary world. Modernization theory explains the nature of modernity and its worldwide expansion, particularly from European to non-European societies. It presents a sense that the countries and cultures of many civilizations are the passive and uncritical receptors of modernity. The modernization theorists, many critics argue, do not adequately recognize the strength and versatilities of the people, language, culture, and philosophy of the societies yet to embark on a journey to modernity. Civilization theories describe the uniqueness of the West's culture as a crucial divide between the West and the rest. Norbert Elias theorized this in terms of the rise of modern states and the concomitant social and psychological transformations in the minds of western individuals. Benjamin Nelson explained it in terms of the rational and universalized structure of consciousness. World-systems theory conceptualized

BOX 2-2

A Lost Decade in the Fight Against Poverty

During the last decade, the global trade and the world economy had rapidly expanded around the world. Today, there is hardly any country in the world that is not a part of the global economy in some way or another. But this progress of the global economy has not been associated with concomitant progress in the reduction of global poverty. The World Bank's *World Development Report 2000–2001*, the United Nations Development Programme's (UNDP's) *Human Development Report 2005*, the United Nations report on *the World Social Situation 2011*, and a number of other global reports and studies have shown that global poverty is on the rise. The World Bank's data show that in 1990, there were about 1.9 billion people in the developing world who lived on $1.25 a day. In 2008, the number increased to about 1.29 billion. The World Bank's *World Development Report 2000–2001: Attacking Poverty: Opportunity, Empowerment, and Security* found that during the time of rapid development of wealth for many countries, about 2.8 billion people in the world, mostly from the developing world, lived on $2 a day, and about 1.2 billion lived on $1 a day. According to a World Bank study published in 2002, "The richest 50 million people in Europe and North America have the same income as 2.7 billion poor people" (Milanovic, 2002). The UNDP's 2005 report *Human Development Reports 2005: International cooperation at a crossroads: Aid, trade and security in an unequal world* reported that income inequality is highest (Gini coefficients above 50) in the countries of Latin America and sub-Saharan Africa. (These are also the regions with high levels of homicides.) The report further observed: "Of the 73 countries for which data are available, 53 (with more than 80% of the world's population) have seen inequality rise, while only 9 (with 4% of the population) have seen it narrow." The United Nations report *World Social Situation 2011: The Global Social Crisis* warned that pursuing economic policies without any regard to the reduction of poverty and improvement in social situations could lead major crises. The report said: "It is essential that Governments take into account the likely social implications of their economic policies . . . economic policies considered in isolation from their social outcomes can have dire consequences for poverty, employment, nutrition, health and education, which, in turn, adversely affect long-term sustainable development. The disconnect between economic policies and their social consequences can create a vicious circle of slow growth and poor social progress."

Source: Milanovic, B. (2002, January). True world income distribution, 1988 and 1993: First calculation based on household surveys alone. *The Economic Journal, 112,* 51–92 (published for The World Bank); United Nations, Department of Economic and Social Affairs. (2011). *World social situation 2011: The global social crisis.* New York, NY: Author; United Nations Development Programme. (2006). *Human development reports 2005: International cooperation at a crossroads: Aid, trade and security in an unequal world.* New York, NY: Author; The World Bank. (2000–2001). *World development report 2000-2001: Attacking poverty: Opportunity, empowerment, and security.* Washington, DC: Author.

the world in terms of the world capitalist economy, but kept the whole trajectory of human culture out of its analytical scope. Civilization theorists presented a unidirectional analysis

of the contemporary world and did not adequately theorize about the inner strength and dynamism of other cultures and civilizations and their contributions to the creation of modern science, art, music, literature, language, architecture, law, and philosophy. Confucianism, Hinduism, Buddhism, and Sufism are just some examples, without which an understanding of the modern philosophy of rationalism or objectivism is bound to remain incomplete.

