

White-Collar Crime Research. Old Views and Future Potentials

Lectures and Papers from a Scandinavian Seminar

Edited by Sven-Åke Lindgren

**With articles by James W. Coleman, Hazel Croall,
Michael Levi, Steve Tombs and Others**

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Foreword

Following a conference in Stockholm in 1985, the National Council for Crime Prevention published a report on international research into economic crime. The title promised a great deal: “Economic Crime—a program for future research”. Unfortunately it would be quite some time before the future envisaged in the report would manifest itself. It was more than ten years before Swedish economic crime research began to gain momentum, and fifteen years would pass before the hosting of the next international economic crime seminar on Swedish soil. The following research report is one result of this seminar, which took place in Gothenburg on 17th and 18th October, 2000. The conference was a collaboration between the National Council for Crime Prevention and the Department of Sociology at the Göteborg University. Happily, we no longer have to look toward the future since many research projects are already underway, several of which are presented in this report.

As has been suggested, economic crime has been somewhat neglected as an area of research in Sweden. Since the field of economic crime is a particularly difficult one—both in terms of definitional issues and in its complexity—this lack of research has probably served as an obstruction to the development of successful strategies. The concentration of interest currently being witnessed in the area of Swedish economic crime research has come as a result of this insight. Such research is a priority for the Government, and the National Council summarises the research findings that are now beginning to emerge in special reports with the objective of disseminating the results widely among legislators, crime-prevention authorities and other agencies exercising a control function.

Since 1997 the National Council for Crime Prevention has been commissioned by the Government to work to encourage research into economic crime at universities and colleges of higher education. At present there are approximately twenty research projects underway at a variety of locations around the country. The National Council has chosen a distinctive area of research for this report, whose objective, in line with the wishes of the Government, is also to enhance the exchange of ideas within the research community at the international level. The seminar in Gothenburg therefore included four academics with an international reputation—Professor James W. Coleman, Senior Lecturer Hazel Croall, Professor Michael Levi and Professor Steve Tombs—whose contributions are included in this anthology. It is particularly pleasing that Michael Levi was able

to attend since he was also among the participants in 1985. Besides economic crime researchers from Sweden, colleagues participated from Norway, Denmark and Finland.

The hope of the National Council is that this anthology will function as a bridge between Swedish economic crime research and research being conducted elsewhere in the international community. It constitutes a means of enabling Swedish scholars to reach out to an international audience as well as enabling academics from other countries to make an impression on our own research. It is also intended to stimulate a wider audience to take an interest in this area of research.

The authors in this anthology are themselves responsible for their conclusions and proposals. The anthology has been edited by Associate Professor Sven-Åke Lindgren from the Department of Sociology, Göteborg University.

The Economic Crimes Bureau has provided financial support for the publication.

Ann-Marie Begler

Director-General

Introduction

Sven-Åke Lindgren

On 17th to 18th October 2000, a seminar on white-collar crime research was held in Gothenburg, Sweden. The seminar was arranged by the Department of Sociology at the Göteborg University, in collaboration with the Swedish National Council for Crime Prevention (BRÅ). The objectives of the conference were twofold: to stimulate the development of knowledge in the field of white-collar crime research by means of presentations by internationally acknowledged academics within the field, and to provide academics and graduate students from the Nordic countries with an opportunity to present and discuss their own and others' research. The seminar brought together 40 individuals, the majority of whom were from Sweden, Norway and Denmark.

This volume includes the four plenary lectures and revised versions of a selection of the papers presented in the seminar's different working groups. Two changes have been made in relation to the conference programme. The paper by Alalehto included in this volume is somewhat different from that presented at the conference—a testing against interview data of hypotheses based on a number of theories that had been discussed in a general way in his conference paper. Lindgren's contribution is a quite different text from that which he presented at the seminar. This change was introduced in order to avoid a clash of content with certain aspects of Croall's piece on victims of white-collar crime.

In the first chapter—"Thinking About 'White-Collar' Crime"—Steve Tombs discusses current developmental tendencies in the field of work (the organisation of work, professional practices, the labour market), the international economy and the regulation of economic enterprise. On the basis of British data, Tombs gives a concrete form to the changes hidden behind such terms as downsizing, outsourcing, human resource management, globalisation, deregulation, self-control, etc. Against the backdrop of these ongoing, sweeping material and ideological changes, Tombs problematises the implications for phenomena referred to as white-collar crime. He contends that certain key aspects of Sutherland's project should now be abandoned. It is now clear, he says, that as a scientific discipline, criminology lacks the tools necessary to analyse and explain present day white-collar crime. It is no longer only the concept of white-collar crime and related phenomena that are open to dispute; even phenomena that were once more or less taken for granted in terms of the

corporation, organisations and occupations are now in a state of change. Tombs suggests that it is now more than ever the case that white-collar crime research needs to make use of perspectives and theoretical concepts from scholarly traditions such as political economy, organisational analysis, political sociology, macroeconomics, etc.

Hazel Croall notes that victim surveys are a neglected area in white-collar crime research, and that victimological research has paid little attention to corporate offending. Questions relating to victimisation and the victims have been neglected in white-collar crime research for both technical (methodological) and ideological reasons. Taking inspiration from critical victimology—and the feminist argument on the application of a “gendered lens” to criminological and victimological issues—Croall argues for the application of a “white-collar crime lens” by white-collar criminologists. On the basis of a definition of white-collar crime as an abuse of an occupational role, Croall identifies a number of areas of everyday life in which individuals are victimised by white-collar crime: the home, the local neighbourhood, the workplace, the marketplace, transport and travel, health and welfare, and leisure. This victimisation may be of both a financial and a physical nature, resulting in tangible negative effects on an individual’s “quality of life”. On the basis of this classificatory approach, Croall then goes on to discuss the structural dimensions of such victimisation. Certain groups suffer more than others and traditional sociological variables such as gender, age and socio-economic status are of considerable significance in any analysis of white-collar crime victimisation. Croall therefore concludes that, contrary to what is often claimed, white-collar crime has widespread effects on individuals in many spheres of “everyday life” and the impact falls most severely on vulnerable groups.

In the third chapter, James W. Coleman examines the history of theorising and the explanations applied in white-collar crime research. He begins with a discussion of certain limitations which he contends are inherent in all attempts to provide causal explanations (the element of uncertainty, the ability of seemingly contradictory explanations to explain different aspects of a multifaceted study object, the need for revisions in the light of new facts and the emergence of new perspectives, as well as the unavoidable value-loading). Coleman discusses the explanations that have been developed within the interactionist perspective, the rational choice perspective and the general theory of low self-control, as well as explanatory approaches employed in the context of structural theories with a focus on conditions at the levels of the organisation and society as a whole. He emphasises the positive aspects of an integrated theory—one which combines elements from a symbolic interactionist theory of motivation with a theory of the opportunity structure, based on an identification of the structural characteristics of industrial society: the production of great surplus wealth and the complex hierarchy of social classes. This matrix of industrial societies has been captured by Coleman in his conceptualisation of the culture of competition.

In an article entitled “What Works in Combating White-Collar Crime: Some Reflections”, Michael Levi discusses preventive and reactive measures against business fraud. Levi claims that the formula for successful regulation varies according to the specific history and culture of different countries, and concrete efforts are affected to a large extent by pressure from political actors and the media. When raising the question “what works?”, it is essential to make clear which forms of white-collar crime are to be curbed and by how much. In addition, the choice of a suitable regulatory strategy will depend on whether the source of the harmful effects lies inside or outside the company. Levi’s theoretical approach is based on the idea that settings of trust are crucial research objects, as well as on the application of a revised situational crime-prevention perspective. With reference to his own research and that of others, Levi provides a large number of penetrating insights into the strategies that have been developed to prevent and reduce financial crime. The marked lack of information relating to the frauds that take place in the world of business constitutes an intractable obstacle to attempts to ascertain which measures actually have an effect. Using a combination of register data, observations and interviews from a closely related area—plastic fraud—Levi demonstrates the importance of good systematic data and market analysis for the formulation of crime reduction measures and the evaluation of their effects. Levi calls attention to the advantages and possibilities opened up by programmes containing elements that increase perceived effort, increase perceived risks, reduce anticipated rewards and reduce excuses. But he also provides a much-needed problematisation of such programmes in the context of a critical study that relates crime prevention measures in the business world to their economic, political and social contexts. In conclusion, Levi points out that in order to gain more clarity in the question of “what works” in the prevention of economic crime, we need to develop a better idea of what we want to achieve and at what cost with regard to personal and commercial liberties.

Lars Korsell describes the political measures taken over the course of three decades in Sweden as a means of combating economic crime. He raises the issue of the role played by economic crime research in the various inquiries and overhauls that have been conducted. To what degree have proposed measures been based on findings from empirical research, and how have research interests been illuminated and satisfied in the policy programmes that have been presented and then implemented? Korsell shows that research—at both the national and international levels—was more important in relative terms for inquiries conducted during the 1970s and 1980s than during the 1990s. Paradoxically, however, it was not until the work of the drafting committee on economic crime in the 1990s that research needs came into focus and a programme for the funding of research was formulated. The task of distributing research funds and of stimulating Swedish research into economic crime in other ways rests with the National Council for Crime Prevention. Korsell closes

his account with a presentation of the research projects currently (or recently) financed by the National Council.

Sven-Åke Lindgren discusses the intellectual roots of the white-collar crime concept. Even though the concept was the invention of Sutherland, he was not the first to problematise the spread of frauds and breaches of regulations perpetrated by businessmen and entrepreneurs. By way of introduction, a number of well-known conceptual kinship references are examined. Lindgren then discusses sections from the classics of sociology (among others Marx, Durkheim, Weber, Pareto) which contain clear thematic similarities with the situations and forms of conduct covered by the white-collar crime concept. Thematic correspondence with parts of the work of early criminologists is demonstrated in the same way. Lindgren summarises his retrospective review by emphasising themes which focus on criminogenic conditions at the structural and cultural levels, and themes which focus on elements of social control. In conclusion, it is argued that research into white-collar crime has much to gain from the formation of closer ties with the wider body of social science research that has evolved from the problematisations contained in the work of these classic authors.

In his article entitled “What is ‘economic’ about ‘economic crime?’” Bengt Larsson deals with the problematic definitional issue from a different perspective than the usual. Instead of concentrating on the crime component, he examines the economic component of the concept, looking at the conceptualisations and stresses laid on certain aspects of economy in relation to attempts to define economic crime. In the context of an analysis of Swedish definitions of economic crime, he distinguishes seven aspects that have been used as criteria for categorising crimes as economic: the actor, the motive, the context of the action and the means employed, the character of the act, consequences/harm, the legislation, and expertise. For Larsson, the emphasis placed on each of these aspects (or combinations of several of them) is connected with the perspectives and interests of different professional groups—the judicial perspective, the administrative perspective, the political perspective, and the social science perspective. Using an approach drawn from the field of the sociology of knowledge, Larsson argues that different definitions and designations should be regarded as integrated parts of the perspectives and practices of these different groups—they belong to different “epistemic communities” and relate to specific problems relevant to these communities.