The Analytical Framework and Key Hypotheses

Globalization theory is an analytical framework within which all countries, cultures, and civilizations, as well as their contemporary journeys toward economic and cultural modernity, can be examined in terms of the effect of both global and local peculiarities. The theory of globalization becomes relevant in comparative criminal justice because of its wider analytical scope of examining the connectivity between crime, law, and justice, and the vicissitudes of the modern world economy and culture. The core of the globalization idea is the notion of connectivity among the world's nations and civilizations. The process of globalization, in fact, has brought a new dimension in our approach to comparative criminology and criminal justice. "Traditional comparative criminology focused on the comparison of isolated and self-contained cultures and arrangements. However, globalization has altered states of isolation and self-containment to produce spheres of interaction. That provides a challenge to the comparative method" in cross-national analyses of crime and justice (Pakes, 2010, p. 17). There have always been some forms of economic, political, and cultural connectivity among the world's nations and civilizations. But globalization has been emerging as a major transformative force in the modern world, particularly since the spread of colonialism in the 17th and 18th centuries (Lechner & Boli, 2000; Nandi & Shahidullah, 1998; Waters, 1995). Colonialism was not only a process of economic and political domination of the colonized countries, but also a process of creating new structures and new cultures of intercivilizational connectivity—a global process of modernization. Globalization theorists claim that modernization is irreversible and bound to be global (Giddens, 1991). However, the contemporary globalization process, with a new sense of meaning and expression and an unprecedented degree of intense connectivity among the world's nations, has been emerging only since the end of the Cold War in the mid-1980s.

In the context of a cross-national analysis of crime, law, and justice, three hypotheses of globalization theory need to be explored. The first is the hypothesis of world-systems theory, which is that the world's societies are increasingly becoming a part of the modern world capitalist economy, which is increasingly becoming global and integrated. For comparative criminal justice in this context, it is important to explore whether the integration within the global economy is related to a low or high rate of crime. What are the rates and trends of crimes in the countries that are more highly or more loosely connected to the global economy? How did the global economy affect global poverty and global socioeconomic conditions, particularly in the cities that are the centers of global economic activities? Is the increasing expansion of the global economy related to the contemporary rise of transnational organized crime and, if so, how?

The second hypothesis of globalization theory is about political globalization—increasing demand for sustainable development, human security, democracy, human rights, equal justice, and transparent governance all over the world. Because of political globalization, nation-states are being increasingly challenged by transnational issues (Waters, 1995). These transnational economic and political issues are being increasingly addressed by and within international and regional political organizations such as the United Nations (UN), European Union (EU), World Trade Organization (WTO), Association of Southeast Asian Nations (ASEAN), Organization of African Unity (OAU), Inter-American Development Bank (IDB), Organization of Islamic Cooperation (OIC), South Asian Association for Regional Cooperation (SAARC), and Gulf Cooperation Council (GCC). The idea of political globalization is the spread of choice, challenges, and possibilities of liberal democracy in the world's societies. For comparative criminal justice in this context, it is important to explore the challenges that nation-states are facing because of the spread of a new notion of political culture. How are the global ideas of human rights, human security, and governance affecting criminal justice reforms in societies around the world? How are the rise of global organized crimes and transnational organized crime groups shaping and constraining the nature and performance of criminal justice systems in the world's societies? How are transnational organized crime groups affecting the nature and progress of worldwide democracy? These and many other related questions can form a vital research agenda for comparative criminal justice.

The third hypothesis is about cultural globalization. A group of globalization theorists claim that globalization is essentially a cultural process (Featherstone, 1990; Robertson, 1992). It is a process of the emergence of a new global culture that is emerging not merely because of the diffusion of Western culture, but also the globalization of the culture of all countries and civilizations into a new form of symbolism and expression. This new global culture is emerging as a result of the global cross-fertilization of the ideas and creativity of all peoples and cultures in the realm of knowledge, technology, art, music, literature, language, and philosophy. Cultural globalization is also seen as the progress of modernization at a global scale—the progress of what Norbert Elias called a civilizing process and Benjamin Nelson described as the advance of a universalized and rationalized structure of consciousness. The advance of global culture has broken the boundaries between universalism and particularism, society and community, and formal and informal rules and expressions (Waters, 1995). The advance of global culture has created a new sense of understanding, empathy, and reflexivity about different cultures and civilizations. People are not rejecting the legacy of traditional culture in the name of modernity, but rather are in the process of globalizing the locality and localizing the globality (Robertson, 1992). A new sense of reflexivity about local and global cultures is one of the defining features of contemporary globalization (Giddens, 1991). The expansion of global culture is not merely the expansion of Western culture. As Nobel Laureate Amartya Sen says, "To see globalization as merely Western imperialism of ideas and beliefs (as the rhetoric often suggests) would be a serious and costly error" (2000, p. 17).