One question that is both fundamental to research into economic crime, and at the same time controversial, is that of how we are to produce reliable data on phenomena which, if not invisible, are at least fairly inaccessible and subject to definitional dispute. On the basis of an ongoing research project, Martin Bergqvist discusses which of various survey methods might be used to generate improved data for the construction of updatable statistical series. More precisely, three different types of survey are examined: victim surveys, self-report surveys

and bystander reports, with particular emphasis being devoted to the first of these. Bergqvist provides examples of studies in the area of economic crime where these survey methods have been employed, and discusses their various advantages and disadvantages, looking in particular at sources of error. Bergqvist concludes by expounding the reasons for and against the use of survey methods—particularly victim surveys—and infers that, where possible, survey results should be interpreted and validated in relation to other information.

There is a great deal of talk at the present time about tax havens and offshore financial centres, not least in connection with discussions of the manifestations and effects of the process of globalisation. These environments and operations are generally associated with tax evasion, money laundering and a high degree of confidentiality, and their links with white-collar and organised crime are regarded as self-evident. At the same time, however, there is a manifest lack of concrete knowledge concerning the emergence and growth of these environments, the kinds of operations that are actually being conducted, how such operations are organised and what the related criminal elements and connections actually look like. Oskar Engdahl's article remedies to some extent the prevailing lack of expertise in this area. He traces the first economic offences presenting offshore characteristics to the American Mafia of the 1950s and their efforts to conceal the origins of their income. From this starting point, Engdahl depicts various developmental patterns and distinctive features of the evolution of different offshore environments, such as those in the Caribbean as compared to those in Europe. He also shows that many of them have evolved from simple tax havens into centres offering a wide range of diversified financial services. Such developments have not happened by themselves. Engdahl lays bare the complex interplay between adroit financial entrepreneurs, functionaries such as bankers, lawyers and accountants, shifting regulatory systems, the demand from the established business and banking community for "political free-zones", and the many actors who are out to evade official interest, conceal their assets and line their pockets at the expense of others.

In the final chapter of the anthology, Tage Alalehto poses the classic question: why do respectable businessmen commit economic offences? He presents and discusses a number of hypotheses that have been developed and employed to provide an answer: Sutherland's hypothesis of differential association, Clinard's conception of different management profiles (the financially oriented and the technically and professionally oriented), Nettler's "detective theory", Hirschi's control theory, Gottfredson and Hirschi's theory of self-control, and Braithwaite's thesis of differential shaming processes. As a next step, Alalehto tests the hypotheses against data collected in interviews with 128 Swedish businessmen. The method employed constitutes an example of what Bergqvist, in his article, refers to as "bystander-reported" crime. Alalehto finds variable but, on the whole, weak support for the hypotheses being tested. The hypotheses that come out best are Braithwaite's followed by Sutherland's. Against the back-

ground of the poor results attained by hypotheses that are well established within this field of research, Alalehto argues for an etiological reorientation. The alternatives he presents are grounded in evolutionary theory, specifically the so-called Machiavellian hypothesis according to which tactical fraud may be viewed as an evolutionary disposition. Alalehto contends that the answer to the classic question posed in his article lies somewhere “in between” biological structure (genetic make-up, needs, determinants of personality, etc.) and situational factors (existing power structures, criminal opportunities, the risk of discovery, forms of sanction, etc.).

Finally, something ought to be said about the use of fundamental concepts such as economic crime, white-collar crime, corporate crime, etc. In Sweden, the term “economic crime” is employed throughout the field (see Larsson’s article). The concept of white-collar crime (“manschettbrottslighet”) is hardly used at all, either in the research community, in political policy texts or in public discourse. The “official” definition of economic crime emphasises the following criteria: financial profit should be involved as a direct motive; the crime should be of a continuous nature; it should be conducted in a systematic fashion and take place in the context of a commercial operation which is not in itself criminalised, but which in the specific case actually constitutes the basis for the criminal activities; the offences should be of an aggravated nature in the sense that they should involve large sums, involve significant social values or affect groups of private individuals (Justice Committee Report, JuU 1980/81:21; for an overview of the evolution of the Swedish definition of economic crime, see Korsell’s article). In the articles written by Swedish researchers, both the term “economic crime” and the concept of white-collar crime are employed—the latter where the context calls for emphasis on the social status of the perpetrator, or where reference is being made to the work of others and an interdisciplinary discussion using Sutherland’s classic concept.

Thinking About 'White-Collar' Crime

Steve Tombs¹

Abstract

The focus of this paper is upon a series of recent key macro-level economic and political changes that bear upon the viability of Sutherland's stated intention to refocus criminology to encompass 'white-collar' crime. The paper begins by addressing some key issues in, and developments around, 'work', before examining a series of key issues in, and developments around, law and legal processes. A concluding section notes that attempts to refashion criminology increasingly appear to be a failure, whilst the definitional issues that beset the area of 'white-collar' crime must be recognised but cannot be 'resolved'.

Keywords

white-collar crime
work
organisations
employment structure
globalisation
capital
deregulation
states

¹ Thanks go to all the participants at the Research on White-Collar Crime Conference, October 17-18, 2000, Gothenburg, and particularly to Sven-Åke Lindgren, Stina Holmberg, Birgit Jörn and Lars Korsell, who in various ways each made possible my attendance at the Conference. The paper also owes debts to Frank Pearce, Paddy Hillyard, Dave Whyte, Gary Slapper, and Joe Sim, though none of course bear any responsibility for its contents.

Introduction

A one-time American singer-songwriter famously wailed that ‘the times they are a-changing’. On the surface at least, such a phrase seems an apt one to characterise the turn of the millennium era in which we live. The focus of this paper is the viability of aspects of the Sutherland project—by which I mean his stated intention to refocus criminology to encompass the crimes of the relatively powerless *and* the powerful—some sixty years after it was first unveiled (Sutherland 1940; 1945; 1983). In considering the viability of this project, the focus is upon a series of recent² key macro-level economic and political changes. Of course, in a paper such as this, such changes can be raised in very broad brush only. They have, however, been dealt with in much more detail in a voluminous social science literature.

Several words of caution, by way of a preface to what follows. First, on the issue of ‘changing times’, there is always a tendency on the part of social scientists to see the era in which they live as marked by particularly rapid social change, not least because social science tends to focus upon processes of change rather than stability or continuity. When considering arguments about the nature and scale of economic, political and social change, we must beware of exaggerating the extent to which, to borrow a famous phrase, everything that is solid melts into air.

Second, the geographical reference point in this paper—Britain—is a somewhat insular one, at least where empirical evidence is drawn upon. However, in broad terms much of what is said could apply to advanced capitalist economies, notwithstanding a range of highly significant differences within these (see, for example, Esping-Anderson 1999; Lash and Urry 1987; Weiss 1999), and the fact that in many respects—notably the extent to which the neo-liberal project has been embraced—Britain is somewhat exceptional amongst these states (see Pearce and Tombs 2001).

² The term ‘recent’ is deliberately loose. At issue here in particular are those changes that have occurred in the past quarter of a century, since the ‘oil shocks’ of 1973 and 1979 that marked the beginning of the end for the post war political-economic settlement. There is a further justification for a focus on changes since the 1970s: it was this decade that saw the proliferation of both an academic concern with ‘white-collar’ crime and a popular and political concern with the socially harmful effects of corporate activity. Clearly the emergence of these two areas of concern are closely related (Geis and Goff 1983). Post-Watergate America saw the state enter something of a crisis of legitimacy, and was a context in which powerful organizations were also affected by more than a whiff of both corruption and criminality. This was a ripe context for the emergence of a ‘social movement’ against corporate crime (Katz 1980; Geis et al. 1995:6-7). And so in the early to mid-1970s, over three decades after Sutherland had famously attempted to turn the attention of American criminology to ‘white-collar’ crime, there appeared to be something of an academic and indeed popular interest in the criminal and socially irresponsible activities associated with business.

Third, while the focus of this paper is upon 'white-collar' crime, this term is used in its loosest sense. The paper rather sidesteps definitional discussions³, although much of what it has to say does *bear upon* the problem of definition.

Finally, and perhaps most importantly, it should be stated upfront that what is offered here is a series of observations or problematisations rather than any argument or solutions. The paper sets out issues that those engaged in 'white-collar' crime research must address, without offering much insight as to their resolution.

The structure of the paper is as follows. It begins by addressing some key issues in, and developments around, 'work', one common element of all definitions associated with the term 'white-collar' crime. Second, the paper examines a series of key issues in, and developments around, law and legal processes since, again, some reference to law is a common element of these various definitions. Finally, a concluding section sets out the main implications of these observations for the study of 'white-collar' crime.

Some Key Issues in and Developments around 'Work'

Whether we refer to 'white-collar', corporate, economic, occupational, or organisational crime, at base we are concerned with a sphere of crime produced out of, or related to, economic activity. And by economic activity is meant that which is undertaken in formally legitimate contexts—this paper does not enter the debate regarding the relationship of organised crime to any of these categories of offending (see Ruggiero 1996). Most crudely, the reference point here is some legitimate work activity or work organisation. Taking this unit of analysis, several key changes have occurred in the past quarter of a century.

Changing Organisational Forms and Practices

Notwithstanding the hyperbole of commentators upon, academics who study, and representatives of, the worlds of business and management regarding the scale and nature of change in organisational forms and practices since the 1970s, there are undoubtedly some elements of real change that have occurred. The encompassing of alliances, complex forms of sub-contracting, contracting out and out-sourcing, conglomeration, arms-length agreements, joint ventures have all become common organisational strategies. More generally, there has occurred a trend towards the *fragmentation and downsizing* of business firms in Britain, that is, the marked trend towards the break up of large businesses into smaller units. At the same time, the past two decades have seen a prolifer-

³ But see, for example, Friedrichs 1996:7-11; Slapper and Tombs 1999:1-19. I will use the term 'white-collar' in quotation marks throughout the piece to indicate that this is being used to cover all forms of offending typically associated with the term.

ation of small business start-ups in Britain. At the end of 1999, there were 3.7 million active businesses in the UK, compared with just 2.4 million in 1980 (Department of Trade and Industry, 2000a). The overwhelming majority of this 'growth' is accounted for by the formation of small businesses. At end of 1999, 99.2 per cent of businesses were 'small'—that is employed 49 people or less (ibid). Further, not only are there enormous numbers of small businesses, but their annual turnover is a high one: taking its population as VAT-registered businesses, the DTI have recently shown the rate of de-registrations over the course of a year to be approximately one in ten of all businesses (Department of Trade and Industry 2000b). These de-registrations are almost entirely small businesses (ibid.). This proportion of de-registrations is roughly consistent throughout the latter half of the 1990s.

Such trends have real consequences for the abilities of companies in general to manage according to legal requirements, and for the ability of regulators to regulate. Small businesses are precisely those businesses which most frequently lack the resources in the broadest sense (for example, skills, knowledge, commitment) to comply with relevant bodies of law, even if they stay around long enough to be identified to relevant regulatory authorities. These are the companies that regulatory bodies spend time trying to locate. Moreover, such data adds particular import to the fact that the vast majority of 'white-collar' crime research focuses upon large enterprises, either ignoring, or simply illegitimately generalising across to, the small business sector (Croall 1989; Sutton and Wild 1985).

There has also been a great deal of academic energy devoted to documenting the emergence and significance of *new management techniques*, most notably the emergence of HRM, the by-passing and de-recognition of unions, the shift towards flexible working practices, the emergence of core-periphery employment models, and the use of JIT techniques. While there has been a consistent recognition of the fact that many of these new modes of disciplining labour have resulted in a greater intensification of work, there has been barely no attention to the implications of this intensification for the incidence and nature of 'white-collar' crimes; we simply do not know the effects of this increasingly pressured work environment on the propensity to engage in or collude with illegal activity on the part of managers and employees at all levels.

If we take the above observations regarding the changing nature of organisational forms and practices seriously, then one thing is clear. If it ever was accurate to represent and conceive of business organisations—whether public or private—as hierarchical, bureaucratic, monolithic entities, operating on Taylorist or Fordist principles, then this seems more and more problematic at the start of the twenty-first century.

Thus we need to confront several questions: What is a Business, a Corporation, an Organisation? Where are their boundaries? Do they still approximate most closely 'rational, economic man', as Sutherland famously claimed? What

implications do these changes have for our understandings of how these units of economic activity ‘think’ and ‘act’, for our sense of their decision-making processes, for our attempts (via both the law and social science) to trace lines of responsibility and legal accountability? The *answers* to these questions may or may not be significant in the context of our attempts to think about ‘white-collar’ crime—but they are certainly questions that we must consider, a task hitherto largely neglected (Fisse and Braithwaite 1995; Tombs 1995).

Changes in Labour Markets

As well as changes within work organisations, there have occurred a series of changes around them, within labour markets, which bear upon the contemporary nature of work in particular and ‘white-collar’ crime research in general.

Firstly, the past quarter of a century has been one, certainly in Britain, in which both patterns and expectations of work have been subject to real change. British society throughout the 1980s and first half of the 1990s was marked by a significant increase in self-employment, with self-employed workers now constituting 13 per cent of the total workforce, compared with just 7 per cent in 1979; at present, 7 per cent of the labour force are employed on temporary contracts; since 1984, at least one-third of all new jobs created in Britain have been on such a basis. More generally, casualisation, short-term employment and agency work are all common features of what is now a highly deregulated labour market. Second, the presence of organised labour within workplaces has declined, despite some very recent trend reversal. In 1998, trade union membership stood at its lowest level since 1945: it had declined by 40 per cent since 1979, so that by 1998 only 30 per cent of workers were in workplaces covered by collective bargaining arrangements for pay and conditions. These changes need to be placed in the context of the fact that recent British Governments, including the current Labour administration, have abandoned full employment as even an aim of macro-economic policy.⁴

If we combine these observations regarding changes in the labour market and the fact of a changed macro-economic policy, then it is clear that for most people the meaning and experience of work—what it is to be an employee or a manager, what it is to have a job, an occupation, or a career, and indeed what it means to be seeking work—have changed drastically. These changes must somehow be taken into account when considering ‘white-collar’ crime.

A further aspect of the changing labour market is its changing gendered composition. In Britain, women now constitute 44 per cent of the workforce, even though women’s employment remains highly skewed both horizontally and vertically. Moreover, women’s experience of work and the labour market remains differentially structured: women tend to work part-time—this is the case for 81 per cent of all women workers; they are three times more likely than men to be

⁴ This is one clear point of divergence between Britain and the Nordic states (Kautto et al. 1999).

home workers; they are 50 per cent more likely than men to be employed on a temporary basis; they tend to stay with the same employer for shorter periods, and over a third stay with an employer for less than two years. Thus the gendered attributions of the meaning of 'work' and 'occupation' have changed. Now, this again must be taken into account in 'white-collar' crime research. Amongst 'white-collar' crime literature there are frequent references to the need to take account of the culture of organisations, yet relatively few attempts to take account of the gendered nature of organisations or sub-units within.⁵ To the extent that researchers of 'white-collar' crime think about why certain crimes are or are not produced by certain kinds of organisations, the concept of gender may be of some explanatory use here.

Finally, employment in British manufacturing industries now stands at about five million, while some fifteen million workers are employed in the service sector, following a long-term but thoroughgoing shift in those types of activity in which most people work or may find work, with at least two immediate implications. First, the focus of some areas of 'white-collar' crime research—particularly that around health, safety and environmental crimes—has tended to be upon certain traditional manufacturing industries, such as oil, chemicals, construction and so on. Such work remains of value, of course, but it is increasingly the case that the scope for generalising beyond these sectors to work or industries in general is at worst limited, at best requires great conceptual and theoretical effort. Second, while the distribution of 'white-collar' work has changed, so too has people's experience of it and the meaning they attach to it. This is not just an issue about the sheer numbers of people involved in various forms of 'white-collar' work, but more a function of the fact that many forms of work in the service sector have been subject to de-skilling, while new areas of service work are increasingly un- or semi-skilled. In other words, the labels 'white' and 'blue' collar work no longer translate easily, if at all, into some dichotomy regarding the nature of working conditions, autonomy, rewards, and so on. 'White-collar' no longer, if it ever did, equates with respectability, elite status, an occupation defined by trust, and so on. These (rather obvious) points require taking into account in 'white-collar' crime research.

Changing Nature of International Economy

A third set of changes bearing upon the nature of work is to be found at the most macro-level, in the international economy.

One shift at this level has been the 'emergence' of multi- or transnational corporations. Such corporations are hardly new phenomena, but the past quarter of a century has seen the emergence of companies of hitherto unimaginable size, in some cases exercising market dominance, seeking least regulatory resistance, operating across national-state boundaries (and thus national-state

⁵ For one among a few exceptions to this point, see Messerschmidt (1997).

regulation), and in many senses 'state-less', defined as being 'everywhere abroad and nowhere at home' (Jones 1984).

In the US, there have been several major merger waves since Sutherland first addressed the issue of 'white-collar' crime (Pearce and Tombs 1998:20-22). Most recently, the 1990s saw a wave of mergers which further consolidated the trends towards oligopoly on a global scale in many industries.⁶ Many sectors and markets are highly concentrated: the oil industry, historically dominated by the so-called 'Seven Sisters', has become even more concentrated following a flurry of merger activity; Snider notes how 'monopolistic markets are now the norm in automotive, airline, computing, aerospace, electronics and steel' (Snider 2000:189); in five industries crucial to the agricultural economies of developing countries—coffee, corn, wheat, pineapples and tea—just five multinationals control 90 per cent of world exports (Coates 1999). Such data rather casts into question the version of capitalism depicted by neo-liberalism, which posits competition within markets which have relatively low barriers to entry, a classic if consistently unrealised aspect of capitalist ideology (Pearce 1976). And this 'contradiction between reverence for competition as a sacred principle and the actual practice of decreasing competition under the millennial rhetoric of globalisation' (Smith 1997:30) is not confined to the US: both Europe and Japan also found themselves in the midst of a further wave of merger mania at the end of the century (Cowe 1999; Treanor 1999; Watts and Treanor 1999).

One net effect of these general restructurings has been to augment the dominance of existing, and the creation of some new, extraordinarily large economic actors. An examination of the most recent available data on the Gross Domestic Product of all 29 OECD member states⁷ alongside that for the annual revenues of the world's largest corporations provides some instructive relative insights here. *Of the fifty largest economies, 23 are states, 27 are corporations*; General Motors, the world's largest corporation according to Fortune's 1999 list, has a revenue in excess of the GDP of eleven OECD states (the Czech Republic, Finland, Greece, Hungary, Iceland, Ireland, Luxembourg, New Zealand, Norway, Poland and Portugal).

Alongside—and clearly integrally related to—these trends in transnational size and sectoral concentration have been various processes of international liberalisation. The waves of privatisation and lifting of restrictions to operate in

⁶ Indeed, while the annual value of mergers increased by 550 per cent between 1992 and 1999, during the same period, 'the total budgets of the two primary antitrust enforcement agencies—the Federal Trade Commission and the Justice Department's Antitrust Division—decreased by 7 per cent in constant dollars while the GNP grew by 112 per cent' (Mokhiber and Weissman 1999b:1). Between 1996–1997, only 150 of 3700 planned mergers in the US were investigated; in only 14 cases were court actions filed against them (Snider 2000:174).

⁷ The OECD includes almost all of the world's largest economies. The comparisons listed here are based upon OECD data for 1999 (OECD 2000) and the 1999 Fortune Global Five Hundred list (Fortune 2000).

a host of countries has resulted in the opening up of whole new realms of activity for corporations, in terms of both production and sales. The opening up of the former Soviet Union and of China constitute a massive expansion of the global market for capitalistic business activity. Such expansion has occurred *within* particular countries also. Thus significant markets in transportation, energy supply, and telecommunications have been opened up to or created for private enterprise in Britain since the early 1980s. More generally, by 1991 more than 88 countries had privatised public assets.

The deregulation and liberalisation of capital markets—itsself to be partially understood in terms of the development of new forms of communications technologies and the collapsing of time/space distinctions—has created a massive increase in financial flows. Financial flows increasingly operate in a fleeting fashion across national borders, contributing little or nothing to the economic interconnectedness of ‘real’ economies (Weiss 1999). The vast majority of the flow of finance is for speculative rather than productive reasons: by 1995, about 95 per cent of international financial transactions were speculative, with about 80 per cent of these transfers making ‘round trips of one week or less’ (Chomsky 1999:23-24).⁸ As Hay and Watson note, capital flight is much more likely where investment is of a speculative rather than a productive nature (Hay and Watson 1998), so that the scale of such transactions has increased the likelihood of national economies being destabilised.

Such changes in the environment in which businesses operate—and the implications these have for nation-states to regulate economic activity—must be taken into account in ‘white-collar’ crime research. For example, they clearly have implications for the abilities (or willingness) of the nation-state to regulate capital within its borders. Unfortunately, to the extent that ‘white-collar’ crime research is undertaken within criminology, then these macro-level factors remain relatively ignored, largely unacknowledged except in the most peremptory fashion. Thus criminology which treats ‘white-collar’ crime tends to take the broader context in which businesses operate as a given, proceeding to examine business activity in terms of the immediate environment and the *modus operandi* of a particular firm or firms.

Changes in Law and Legal Processes

A second set of considerations refers to what constitutes crime or illegality, and whether we should retain some commitment to crime, illegality or legal definition and processes in our research activity. It has long been recognised, not least by those who wish to retain some reference to existent law, let alone criminal law, in their operationalisation of some category of ‘white-collar’ crime,

⁸ By contrast, in 1971, 90 per cent of such flows were related to the real economy, and just 10 per cent were speculative (Chomsky 1999:23-24).

that there are real problems with the nature and constitution of criminal law that render it somewhat problematic in its applicability to crime committed within or by businesses. Without entering into this familiar terrain here, it is worth noting a key problem in using the (criminal) law as the basis of 'white-collar' crime research: namely that the latter is—as famously argued by Sutherland—intensely subject to balances of social, political and economic forces. Thus as Snider has noted in her charting of the disappearance of one form of 'white-collar' crime, corporate crime, one of the effects of the increasing structural power and 'social credibility of capital' is that corporate crime as a phenomenon disappears:

[b]ecause its survival as an object of study is contingent on the passage and enforcement of 'command and control' legislation, corporate crime can 'disappear' through decriminalisation (the repeal of criminal law), through deregulation (the repeal of all state law, criminal, civil and administrative), and through downsizing (the destruction of the state's enforcement capacity'. All three have been used. (Snider 2000:172.)