The Extent and the Intensity of Globalization

Since the beginning of the 1990s, the rise of modern information technology, the birth of a knowledge economy, and the rapid expansion of the Internet around the world have been creating a new virtual global culture characterized by intense curiosity about human acts and creations in different lands and civilizations. Statistics show that the number of Internet users in the world between 2000 and 2010 increased 440.8%. During the same period, the number of users grew 2,357.3% in Africa, 621.8% in Asia, 352.0% in Europe, 1,825.3% in the Middle East, 143.3% in North America, and 1032.8% in Latin America and the Caribbean (Internet World Stats, 2010). The world's Internet penetration rates in 2010 were 77.4% for North America, 61.3% for Oceania and Australia, 58.4% for Europe, 34.5% for Latin America and the Caribbean, 29.8% for the Middle East, 21.5% for Asia, and 10.8% for Africa (Internet World Stats, 2010). In 2010, the ratio of Facebook users in relation to the total number of Internet users was highest in North America (56.0%) followed by Oceania and Australia (54.5%), the Caribbean (39.0%), Latin America (35.0%), Europe (34.1%), the Middle East (18.5%), Africa (15.9%), and Asia (11.3%). About 162.1 million people in Europe, 149.1 million in North America, 93.6 million in Asia, and 68.2 million in Latin America were regular users of Facebook in 2010 (Internet World Stats, 2010). About 90% of the user traffic for the Internet and other telecommunication devices in the world today is done through the use of submarine cables that connect the world through the oceans (United Nations Environmental Programme's World Conservation Monitoring Centre, 2009). The fiber-optic highway is the critical infrastructure of globalization. "Today more than a million kilometres of state-of-the art submarine fibre-optic cables span the oceans, connecting continents, islands, and countries around the world" (Thiaw, Hutton, & Green, 2009, p. 3). It is on the basis of these modern information and communication technologies that the world is economically, politically, and culturally becoming a single global planet of diverse countries, cultures, and civilizations—a planet in which goods, people, ideas, and cultures travel (Zwingle, 1999) with a speed and intensity never seen in any other period of human history, creativity, and achievement. The social scientists therefore describe globalization as an irreversible process of changes and transformations. Globalization is not a matter of choice; it is a stark reality of progress in the present world of the 21st century.

The Effect of Globalization on Criminal Justice

As a result of globalization, the nature and dynamics of economics, politics, and culture of the world's societies are not only rapidly changing, but also being increasingly challenged to change (Nelken, 2011; Sheptycki & Wardack, 2005). In the area of law and justice, political and cultural modernization has had many positive effects. The countries are being increasingly challenged to modernize their criminal justice in ways that are compatible with the global values of democracy, human rights, human security, and equal justice. Within the global culture of human rights and equal justice, the practice of a barbaric and medieval system of criminal justice has no legitimacy. The punishment of public executions

for homosexuality and widespread tortures by religious police in Iran; execution by beheading in Saudi Arabia; caning in Singapore; and stoning to death for the crimes of rape and adultery in Pakistan and Afghanistan are today widely condemned. This condemnation by world opinion comes not only from the West but also from the East. The crimes of genital mutilation and Albino killing in Africa, honor killings in the Middle East, and the practice of extrajudicial killings by a militarized police force in many countries of Africa and Asia are seen as major aberrations in the global system of law and justice. The nation-states within global politics and global culture will be increasingly challenged to modernize their systems of law and criminal justice as a part of their global vision of transition to democracy.

The problem of the effect of economic globalization on crime and justice, however, is more complex. Economic globalization has brought positive changes for some countries in the world in terms of industrialization, urbanization, increased participation of women in the workforce, scientific and technological development, increased labor productivity, growth of the private sector, and growth in income and employment. These effects, however, have remained highly asymmetrical among the world's nations. What is more alarming is that, as indicated earlier, economic globalization in many countries has produced high levels of crime and violence, particularly in urban areas. It has also brought, as shown in **Box 2-3**, a new generation of global crimes and created a new breed of transnational organized crime groups. The growth in urban crime and violence and the rise of global crimes in the context of economic globalization is a big puzzle that demands an analysis in comparative criminal justice.