The broad context in which 'white-collar' crime is identified (and researched) is thus crucial. We shall turn now to a further set of considerations regarding this broader context, setting out three general, and related, reasons why attempts to label 'white-collar' activity as either illegal or criminal have become increasingly difficult in the past quarter of a century.

An Increase in the 'Moral Capital of Capital'

The phrase 'moral capital of capital' is used to highlight the outcome of a process in which moral worth is invested in the activity of business, that activity which brings together capital in legitimate enterprises to produce goods and services. Snider has used the term 'social credibility of capital' (2000:171). While the sense is almost the same, the term 'moral capital' is preferred here since the claim is that business has literally been granted a moral status, as intrinsic to the well-being and health of societies, and that it uses this as leverage—capital—either explicitly or as an implicit resource to address or pre-empt issues of stricter external control. Indeed, this moral capital is powerful in a further and more subtle sense, along the lines of Lukes's third dimension or face of power (Lukes 1974), so that the moral capital of capital means that certain issues simply do not get raised within political nor popular consciousness—for example, the re-assuming of ownership of certain areas of economic activity by the state or some other public entity.

Most crudely, then, the 'moral capital' attached to business activity has increased dramatically during the last two decades of the last century. Private enterprise, entrepreneurship, the pursuit of wealth, and something called the 'market' have all become valorised *as ends in themselves*. Just as the emergence of industrial capitalism was accompanied by a process in which paid work came to be invested with a moral meaning, somehow producing better people for their engagement in it, now we have those institutions which organise and control work activity increasingly represented as key moral agents.

One index of this development is the fact that many of us have been encouraged to believe that business activity increasingly matters to us—and in one sense it does. Certainly many of us have some personal stake in the probity of financial dealings. That is, despite the fact that popular capitalism is much more illusory than real, there are larger numbers of (albeit very small) shareholders now than twenty years ago; many of us have monies invested in private pensions, in various savings schemes linked directly to company and stock exchange performance, and in endowment policies, and so on, all of which either creates the reality or the belief amongst many of us that we have a stake in the effective functioning of capitalism in general, and finance capitalism in particular.

A recognition of this moral context helps us to make sense fully of the supine behaviour of Governments to capital. Thus, for example, a succession of Labour Ministers have stated the aim of the Labour Government as being to make Britain the most business friendly environment in the world (see, for example, Secretary of State for Trade and Industry Mandelson, cited in Monbiot 2000:7 and Hay 1999, *passim*). There is of course an instrumentalism in such assertions, since national economies depend upon a certain level of economic activity and the need to attract and retain capital. But the suggestion here is that this is not the end of the story. This combination of instrumentalism and moral valorising also helps us to make sense of trends in the areas of corporate taxation and corporate welfare. Citing figures from a report by the US General Accounting Office, Mokhiber and Weissman note that in each of the years 1989–1995, almost a third of the largest corporations operating in the US ‘paid no US income tax. More than six out of ten large companies [assets of \$250 million or more, or sales of at least \$ 50 million] paid less than a million dollars in federal income tax in 1995’ (Mokhiber and Weissman 1999c:1). Such levels of payment are of course made possible through the strategies of transfer pricing available to companies operating multinationally, and would require new national legislation or international agreements to prevent them (*ibid.*). But they are also partly explained by the fact that national-states have proven reluctant to introduce more effective national legislation, while such forms of international regulation are notoriously difficult to develop (Picciotto 1994), even if it is in the economic interests of nation-states to pursue one or both tactics. If we were to view this fact in purely instrumental terms we could not fully understand it, since it is clearly in the interests of nation-states to collect legitimate tax revenues.

At the same time as their ability to evade taxes is increased, transnationals exert pressures on governments to reduce the tax ‘burden’. It is surely no coincidence that the years since 1980 have seen across almost all OECD states reductions in levels of corporate taxation (Mishra 1999:41-44). The classic recent instance of this pressure and its possible (but not necessary) outcome were the consistent commitments of Conservative and then Labour Governments to introducing and then maintaining reductions in levels of taxation of oil

companies, more latterly in the context of explicit (if highly unrealistic) threats of relocation on the part of the latter (Whyte 1999:140-174; Whyte and Tombs 1998), leading Lloyds List to describe the UK as 'the most oil investor friendly nation in the world' (Whyte 1999:167).

The same rationale has allowed states to portray their more recent excesses in corporate welfare as part of the need to develop 'national champions' to compete in the so-called global marketplace. Yet this practice of state welfare to corporations has long been central to the development of corporate capital, and operates on an international not simply domestic scale. Ruigrock and van Tulder (1995) have noted how most of the world's largest corporations have relied extensively on various forms of support from governments in order to achieve their strategic aims and/or secure market positions (see also Harman 1996:18-19). And referring to US Government support for US industry, Chomsky notes how one review of Reagan's Presidency stated that 'the post-war chief executive with the most passionate love of laissez-faire presided over the greatest swing towards protectionism since the 1930s' (Chomsky 1999:66). A similar argument is made regarding the level of state subsidy of corporations under Thatcher in the UK (ibid.:67-8). Beyond national governments, the IMF has been identified as a key source of corporate welfare (Mokhiber and Weissman 1999a:74-6; see also Mokhiber and Weissman 1999d).

Most fundamentally, then, we inhabit an era in which business interests—which are by definition sectional interests arising out of activity conducted for clear motives—are increasingly represented as 'general' or 'national' interests. We are increasingly persuaded that what happens to individual businesses and business in general matters to us. When a poor quarterly performance on the part of a company, or a drop in the London Stock Exchange, is reported to us it is represented as necessarily and indeed generally bad news. Further, business activity is increasingly represented as *a good end in itself*, as opposed to what it actually is—namely a *means* to some other end, whether this is profits, wages, or various socially necessary and (perhaps) socially useful goods and services.

The Emergence of 'Discourses of Deregulation'

Intimately related to the increasing moral capital of capital is the emergence of discourses of deregulation. Thus many have argued that the period since 1979 has also been one characterised by *deregulation*, accompanied ideologically by commitments to enterprise—and enterprise can also be expressed as the valorisation of risk—which have become so engrained in certain circles that they are almost unquestioned truths. Alongside this valorisation of private economic activity has occurred a sustained attack on state, public and in particular regulatory activity. Bureaucracy has become a pejorative term, the public sector increasingly understood in terms of waste and inefficiency, while the phraseology of 'burdens on business' and 'red tape' to refer to law regulating economic activity has become very common currency, with the unquestioned implication

being that such burdens and tape should be reduced as far as possible. Now, the emergence of such discourses has not necessarily been accompanied by full-scale deregulatory assaults in the sense of the removal of large bodies of law which existed to regulate the activities of business, though this did happen (see, for example, Snider 2000). But it was associated with an ideological and material undermining on the work of many state agencies which existed to enforce such law.

Now, the state's reluctance to subject business activity and business organisations to legal regulation and potential criminalisation is a long-standing (if shifting) one. And if it is a truism, it is nevertheless important to recognise that business organisations are legitimate organisations: they perform socially useful and socially necessary functions; they create necessary goods and services; they are a source of employment, taxation revenues, shareholder dividends, and so on. In short, business *per se* is not criminal. However, the effect of this truism is one that is vastly exaggerated and has consequences in terms of our being able to speak of 'white-collar' crimes. First, the legitimacy of business organisations is often represented as standing in contradistinction to those objects of "traditional" crime concerns; most of those who end up being processed through the criminal justice system are treated as some form of burden upon society in a way that business organisations are not. This is intimately related to a second point. Where business organisations engage in criminal activity, then this is represented and/or interpreted (not least by many academics; Pearce and Tombs 1990; 1991) as side effects of their core, legitimate activities, a clear contrast with representation of many forms of conventional criminality, within which various manifestations of pathology remain predominant.⁹ Alongside the notion that crime is a side-effect of legitimate business activity stands a third, and closely related, claim: namely that where business organisations are involved in criminality, then this is mostly trivial, consisting of illegalities which are *mala prohibita* rather than *mala en se*. Such a claim attracted the critical attention of Sutherland, and remains difficult to sustain either empirically or theoretically (ibid.); nonetheless, it retains a popular predominance.

As has been indicated, though, these distinctions between business organisations and traditional criminals, and in particular the legitimacy that attaches to business organisations, are far from static. Indeed, since the early 1980s, Britain has witnessed a generalised and often very conscious construction of a pro-business ideology, one of a very particular form within which the concept of free enterprise has been resurrected in the context of a struggle to reassert neo-liberal hegemony (Pearce and Tombs 1998). An element of this is of course a particular version of law and order from which business offences are largely excluded (Brake and Hale 1992:134). We need to emphasise here that the

⁹ In fact, there are good reasons for accepting that criminality is endemic to business activity within corporate capitalism; Pearce and Tombs 1998.

crucial signifier is '*free* enterprise' rather than simply 'enterprise'—that is, business activity increasingly free from (illegitimate) regulation. It is no coincidence, then, that the reassertion of this ideology has been accompanied by very conscious, if highly selective, efforts at deregulation (Tombs 1996). Such has been the effect of this ideological and material assault on ('social') regulation in Britain that the recently elected Labour government has, far from seeking to challenge it, sought to positively embrace it, seeking to establish its pro-business credentials, and dovetailing perfectly with its explicit adoption of highly conservative assumption regarding appropriate modes of 'crime control' (Brownlee 1998).

If there have always existed a series of key ideological distinctions between 'traditional' and 'white-collar' crime, then the experience of the past quarter of a century indicates that this is a phenomenon to be understood dynamically. And with the combination of an increasing 'moral capital of capital' and the emergence to pre-eminence of the discourses of deregulation, we have witnessed (a very conscious) construction of pro-business ideologies in which the crucial signifier is *free* enterprise. In this context, it is hardly surprising that there have indeed been trends towards the actual or material deregulation of corporate activity, that the discourses of deregulation have informed the practices of states, policy-makers, and enforcement agencies. Sometimes this has taken the form of direct deregulation, while other processes are (slightly) more subtle—thus Snider documents the processes of decriminalisation and downsizing of corporate crime control in the context of her 'obituary' of corporate crime, while Winfield and Jenish (1998) describe virtually the same processes in the context of recent trends in environmental crime 'control' in Ontario (see also Barnett 1995; Tombs 1996; Whyte and Tombs 1998).

Changes in Nation-States and State-Capacity?

There is now an enormous social scientific literature which constitutes a series of debates as to the nature, dimensions and consequences of the phenomenon of globalisation.¹⁰ If part of the appeal of the term globalisation is its very looseness, so that it can mean so many different things for different people (Weiss 1999), it is also the case that its most common usages 'emanate squarely from the universe of neo-liberal ideology and social practice' (Lazarus 1998/99:91). Thus, in summarizing the state of the literature thus far, it is these common usages that constitute what Hay identifies as 'a certain orthodoxy', which 'posits an increasingly 'borderless world' in which labour and ('footloose' multinational) capital flow freely—down gradients of unemployment and social protection, and taxation and labour cost, respectively. The result is a much more fully integrated global economy in which the Darwinian excesses of international competition drive out 'punitive' taxation regimes, 'over-regulated'

¹⁰ We confine ourselves here to considering processes of economic globalisation, even if this is rather an abstraction.

labour markets, social protection, all but residual welfare regimes and Keynesian economics. This in turn serves to establish a pervasive logic of international economic and political convergence—a convergence on neo-liberal terms ...’ (Hay 1999: 30).