The UN-HABITAT's *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security* found that urban crime has risen in countries that experienced rapid economic growth since the late 1970s. The study found that in "Latin America . . . the rapidly expanding metropolitan areas of Rio de Janeiro, Sao Paulo, Mexico City, and Caracas account for over of half of the violent crimes in their respective countries" (UN-HABITAT, 2007, p. xxvii). The study also found that in "Africa, cities such as Lagos, Johannesburg, Cape Town, Durban, and Nairobi account for a sizeable proportion of their nation's crime. Urban areas in Africa also have the highest reported level of burglary" (UN-HABITAT, 2007, p. xxviii). The UN-HABITAT's report (2009), *Urban Safety and Poverty in Asia and the Pacific*, indicated that about 35 million people in the Indian cities of "Delhi, Mumbai and Bangalore together accounted for more than one third of all crimes" (p. 13). The report further stated that Delhi, the capital of India, "records the highest in crimes against women. Delhi is the most crime prone city with 51,010 cases (comprising both economic and non-economic offences) . . . Mumbai, with 31,432 cases, took the second spot followed by Hyderabad (29,355), and Bangalore (29,042)" (p. 13).

The last 3 decades of rapid globalization has also seen the rapid development of a new generation of global crimes and transnational organized crime groups. A report from the United Nations Office on Drugs and Crime recognized that "as globalization has expanded

BOX 2-3

Globalization of Crime: A Transnational Organized Crime Threat Assessment

The progress in the globalization of the world economy, the rise and expansion of the new information and communication technology, and the new "openness to the West" that came in the wake of the Cold War in the mid-1980s, created an intense process of globalization and connectivity between and among the world's societies. The process of globalization created unprecedented opportunities for social and economic progress, the advancement of global science and technology, and the development and strengthening of the rule of law and democratic political orders for all societies of the world. But with the progress of globalization, there also emerged a new generation of transnational criminal groups and gangs in almost all regions of the world. By the end of the 1990s, such global crimes as drug trafficking, human trafficking, money laundering, sex trade, cyber crime, and illegal trading of conventional weapons became major concerns for further advancement of globalization. In Latin America and the Caribbean region, drug cartels and criminal gangs are spreading violence and corruption; in Central Africa and South Asia, insurgents and organized criminal groups are engaged in fueling and exporting global terrorism; in Southeast Asia, criminal groups have created a new world of sex trade and sex tourism and are exporting their services to Europe and North America; in Western Africa, Eastern Europe, and Latin America, a new age of modern slavery has emerged through the smuggling of migrants and the trafficking of women and children; a new band of young and educated cyber criminals has been continuously threatening to disrupt, damage, and destroy the world's "information superhighway;" and there is a new age of piracy rapidly emerging in the Horn of Africa. The transnational organized crime groups are threats not only for the rise of crime and corruptions, but also for the diminution of the progress of democracy and the rule of law around the world. The 2010 report produced by the United Nations Office on Drugs and Crime, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment*, rightly asserted that "Globalization has progressed faster than our collective ability to regulate it, and it is in the unregulated areas created by this disjuncture that organized crime opportunities have grown. Bringing the rule of law to the international flow of goods and services is essential if the problems of organized crime are to be uprooted."

Source: United Nations Office on Drugs and Crime. (2010). *The globalization of crime: A transnational organized crime threat assessment.* Vienna, Austria: Author.

international trade, so the range of organized crime activities has broadened and diversified" (United Nations Office on Drugs and Crime, 2010a, p. 1).

With the progress of economic globalization, the illegal drug trade, global sex trade, trafficking of women and children, illegal trading of conventional weapons, money laundering, maritime piracy, and crimes in cyberspace have rapidly increased all over the world (United Nations Office on Drugs and Crime, 2010b). Cross-national analysis of the extent

and intensity of transnational organized crimes; the nature and the characteristics of different transnational organized crime groups; the effect of transnational organized crime activities on national economy, politics, and culture; and the evolving nature of national laws and strategies to combat transnational organized crime are vitally important in comparative criminal justice.

■ Summary

The core of comparative criminal justice is the analysis of why the nature of crime and criminality and the institutions of criminal justice vary widely among the world's societies. Comparative criminal justice is also the analysis of similarities in crime trends and patterns and in criminal justice systems of different countries. There are four theoretical perspectives that are relevant for cross-national analysis of crime and justice. These perspectives are modernization theory, civilization theory, world-systems theory, and globalization theory. These theories are different from traditional theories of criminology such as social disorganization theory, anomie theory, strain theory, differential association, developmental criminology, rational choice theory, and critical theory. Theories of modernization, civilization, world systems, and globalization are primarily macrohistorical and macrostructural in nature. They help to conceptualize and analyze the intersocietal issues in crime and justice from the broader perspective of historical, social, economic, political, and cultural changes and transformations. Through these macrohistorical and macrostructural perspectives, we are able to understand the similarities and differences not just in crime trends and patterns but also in the nature and evolution of criminal justice in the world's societies (see **Table 2-1**).

Modernization theory suggests that cross-national analyses of crime and justice need to be pursued in the broader context of modernization—a process of change in societies from tradition to modernity. In the beginning of modernization, because of sudden economic and social dislocations associated with industrialization and urbanization, crime is likely to increase. But as industrialization and democracy mature, the crime rate is more likely to decrease, and crime trends are more likely to stabilize. Modernization in criminal justice means an increase in adaptive capability. It is more likely to grow with the institutionalization of the rule of law, democracy, and the due process of law; the increasing autonomy of the system of criminal justice (i.e., away from politics and religion); the growth of professionalization in law and legal practice; and the increased use of modern science and technology.

The civilization theory presents three different ways to conceptualize intersocietal relations with respect to crime and justice. The theory of the civilizing process developed by Norbert Elias presents an argument that with the birth of modern nation-states in Europe—the states that had a complete monopoly on using law and physical force—crime and violence significantly declined. The birth of nation-states and concomitant social and psychological changes in manners and behaviors of people in Europe were associated with the rise of new civilizing processes, which contributed to a sharp decline of crime and violence in Europe.

TABLE 2-1 Theoretical Perspectives in Comparative Criminal Justice

Theories	Assumptions and Hypotheses	Relevance to Comparative Criminal Justice
Modernization theory Economic modernization Political modernization Cultural modernization	Modernization and industrialization are connected; modernization and urbanization are connected; modernization and democracy are connected; and modernization and cultural change are connected.	Crime rates and patterns are connected to industrialization; crime rates and patterns are connected to urbanization; and crime rates and patterns are connected to political modernization.
Civilization theory Civilizing process Civilizational clash Civilizational complexes and intercivilizational encounters	The nation-states belong to different civilizations; different civilizations have different cultures; civilizations differ in logic, morality, and action; and Western civilization is based on rationalized and universalized structure of consciousness.	Civilizing processes and crime control are connected; crime control and strong states are connected; Western values of organizing criminal justice may not be compatible with those of other civilizations; and cross-national analyses of criminal justice must study intercivilizational debates and disputes related to modernization in criminal justice
World-systems theory	The world's societies belong to a single world capitalist system; within the world capitalist system, some countries belong to the core, some belong to the semiperiphery, and some belong to the periphery; and the countries belonging to the world capitalist system are characterized by asymmetrical economic relations.	Poverty and social economic dislocations are more likely to be endemic in the countries belonging to the periphery of the world economy; and crime rates are more likely to be higher in the peripheries.
Globalization theory Economic globalization Political globalization Cultural globalization	The world's societies are economically, politically, and culturally increasingly connected; globalization is an expansion of the process of modernization on a global scale; globalization is an irreversible process of change; the world's societies are being increasingly challenged by economic globalization; political globalization brings new challenges for traditional and authoritarian political regimes; and cultural globalization is universalizing the values of modernity related to individualism, human rights, equality, freedom, justice, and democracy.	Economic globalization has increased urban poverty; urban poverty is related to the rise of urban crime and violence; economic globalization is also related to the rise of many global crimes; political and cultural globalization demands modern reforms in criminal justice compatible with the notions of human rights, human security, and due of process law.