Even if this ‘business school globalisation thesis’ (ibid.) is more fantasy than reality at present (Pearce and Tombs 2001), such ideas have clearly impacted upon political, popular and academic understandings of both the proper and the possible roles for states in regulating business activity.

For some, the era of state management of national economies has clearly passed. Summing up the period from the mid 1970s to the mid 1990s, Gottschalk highlights the following features, which are now widely associated with the prescriptions of neo-liberal economists:

Deregulation and the unleashing of market forces became the norm. Restrictions were lifted on the movement of capital. National financial bubbles emerged, grew and burst. The iron curtain fell, while market economies appeared to gain a strong foothold. Policies shifted to the right, and proponents of the ‘Welfare State’ found themselves increasingly on the defense. (Gottschalk et al. 1997:1.)

Reflecting upon the nineties, Anderson has defined the ‘principal aspect’ of this decade as ‘the virtually uncontested consolidation, and universal diffusion, of neo-liberalism’ (Anderson 2000:10), with this ‘neo-liberal consensus’ finding ‘a new point of stabilization in the “Third Way” of the Clinton-Blair regimes’ (ibid.:11). For some commentators, the end of the twentieth century signalled the once-and-for all triumph of the political shell of liberal democracy and a free market economic order (Fukuyama 1992), and the death of all forms of socialism and social democracy (Dahrendorf 1990; Gray 1998; Callaghan 2000).

If such apocryphal claims are taken at all seriously, they have clear implications both in terms of the willingness of and also the capacity for states to regulate economic activity in general, and thus to control ‘white-collar’ crime in particular. However, while it is clear that some globalising trends have undoubtedly occurred in the economy, the claim that states are becoming relatively powerless is something of a neo-liberal fantasy—both empirically inaccurate and theoretically misconceived (Pearce and Tombs 2001). This is not to deny the real significance of globalisation—namely that in the proliferation of such discourses, the ‘realities’ these seek to describe are more likely to be brought about, as governments cast themselves as relatively supine in the global game of capital attraction and retention. As Hay and Watson have noted, here with particular reference to Britain and the Blair Government:

New Labour clearly acts *as if* the globalisation hypothesis were an accurate description of reality. This, in turn, has very real effects. The intrinsic link between the material and the ideational is, in this instance perhaps particularly significant. It is not globalisation *per se* which is driving change in contemporary Britain. Given that production relations have yet to be globalised .. how could it be? Rather change is a function of the distinctive and dominant *political understanding* of globalisation now internalised by New Labour. The meaning and significance attached to ‘globali-

sing trends', tendencies and processes may be as significant in accounting for outcomes as those trends, tendencies and processes reflection (as, and when, they exist). (Hay and Watson 1998:815, emphases in original.)

Thus, to the extent that globalising trends—and representations of these—become more significant, then this *does* have consequences for the nation-state, consequences which are generally constraining of any national-state autonomy.

At the same time, it would be wrong to argue that state forms have undergone *no* changes—though these need to be recognised empirically, since to talk of '*the state*' is far too much of an abstraction to be of any great use. Thus, for example, in Britain there has been some flow of power upwards from the British state to an emergent European state, and at the same time some shifting of power to local and regional level.¹¹ It would be wrong, though, to assume that this means the British state has 'lost' power, not least because states and businesses are not engaged in some zero-sum power struggle (Pearce and Tombs 2001).

One net effect of the above shifts, then, is that the (well-known) problematic nature of the relationship between 'white-collar' crime on the one hand and criminal law is accentuated. All of these pose problems for understanding state regulation of economic activity. Moreover, a further effect of such changes is to render 'white-collar' crime research both more difficult and less likely. Factors militating against 'white-collar' crime research include the power of corporations to seek, via their political allies, the decriminalisation of their activities through the introduction of various forms of self-regulation or through simple deregulation, each of which appear to be significant trends in contemporary capitalist nation-states (Snider 2000; Tombs and Whyte 1999).

Implications for 'White-Collar' Crime Research?

The preceding sections have sought to demonstrate how, in the context of a series of material and ideological changes in the past quarter of a century, many of them international in scope, it has become more difficult to identify both '*white-collar*' crime and '*white-collar crime*'. Long-standing problems have, it seems, become exacerbated (for example, the decriminalising of certain business activities by states), while new problems have emerged (the changing nature of 'organisations', for example). The central conclusion of this paper is that while there have long existed definitional and conceptual difficulties for those engaged in research around the phenomena loosely collected under the

¹¹ Indeed, one further complicating trend is what appears to be the increasing imbrication of state and business at both national and local levels, so that it is increasingly difficult to determine where the sphere of one activity or group of actors ends and the other begins. Nationally this is illustrated in the phenomenon of the Private Finance Initiative (Monbiot 2000:127-161, and *passim*). Coleman and Sim (2000) have also sought to demonstrate this fact at a local level, in the context of urban regeneration initiatives.

rubric of 'white-collar' crime, these have heightened in the context of changing economic, political and social conditions. So what particular implications does this conclusion have?

The most obvious—and perhaps the most significant—implication is that a key aspect of Sutherland's project should now be abandoned, for once and for all. Sutherland was, of course, attempting to refashion the discipline of criminology to include reference to 'white-collar' offences—that is, to shift the criminological gaze upwards rather than simply downwards, extending but not removing its historical preoccupation with 'traditional' crime and criminals. Yet in this respect Sutherland's project has been a long-term failure—criminology as a discipline has remained obdurate in the face of such reconstructive attempts. Moreover, the types of changes set out above indicate how futile such an aim is—for it seems clear that most of these changes are not the object of criminological analysis, and that the tools and concepts developed within that discipline do not allow us to shed much light on them. In other words, the scale, nature and source of changes in the last quarter of a century have rather confirmed what some have long intimated—that criminology as a discipline is inadequately constructed to grasp those phenomena which Sutherland attempted, albeit imperfectly, to mark out by his term 'white-collar' crime. 'White-collar' crime requires modes of explanation and analysis that extend far beyond criminology, a requirement that Sutherland's work raises but does not give us the tools to act upon. This willingness to shift beyond the boundaries of a narrowly defined criminology has largely been embraced only by various forms of critical criminology, a tradition which has been in retreat alongside the changes described in this paper since its hey-day of the 1970s (van Swaaningen 1997). In short, it has always been difficult, and it has become increasingly difficult, to access the phenomena in which we are interested—'white-collar', organisational, corporate, occupational, economic crime—through the concepts, categories and disciplinary framework of criminology.¹²

However, even in the abandonment of the discipline of criminology, and the more thorough use of frameworks of analysis developed within political economy, organisational analysis, political sociology, macro-economics, the issue of the appropriate definition for the phenomena marked out ambiguously by the term 'white-collar' crime remains. Again, this is a long-standing problem, but as this paper has tried to indicate the problem of definition is heightened where even terms such as corporation, organisation, occupation, 'white-collar', and so on have become highly problematic.

So, does the definitional issue matter? On one level, yes. For a start, the differences between occupational, corporate, 'white-collar', organisational, etc. crime are not purely—or even largely—semantic ones (Friedrichs 1992). These

¹² I have argued at length elsewhere that 'white-collar' crime always has been, and always will be, marginal to criminology, for a variety of reasons (see Hillyard and Tombs 1999; Pearce and Tombs 1998).

disputes are intimately related to how 'white-collar' crime is to be represented, measured, explained, prevented, regulated, sanctioned, and so on.

Further, these disputes also entail disagreements about values, politics, theory, epistemology and methodology, even if these issues are not made explicit. One consequence of definitional disagreement is that we should reflect upon—and make explicit—why we are doing what we are doing when we research 'white-collar' crime. Indeed, such reflection might generate both a different disciplinary starting place and also make possible a different conceptual and theoretical apparatus with which to work. Certainly for myself, 'white-collar' crime is of interest not intrinsically, as a phenomenon in itself, but as something which is a manifestation and an index of particular types of social orders. Thus a key concept is that of power, so that pressing issues involve attempts to understand how power is distributed, how it operates, what the effects of these operations are. My motivation is also an explicitly critical one: how can current distributions of power be altered; how can its operation be challenged? how can its effects be mitigated? Such questions can be posed in the context of academic research which seeks to be both rigorous¹³ and aims to contribute towards social justice.

Now, it is of course the case that within 'white-collar' crime research, scholars have developed their work in various ways, and notable sub-definitions have emerged in their own right: for example, occupational, organisational, 'white-collar', and corporate crime (see Friedrichs 1996 for a fuller typology). But one problem of this understandable development is a relative incommensurability across research within an already marginalised area of enquiry. How can criminologists in general, and perhaps even policy-makers, take seriously the findings of a particular area of research where there remains such foundational disagreement even on the definition of the object of enquiry? And if we take the above points together, then we see that the combination of a lack of agreed definitions or concepts—or even an agreement on the need for these—goes a long way to explaining the frequently highlighted theoretical under-development of work within the broad rubric of 'white-collar' crime research (Cressey 1989).

If the issue of 'definition' *does* matter, however, it is clearly one that cannot be resolved. What this paper has attempted to do is to set out some of the ways in which recent economic, political and social changes have rendered it even more difficult to grasp the phenomena signified by the term 'white-collar' crime. These difficulties create obligations for all of us who continue to research in this area, namely to examine empirically and to specify theoretically in as much detail as possible those phenomena to which we are pointing when we refer to corporations, organisations, 'white-collar' crime and so on. As tedious as this may seem, it is particularly vital if such work is to gain legitimacy in a politically hostile climate.

¹³ As opposed to historically dominant versions of 'objectivity' or 'value-freedom' (see Tombs and Whyte 1999).

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The Victims of White-Collar Crime

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Abstract

This paper explores aspects of individual victimisation from white-collar crime, a subject relatively neglected in criminology and victimology. While it is often assumed that such victimisation is relatively invisible, indirect and impersonal the paper argues that it involves physical and economic harms along with threats to the quality of life and community safety. It details aspects of victimisation in the home, local neighbourhood, the workplace, the market place and in relation to transport, health and leisure. Structural aspects of victimisation such as gender, age and social class are also explored. It concludes by arguing that further research into the extent of such harms could have a considerable impact on policies relating to community safety.

Keywords

white-collar crime
corporate crime
victimology
community safety
consumer crime
health and safety
gender and victimisation

A neglected issue

Research into white-collar crime victimisation has been relatively underdeveloped in victimology and in research on white-collar crime (see for example Croall 1998a). Early victimology, often described as conventional victimology (Walklate 1989), focused largely on individual victim—offender relationships and on notions of victim culpability and victim precipitation. Victim surveys, whose use has grown considerably, are similarly based on conventional constructions of crime and on victims' experiences of crime of a largely interpersonal nature, thereby excluding white-collar crime. White-collar crime has also been absent from what has been described variously as 'administrative' or 'establishment' criminology particularly in the discourse relating to crime audits, community safety, and research on the impact of victimisation on different groups (Croall 1999a).