In his theory of the clash of civilizations, Huntington claims that the culture and the institutional nature of Western civilization are qualitatively different from those of other non-Western civilizations. Western civilization's conceptions of law, morality, and justice are fundamentally different from other civilizations. A cross-national understanding of crime and justice, from the perspective of the clash of civilizations, needs to be based on a broader

understanding of the nature and peculiarities of respective civilizations. Benjamin Nelson theorizes that Western civilization is characterized by the dominance of a rationalized and universalized structure of consciousness rooted in the cultural and philosophical ideas of the Renaissance, Reformation, and Age of Enlightenment. Because of its rationalized and universalized structure of consciousness, Western civilization is bound to expand to other civilizations and create foci of cultural conflicts, debates, and disputes. From this perspective, what is thus imperative in comparative criminal justice is to understand and examine those intercivilizational debates and disputes with respect to crime, law, and justice.

According to world-systems theory, one of the dominant characteristics of the world's societies today is that they all belong to a modern world capitalist economy. Within the world capitalist economy, however, all countries do not have the same level of development. The countries at the peripheries of the world capitalist system are more likely to be in poverty and experience various forms of economic and social dislocations. They are also more likely to have higher levels of crime and violence. Globalization theory presents a more integrative perspective by combining some of the core ideas of the theories of modernization, civilization, and the world systems. Globalization theory presents a perspective that the world's societies are increasingly becoming a single world community—a community that is economically, politically, culturally, and psychologically connected. Within the world's community of nations, in terms of law and justice, it is imperative for nation-states to adhere to a set of global norms and values about human rights, democracy, and due process of law. The process of economic globalization, however, is associated with the rise of urban crimes in many countries and the growth of a new generation of global crimes and transnational organized crime groups. From the perspective of globalization, comparative criminal justice needs to examine how globalization is affecting crime rates and types in different countries, as well as the challenges of changes and reforms inherent in the modernization of their systems of criminal justice.

■ Discussion Questions

1. What are the key hypotheses of modernization theory? Discuss in this context the relations between crime and industrialization, citing examples from China and the countries of Eastern Europe that embarked on a transition to a market economy after the Cold War in the middle of the 1980s.

2. Examine the hypothesis of modernization theory related to crime and democracy. Discuss and examine in this context some of the empirical studies on crime and democracy connections, citing examples from North America, Western Europe, Asia, Latin America, and the Caribbean.

3. What are the key arguments of Norbert Elias's civilizing process theory? How is Elias's theory of civilizing process different from Samuel Huntington's theory of the clash of civilizations? Explain how the theories of a civilizing process and the clash of civilizations can be significant and meaningful in cross-national analyses of crime, law, and justice. Give examples.

4. What are the major arguments in Benjamin Nelson's theory of civilizational complexes and intercivilizational encounters? What are the issues in cross-national analyses of criminal justice that would be significant to explore from the perspective of the civilizational complexes and intercivilizational encounters theory? Discuss and examine in this context some of the contemporary intercivilizational debates and disputes related to crime and justice in the developing world.

5. What does it mean to say that all the world's nations today belong to a single world capitalist system? What are the key arguments of world-systems theory, and how can those arguments be applied in cross-national analyses of crime and justice? Give examples of crime rates and trends from some of the countries belonging to the core and some of the countries belonging to the peripheries of the world economy. (Hint: Compare homicide rates between a selected set of core and peripheral countries as defined by world-systems theory.)

6. How is globalization theory related to the theories of modernization, civilization, and world systems? Describe in this context the effect of economic globalization on urban crime in Asia and the Pacific based on the UN-HABITAT's 2009 report, *Urban Safety and Poverty in Asia and the Pacific.*

7. What does it mean to say that nation-states belonging to the modern world of globalization are being challenged not just by the rise of new crimes but also by new demands to change and reform their criminal justice systems in terms of the international standards of human rights, justice, and equality? (Apply your understanding of the theories of modernization, civilization, and globalization to discuss and examine this question.)

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