Conventional victimology has been criticised by a variety of perspectives, criticisms which are also relevant to the exclusion of white-collar crime. Thus for example, 'radical' victimology, associated in the UK with the left realist approach (Lea and Young 1993; Young 1997), challenged the exclusion of crimes such as racial or sexual harassment which they included in their research. With the exception of Pearce's work in the third Islington Crime Survey (Pearce 1992), they did not however explore white-collar crime. This can in part be attributed (Pearce and Tombs 1998) to a continuing focus on the individual rather than the organizational and structural aspects of victimisation. What has been described as 'feminist' victimology (see for example Walklate 1992) also challenged conventional constructions of crime and victimisation which excluded much interpersonal violence against women, and revealed much hitherto 'hidden' victimisation of women, largely in home, but also in the workplace and other areas. This focused on gendered aspects of victimisation, but was largely based on interpersonal violence.

While these approaches did not fully explore white-collar crime their insights are nonetheless useful. They are critical of conventional constructions of crime, they aim to reveal 'hidden crime' and have been critical of the discourse of crime prevention which excluded women's victimisation (Stanko 1990). There are therefore parallels with the study of white-collar crime, the study of which, from Sutherland onwards, has presented a challenge to conventional constructions of crime (Nelken 1997; Croall 2001). It is also characterised as invisible and is absent from the discourse of crime prevention. Particularly relevant to white-collar crime is the approach taken by critical victimology, which, following feminist victimology, seeks to look at victims and crimes 'we cannot see', and at the structural as well as individual dimensions of victimisation (Mawby and Walklate 1994).

Within what can be called 'white-collar criminology' (Slapper and Tombs 1999), the study of victimisation has also been relatively neglected. This has tended to focus on offenders—exploring the extent to which the status of

offenders is a defining feature of white-collar crime and its treatment in the criminal justice process. Much research has also focused on issues of regulation and punishment, in particular questions of inequity and the problems of regulation. A major thrust however of work 'exposing' the extent of white-collar crime has also been to expose the considerable 'human misery' and victimisation which is associated with it.

Why has the study of victimisation been neglected? In general, the factors behind this are well known and will not be discussed at great length. Briefly they can be characterised as technical and ideological. Technically, many point to the methodological difficulties of researching white-collar crime victimisation. The invisibility of white-collar crime means that it is difficult to estimate its extent through official criminal statistics, conventional victim surveys and crime audits. Many victims are unaware of their victimisation and harms are less direct and more diffused than is the case with conventional crime. While it is the case that some forms of victimisation are difficult to measure, particularly where victims, as is the case for example with many frauds, pollution and consumer crimes, are unaware of any harm, some forms of victimisation can be and have been researched. Thus Pearce (1992) included offences involving workplace safety, consumer frauds and housing regulations. Levi (1988; 1995) reports on surveys of institutional victims and Levi and Pithouse (1992; 2001) have interviewed individual victims of fraud. In addition attempts such as that of Tombs (1999) to more accurately 'count' safety crimes by using a variety of statistical indicators also reveal the considerable extent of victimisation. These kinds of research indicate that more accurate measurements of the incidence of crimes and victimisation is possible and that more innovative research could be developed. Therefore, technical reasons alone cannot explain the neglect of white-collar victimisation.

This neglect is also in large part ideological. The failure of white-collar crime to 'fit' conventional notions of crime and victimisation has been a major theme in white-collar criminology (see for example Wells 1993). As mentioned above, most victim surveys, crime audits, discussions of community safety and crime prevention rely on conventional constructions of crime and victimisation, whereas white-collar crime continues to be seen as 'not really crime'. Its ambivalent criminal status (Aubert [1952]1997) is not however unique and many activities whose criminal status is far from clear have been subject to criminalisation. In the UK for example representations of 'crime' have widened to include disorderly behaviour and incivilities—with 'anti social behaviour', generally associated with fellow residents and young people being subjected to policing and court orders. These constructions refer largely to lower class behaviour (Croall 1999b), although it might be equally appropriate to talk about 'anti social' corporations, or incivilities on the part of businesses.

The construction of white-collar crime as 'not really criminal' also means that many victims of white-collar crime do not see themselves as victims of 'crime'

—and ‘incidents’ are not reported as crimes. As with other forms of crime, notably domestic violence, such constructions also deny victimisation. Many safety crimes are initially characterised as ‘accidents’ (Slapper and Tombs 1999), which implies that they are unavoidable and inevitable, and masks the often routine neglect of regulations which underlie them. It can also be argued that workers choose to work in ‘risky jobs’ or that consumers choose to buy products—the ideology of *caveat emptor* stresses that the buyer should beware. Nonetheless buyers cannot generally detect many fraudulent consumer practices (Croall 1999b). Ideological factors are therefore of considerable significance in constructing white-collar victimisation.

The lack of systematic study has led to the generation of contradictory and untested assumptions about white-collar crime victimisation. In the first place a general contrast is made between white-collar and conventional crime. Victimisation from conventional crime is represented as involving an individual victim-offender relationship, in which the offender intentionally causes direct harm to the victim. By comparison white-collar victimisation is represented as impersonal, displaying a lack of interpersonal contact and involving harm caused indirectly, often, as is the case with corporate crime, without any intent to cause harm. Thus white-collar victimisation lacks a direct cause—effect relationship (Slapper and Tombs 1999). Such contrasts can however be overstated. Not all conventional crimes ‘fit’ the pattern outlined above and white-collar offences vary in the extent to which harms are indirect, diffuse and involve a lack of intent. These features are therefore better seen as continua along which all crimes, conventional and white-collar, can be placed (Croall 2001; Nelken 1997).

Other assumptions about white-collar victimisation are contradictory. They are often portrayed as ‘victimless’, with corruption and insider dealing particularly being represented as involving no direct, measurable harms. These can nonetheless have ‘real’ effects, as will be seen below in relation to corruption which can also affect the legitimacy of governments and the institutions in which it is found to occur (Ruggiero 1994). For other offences, the impact of white-collar crime is seen to be not on individuals but on impersonal abstract entities such as ‘the public health’, ‘the environment’, trading or commercial ‘standards’ or ‘trust’. This can mask the reality of individual victimisation—in the UK, food poisoning, which can cause death, is constructed as a ‘public health’ matter and environmental crimes can have adverse effects on health. ‘Standards of commerce’ involve many forms of fraudulent selling and advertising. Where direct victimisation is recognised, it is often argued that ‘everyone is a victim’ or generalised categories, such as ‘consumers’ ‘workers’ or the ‘general’ public are seen to be the main victims, irrespective of social divisions such as class, age or gender. At the same time however the critical strand within white-collar criminology, with its emphasis on crimes of the powerful, tends to assume that white-collar crime preys on the poor and powerless. Exploring victimisation

more systematically can shed light on these assumptions and on the considerable variation between different forms of white-collar crime.

Some initial considerations suggest a more complex picture. In the first place, as pointed out above, many seemingly impersonal offences have 'real' effects on individuals. It could be argued for example, that even the most apparently victimless of white-collar crimes, corruption, can have costs which are dispersed to individuals. Although it could be argued that some corruption, for example, that involving tenders for public work, reduces costs thus benefiting the public, it could also be argued that this is not necessarily the case and that it could lead to the construction of unsafe buildings (Friedrichs 1996). Where the government or institutions are seen as primary victims, effects may nonetheless be dispersed to individuals through higher taxes or higher prices (Friedrichs 1996). In addition, in 'classic' cases of white-collar crime where an employee or business steals many small and often undetectable amounts from individuals while amassing large profits does involve real loss whose accumulated effect could be considerable.

The harms from white-collar crime can be conceptualised in different ways. For example, South (1998a; 1998b), in relation to environmental crime points to its local, regional and global effects. Locally, the effects of, for example, waste dumping, may be primarily on communities and neighbourhoods, whereas local and national governments may be the main victims of other forms of crime. Globally the impact of environmental crime can be seen in the devastation caused by wars, or nuclear incidents such as that at Chernobyl. It is also important to recognise that these, and may other offences, do also have individual effects, as seen above in relation to 'public health' or the environment. Many global frauds have local and individual consequences. One example of this was the BCCI case which, in addition to involving governments, also harmed many small investors (Punch 1996). A clear illustration of how it also affected individual citizens was provided in Scotland where the Western Isles Council lost approximately £24 million. This led directly to higher council taxes and cuts in welfare budgets, provoking public demonstrations (Croall 1999b).

The harms attributable to white-collar crime are often represented as economic, and thus also as less serious or dramatic than those attributable to crimes of violence. As Box (1983) famously pointed out however, 'corporate crime kills', and many forms of white-collar crime have physical effects such as deaths, injuries and illness along with emotional trauma. Indeed, some have both economic and physical effects—serious frauds can lead to emotional difficulties. Other frauds, notably those involving shoddy work and charging for services which have not been carried out as is the case with car repairs and servicing frauds, also have safety implications. Primarily financial decisions on the part of corporations to 'cut corners' on safety can also involve physical risks. Not all harms however can be clearly classified as financial or physical effects but may be seen more as adversely affecting the 'quality of life', often seen as important

in relation to conventional crimes. This is the case for example with the effects of industrial or noise pollution on local amenities and the quality of life. Feminist work also directs attention to a 'continuum of violence' in which women experience 'unsafety' (Stanko 1990a), through a variety of behaviours ranging from, at the most severe end, rape, through sexual assault, harassment and verbal abuse. Some forms of white-collar crime can be similarly conceptualised. Workers may suffer a range of harms from colleagues abusing their occupational roles through forms of bullying, intimidation and harassment reaching a peak with exploitative rape. Some sales practices, sometimes described as 'aggressive', may be outrightly fraudulent whereas others may be experienced as invasive and unpleasant and have been described as 'marketing malpractice' (Croall 1999b). As referred to above, the discourse of conventional criminology also refers to general 'incivilities' and anti social behaviour, which could reasonably be applied to companies and businesses whose activities, some of which might be experienced as 'nuisances' rather than as crimes, adversely affect the quality of life. Examples of this will be cited below. In addition, crimes vary in terms of seriousness, ranging from severe financial harm, deaths, injuries and serious illnesses through to relatively trivial and unnoticeable losses.

Conceptualising and 'mapping' white-collar victimisation therefore involves, following critical victimology, looking for the 'victims we cannot see' and recognising the many and various locations in which white-collar crime has an effect. As feminists sought to apply a 'gendered lens' (Walklate 1996) to criminology and victimology, so white-collar criminologists can apply a 'white-collar crime lens', exploring the many dimensions of victimisation. This also involves critically exploring commonly used terms to describe conventional crime and relating these to white-collar crime. Reference has already been made to 'disorderly' or 'anti social' companies. Commonly used terms in the UK such as 'car crime' or 'retail crime' which generally refer to stealing cars or shoplifting could also encompass the fraudulent sales or service of motor vehicles and the many consumer frauds perpetrated by manufacturers and retailers. In a previous exercise, categories used in crime and community safety audits were applied to white-collar crimes (Croall 1998a). Listing white-collar crimes within these categories illustrates the potential scope of victimisation.

Everyday life victimisation

The following, developed from that work, represents an attempt to explore the individual impact of a range of white-collar crimes in a number of spheres of everyday life and also attempts to incorporate some of the dimensions of victimisation outlined above. It makes no attempt to 'count' or 'measure' offences, rather it identifies a number of areas for further exploration. The approach taken to white-collar crime is a broad and inclusive one based on a definition of white-collar crime involving an abuse of an occupational role (Croall 2001).

It thus encompasses areas of corporate and financial white-collar crime, along with small business crime and activities often depicted as ‘economic’ or ‘commercial’ crime (Pearce 1992). An inclusive approach also suggests including activities which lie on the fringes of the criminal law but which are subject to legal regulation.

In this way, a number of areas of everyday life in which individuals are victimised by white-collar crime can be identified—the home, the local neighbourhood, the workplace, the marketplace, transport and travel, health and welfare and leisure. Victimization may be financial, physical—including death, injury and illness, and its effect on the ‘quality of life’ is also important. The examples chosen are illustrative and are in no way intended as a comprehensive list. Table 1 provides a summary.

Table 1.

Individual white-collar crime victimisation

In the home

financial

- sales frauds (e.g. doorstep sales; internet, telephone and television sales)
- ‘marketing malpractice’
- services—‘cowboy’ builders; repairs

safety

- utilities: gas, electricity, water (installation and maintenance); water pollution

‘quality of life’

- aggressive sales; ‘junk mail’ and phone calls

Local neighbourhood

financial

- indirect effects of corruption; tax evasion; public sector frauds; consumer crimes

safety

- Dangers from industrial enterprises (e.g. construction and chemical industries); pollution (e.g. chemical and transport); waste ‘dumping’

‘quality of life’

- Planning regulations; noise pollution

Workplace

financial

- wages regulations (e.g. 'sweat shops')

safety

- safety regulations
- occupationally related illnesses
- physical/sexual violence (from workers/superiors)

'quality of life'

- working conditions; bullying, intimidation, harassment

Marketplace

financial

- consumer frauds/ sales frauds; misleading advertising; short weight goods; packaging; competition laws; illegal trading; counterfeit goods.
- food frauds: misleading descriptions of food; food labelling; food adulteration

safety

- dangerous products: e.g. toys; counterfeit
- food safety: food poisoning; 'foreign bodies'; safety of food products.

quality of life

- aggressive sales; misleading labelling;

Transport/travel

financial

- car sales and service frauds

safety

- deaths and injuries from rail, road, air and sea transport
- 'car crime': unsafe cars (Pinto); service frauds

'quality of life'

- pollution; regulation of fares; noise pollution

Health and Welfare

financial

- frauds on patients, clients and residents in institutions; overcharging patients and clients

safety

- deaths, prolonged illness as result of medical malpractice/ negligence
- physical and sexual violence in institutions

'quality of life'

- indirect effect of frauds within public sector (loss of resources).

Leisure

financial

- fraud/ corruption in sport

safety

- safety of sports grounds; leisure and adventure centres; pop concerts.

'quality of life'

- pollution of beaches rivers and other local amenities.

The home

Major forms of conventional crime such as burglary and theft affect individuals as householders and have their main impact in the home, and as outlined above feminist work also revealed the considerable extent of sexual and physical violence. The following examples indicate that the home is also the site for victimisation from white-collar crime.

The financial aspects of white-collar crime in the home are related to the sale of many household items, goods and services sold, not in the public market place, but in the home through 'doorstep sales' and through the growing use of telecommunications media. Some forms of 'misselling' or 'aggressive sales' have involved sales of burglar alarms and security devices which prey on householders' fear of conventional crime (Croall 1989a). After the privatisation of utility companies, instances of 'marketing malpractice' have increased in the UK. The spread of telephone, television and now sales via the internet have vastly increased opportunities for fraud and raised new problems of regulation. Not only can these sales be fraudulent but they can also be experienced as invasive of privacy and as forms of 'harassment' as is the case for example with telephone sales. These indicate the effects of white-collar crime on the quality of life confirming the notion of a continuum of victimisation.

Safety in the home is endangered by many unsafe practices which involve breaches of safety regulations on the part of utility suppliers, construction firms and landlords. In the UK deaths have been caused by inadequately maintained gas appliances with both landlords and local councils being convicted (Croall 1998a). In Scotland, concerns about repairs and maintenance of gas pipes were heightened following the death of a family in a gas explosion. Landlords' compliance with registration and safety regulations is of particular concern for students and other tenants, with, in Scotland, the death of two students in a fire having been attributed a private landlord's failure to register and to take account of safety requirements (Croall 1999b). Less dramatic are the activities of what in the UK are called 'cowboy builders'—trades people such as plumbers, builders and electricians who take deposits for work but never return, or who use substandard materials and take minimal safety

precautions. There are also dangers from water pollution, with many major water suppliers in the UK having been convicted for offences involving the supply of water (Croall 1998a; 1999b). Some of these activities may have a negligible direct effect but nonetheless adversely effect the quality of life.

Local neighbourhood

Outside the home, white-collar crime has an impact on individuals in the local neighbourhood. Financial effects, which are relatively indirect, include the loss of resources through tax evasion and frauds on the public sector, which reduces expenditure on local amenities and services. The way in which the BCCI case affected one local council, referred to above also illustrates the potential effect of global financial frauds on local areas. In research on consumer cases, fears were expressed in the media and by sentencers that consumer frauds and public health offences could damage the reputation of an area, particularly where an area is reliant on tourism (Croall 1991). Again these effects could be perceived as a continuum with some, albeit indirectly, leading to financial losses, others affecting the 'quality of life' of an area.

Health and safety risks, attributable to the neglect of regulations also affect local neighbourhoods. These include the activities of industrial enterprises such as construction works where passers by are endangered by unsafe practices, or chemical and other industrial works which may pollute local areas—in rural areas the discharge of farm slurry is also a problem (Croall 1998a). Most dramatically residents and citizens have been killed and injured in explosions and affected by the release of toxic chemicals, the most notorious of which occurred in Bhopal, in India in which 3,000 and 5,000 people were killed following the release of methyl isocyanate into the atmosphere and thousands more were affected (Pearce and Tombs 1998). There are also many smaller incidents and the effects of pollution on wild life and on local amenities are also significant as are noxious emissions from motor vehicles. Sufferers of respiratory diseases may suffer particularly from the effects of pollution. This, along with waste dumping and noise pollution, which can exceed the amount of noise created by other residents (Croall 1998a; 1999b), and many instances of 'poor air quality' related to industrial activities further endanger the quality of life—thus it is reasonable to talk of 'anti-social' and 'dirty' companies.

The workplace

It is now well documented that many white-collar crimes affect individual workers (Tombs 1999). Financially, workers can be directly affected by being paid below minimum wages, in modern 'sweat shops'. Immigrant labour is particularly vulnerable to such offences. Safety offences in the workplace lead to many deaths and injuries and also to occupational diseases (see for example Pearce and Tombs 1998; Tombs 1999). Tombs (1999) has calculated that the total deaths attributable to safety offences in the UK far exceed the total deaths

from homicide. In addition to breaches of safety regulations and practices which lead to long term occupationally related illness, the workplace is the site of other forms of exploitation in which those who abuse occupational positions of trust and power engage in activities ranging from physical, sexual and racial violence through bullying, intimidation and harassment which can lead to physical and emotional injuries and seriously affect the quality of working life.

The Marketplace

Many more white-collar crimes take place in retail and commercial centres and in markets. Consumers suffer financially as a result of a wide range of fraudulent trading practices including fraudulently described goods, goods sold with misleading descriptions and labels, misleading price indications (particularly in respect of 'bargain offers' and sales), and goods sold with less weight or quality than is indicated. The way in which goods are packaged can also be deceptive and the counterfeiting industry involves luxury, 'designer' goods, perfumes, videos, computer games and everyday household products such as food and soap (Croall 1998a). Also on sale in marketplaces are the products of organised crime, often sold via legitimate enterprises such as counterfeit goods and 'bootleg' alcohol and tobacco—illegally imported to avoid taxation. Food is also subject to many frauds ranging from frauds on the EU, the use of meat not intended for human consumption such as horse or kangaroo meat, misleading labels and the substitution of water and other additives (Croall 1992). Food frauds additionally have safety and health implications.

Consumers' safety is also endangered by frauds and unsafe products. Children have been injured by unsafe, often counterfeit toys. Food safety has become a major international issue following the spread of the human form of BSE and major incidents of food poisoning, which can lead to mass deaths. In Scotland, in 1997, 27 people, mainly elderly, died in an outbreak of *E.coli*, which was traced to a butchers' business. The butcher in question was subsequently found to have systematically neglected food hygiene regulations (Croall 1999b). Other dangers associated with food include pieces of metal and other objects, known in the UK as 'foreign bodies' being found in food, some of which lead to injuries to consumers, and selling out of date and mouldy food.

As is the case with crime in the home, consumers 'quality of life' can be threatened by aggressive sales practices, misleading labelling and other commercial offences including illegal sales, auctions and shops illegally occupied by traders to sell cheap goods.

Transport and travel

A number of transport 'disasters' have highlighted the dangers of transportation, both public and private. Financially a major area of white-collar crime lies in the sale and servicing of cars where consumers can be overcharged or charged for work which has not been carried out. In the UK an estimate by the British

Automobile Association indicated that consumers could lose as much as £100 million in one year (Croall 1998a).

The safety of transport has become a major issue with the high toll of deaths attributable to breaches of safety regulations in respect of rail, road, air and sea transport. The UK has seen a number of major transport ‘disasters’ involving railways which have been followed by inquiries and prosecutions—the most recent of these being at Southall, near London, in 1997 which led to 7 deaths and, on the same track, near Paddington station in London, 31 people died in October 1999. These cases have led to proposed changes to the law in relation to corporate manslaughter (Croall 2001). Deaths in roll on roll off ferries such as the *Herald of Free Enterprise* in which 192 passengers drowned, other shipping disasters along with the high toll, including schoolchildren, of those killed in coach transport further illustrate the dangers of transport. Private motor cars also create hazards, the most notorious case being the marketing of the Ford Pinto motor car following a decision that the likely cost of injuries and deaths was less than that of recalling the car (Punch 1996). Fraudulent sales and service also have safety implications—in Britain for example, there have been concerns over the sale of cheap second hand cars made up from cars damaged in accidents and which have been ‘written off’ by insurers (Croall 1998a). Failures, on the part of commercial transport firms to comply with regulations surrounding noise and emissions also affect the quality of life to which could be added breaches of regulations in respect of fare regulations in airlines and other forms of transport.

Health and Welfare

Citizens are also individually victimised as consumers of public and private health and other forms of welfare provision. Financially, where provision is private, patients can be overcharged by doctors, dentists and opticians, and residents in hospitals and institutions for the young and elderly may be defrauded by ‘carers’—particularly difficult to discover where such residents may not be able to look after their own financial affairs. To this could be added the indirect costs of practitioner frauds by doctors, dentists or opticians which is rarely systematically counted (Croall 2001).

Physically, patients and consumers of welfare services are at risk of being killed or injured by health workers and medical practitioners—either deliberately, using their occupational role as a means of committing murder, or through negligence and malpractice—often not dealt with as crime but subject to professional regulation. A recent case in Britain involved Doctor Harold Shipman, who was convicted of murdering several elderly patients. Patients and residents can also be physically or sexually abused by carers in institutions—in the UK there have been several dramatic revelations concerning children’s homes and a growing attention to elder abuse. In general terms the quantity and quality of health and welfare services are also adversely affected by the practitioner frauds

referred to above. While the above examples largely refer to health, other areas of public provision are also affected by white-collar crime—which may occur in the police station, or, as seen above, in relation to public housing.

Leisure

White-collar crime also affects many sites of leisure. Financially consumers may be adversely affected by having to pay higher prices as a result of fraud in sports and indirectly, the ‘quality’ of sport may be affected by corruption. Many consumer frauds may occur in leisure venues through overcharging for drinks at mass leisure events (Croall 1989) where it might be assumed that they may be less vigilant.

Safety offences also occur in leisure arenas—particularly in relation to ‘risky’ areas such as adventure playgrounds, pop concerts and other events primarily involving young people. Sports grounds have been the site of major disasters. In the UK for example, 96 spectators were crushed to death following the opening of a gate into a section of the Hillsborough football ground. This was initially attributed to drunkenness on the part of unruly fans but subsequently attributed to police decisions (Croall 1999c). Problems with the safety of adventure centres, which many schoolchildren attend to participate in sporting activities were highlighted with the drowning while sailing, of 4 teenagers in the English resort of Lyme Regis in 1994. It was subsequently revealed that staff had been inadequately trained and that previous warnings about the safety of the centre had been ignored by its managing director. This led to one of the few convictions in England and Wales for corporate manslaughter (Slapper and Tombs 1999). The ‘quality’ of leisure activities in local areas are also adversely affected by pollution and failure to comply with regulations concerning waterways, beaches and other local amenities.

More examples could be added—it could be argued for example that personal finances constitute another sphere incorporating pensions and investment frauds, and the effects of major financial crimes. In Britain, the ‘misselling’ of pensions schemes, described as the ‘worst financial scandal this century’ (Guardian 8/11/97), following Government policies to withdraw from pensions provision, led to many employees paying into schemes which would provide lower amounts than the existing pension funds which they were encouraged to leave. Total costs have been estimated to amount to as much as £11 billion (Slapper and Tombs 1999). While the impact of many frauds is on institutions, individuals as small investors may suffer considerably, suffering which also involves the emotional stress occasioned by the loss of savings and financial security (Levi 1999b).

These examples illustrate that individuals suffer considerably from many different forms of white-collar crime, despite the assumptions, outlined above, that white-collar crime victimisation is indirect and diffuse. Much of this impact on individuals is however often not regarded as victimisation from ‘crime’ and is

often not recognised or counted. Harms range from what might be seen as minor ‘nuisances’, which have an intangible effect on the ‘quality of life’ through minor illnesses, injuries and financial losses to major injuries, deaths, serious illnesses and financial loss. In addition the accumulated effect of white-collar crimes can be considerable—as South comments in relation to ‘small scale’ pollution incidents “the adding up and accumulation of such localised examples provides a global picture of millions of other ‘little’ events which bring with them modest to devastating changes in people’s experience of the environment and conditions of life” (South 1998b:444). It should also be noted that while some of these effects may be minor—so too are the effects of many conventional crimes, with many victims reporting to victim surveys that they were not badly affected (Croall 1998c). Thus the effect of food poisoning, the adulteration of tap water, or the sense of betrayal of trust felt in many minor frauds could be adversely compared to many less serious conventional crimes such as minor assaults or the theft of a wallet or purse.

Structural dimensions

While the focus of this paper has been on the many ways in which white-collar crime affects individuals, it is also important to recognise the structural dimensions of victimisation by asking which groups are most affected by white-collar crime. As seen above, a predominant assumption in relation to victimisation is that it affects groups of people such as consumers, workers or the general public irrespective of class and status and in many ways its effects appear random—all householders are at risk from frauds and safety offences in the home, so called ‘disasters’ such as those related to transport affect all passengers and sales frauds can affect all consumers. It is nonetheless instructive to ask which consumers, workers and the general public are more likely to suffer from the harms associated with white-collar crimes? Exploring this question reveals the structural elements involved in victimisation which reflect wider structures of power and inequality. Some groups are more adversely affected by some crimes and others have fewer means to avoid victimisation. This can be seen when briefly considering elements of gender, age and social status.

While much research on white-collar crime has been ‘gender blind’ (Snider 1996), much victimisation is gendered, with many offences having a severe impact on women (Croall 1995; Szockyj and Fox 1996). This is not to argue that more women are affected by white-collar crime—which has many male victims—but to point to the gendered nature of many offences. This can be seen in terms of both physical and financial harms.

Many major cases of corporate crime which have involved ‘mass harms’ have been related to medical, pharmaceutical and consumer products and services aimed at ‘improving’ women’s bodies (Peppin 1995; Simpson and Elis 1996; Finlay 1996; Croall 1995). Examples of this include the case of the Dalkon

Shield contraceptive device which was marketed after problems with its design were discovered and which led to countless illnesses and deaths on the part of women who used the shield. Cosmetic surgery and breast implants, dietary preparations including 'slimming pills' and consumer products such as creams and perfumes have all been associated with long term illnesses, allergies and other physical problems. In the workplace, women workers are particularly vulnerable to exploitation in sweat shops and to industrial diseases and toxic risks (Pearce and Tombs 1998). These risks are not unique to women as many so called 'risky' jobs are also 'men's' jobs—indeed a 'culture of machismo' may sanction a neglect of safety regulations and men are major victims of breaches of health and safety regulation. Risks in the workplace are therefore related to the gendered division of labour. Financially, many products and services are aimed specifically at women, and their supposed ignorance of financial and technical matters may make them particularly vulnerable to certain kinds of sales frauds particularly in relation to household goods, investments, where 'little old ladies' are archetypal victims, and in relation to car sales and services (Croall 1995).

Age is also related to victimisation and in particular to the physical, mental and economic dependence of the old and the young. Physical and sexual abuse in institutions has already been referred to, and the inability of elderly patients, particularly those suffering from dementia, to complain about such abuse renders much of this victimisation relatively invisible. Both the old and young are also more susceptible to some forms of food poisoning, particularly strains of the E.coli virus, the major victims of which have been elderly, with children also suffering more severely. Children are also major victims of sub-standard and often dangerous toys, some of which may contain lead paint or dangerous electrical parts. Many of these are cheap imitations of expensive toys aggressively marketed particularly at Christmas. Teenagers and young people are also more vulnerable to safety offences in adventure playgrounds or pop concerts, and, in Britain, students, often reliant on cheap, rented accommodation have been seen as particularly at risk from failures of landlords to comply with safety regulations (Croall 1999b). Financially, the elderly may be more vulnerable to pensions and other investment frauds, which aim at the desire, on the part of older people, for financial security.

Some of these forms of vulnerability are also related to socio economic status, where economic constraints mean that some groups have little choice but to seek cheaper goods and services. This is not to argue that the more affluent do not suffer from white-collar crime—indeed they are attractive targets for fraudsters. There is therefore what Levi (1995) has described as a 'complex moral arena' in relation to class, status and victimisation. Many forms of white-collar crime nonetheless reflect wider 'structures of vulnerability' (Tombs 1999). Environmental crimes for example have been found to have a more severe impact on lower class areas (South 1998a), and many safety crimes in the

workplace affect manual and assembly line workers, who are more likely to be in dangerous areas in the workplace. British research carried out for the Office of Fair Trading, while not looking at crime specifically, suggests that the elderly, the young, and those on low incomes are more 'vulnerable consumers' as they are less able to obtain or assimilate the information needed to make 'informed' decisions (Burden 1998).

This suggests that the more affluent and more educated, those with more 'cultural capital', are more likely to be able to avoid victimisation. They are, for example, less likely to purchase cheap, substandard items, are not economically constrained to work in 'risky jobs', and can exercise the choice to move away from areas with a high risk of pollution. Shapiro (1990) also points to the significance of 'asymmetries of information' in relation to many white-collar offences which rely on the victim's ignorance of the knowledge and expertise which offenders abuse. Thus employers are rendered vulnerable by their lack of specialised technical or professional knowledge, as are clients of professionals and other service providers. Thus while theoretically, all groups may be at risk, many, such as employers (Shapiro 1990) can utilise 'risk avoidance' strategies which are unavailable to those without sufficient resources or expertise.

Concluding comments

It can be argued therefore that, contrary to many of the assumptions outlined above, white-collar crime has a widespread effect on individuals in many spheres of 'everyday life', and that this impact falls most severely on vulnerable groups. It can also be argued that while white-collar victimisation is less easy to measure than that from some, if not all forms of conventional crime, much more could be done to quantify victimisation and to render it more visible. Tombs (1999) for example shows how statistics from areas not primarily concerned with crime can be collated to provide the basis for quantitative calculations, and the above examples indicate other areas worthy of such investigation. Including such activities involves challenging the dominant construction of crime in which much white-collar crime is not seen as 'crime'. It could be objected for example that many of the above examples contain activities which are not 'really' crimes but which involve non criminal issues such as transport and workplace safety, consumer law, the environment or 'public health'. Many of these activities are nonetheless regulated by law, much of it criminal, and all lead to considerable harms and economic loss, in many cases exceeding those associated with many conventional crimes. Research could compare such impacts through victim surveys and also compare individuals' fears of conventional crimes with fears about workplace and transport safety or consumer fraud. Such research is justifiable on several grounds. It renders victimisation from white-collar crime more visible and therefore plays a major part in what Nelken (1997) considers to be a continuing need to 'expose' white-collar and corporate crime. It also

follows the critical tradition which has been influential in white-collar criminology which seeks to challenge conventional constructions of crime and the criminalisation of primarily lower class activities at the expense of the equally harmful activities of businesses and corporations. It is also, it can be argued, important to challenge the predominant discourse of crime prevention which seeks to enhance community safety. As white-collar crime does affect community safety, it could be included in such policy agendas.

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The Causes of White-Collar Crime and the Validity of Explanation in the Social Sciences

James William Coleman

Abstract

This article attempts to present the outlines of an integrated theoretical explanation of white-collar crime in light of the limitations of causal explanation inherent in any social science. The history of theorizing on this subject is traced from the interactionist approach begun by Sutherland, Cressey, and others, to later more structural theories. It is argued that a theory which revolves around two key axis—motivation and opportunity—can provide the best foundation for bringing the diverse literature on the etiology of white-collar crime into a unified theoretical framework.

Keywords

white-collar crime
theoretical explanations
inherent limitations
social psychological level
macro sociological perspective
integrated approach
culture of competition

The explanation of human behavior

There is nothing more difficult in all the sciences than the explanation of human behavior. The very notion of causality is an elusive one; for no single event or condition can ever accurately be said to be the cause of another. Everything is connected with and dependent upon everything else, and any attempt at a complete casual analysis quickly leads to an infinite regress. One could, if one was foolish enough, spend the rests of ones life studying the causes of a single act of embezzlement. Was it the offender's ever growing gambling debt? The weakness of the accounting safeguards? The availability of suitable rationalizations to justify the crime? The abuse the embezzler received from her father as a child? The pressures of family economics with two kids and no husband? The exploitative attitude of the offender's employer? The nature of the capitalist system? There is no clear cut place to draw the line and end our inquiry.

Some aspects of aggregate behavior appear easier to explain, but only if we limit the scope of our inquiry. We might, for example, be able to show that the crime rate is higher among police officers than letter carriers, because police officers have more opportunities for criminal gain. But push that finding farther and ask why the structure of opportunities is so different for those two occupations and we are soon trapped in another infinite regress. Ultimately, our explanation must rest on a thick layer of taken for granted assumptions and our willingness not to push things too far.

All this clearly does not means that we should just throw up our hands in despair, and give up on the entire enterprise. Some kind of theoretical understanding of the causes of white-collar crime is clearly essential to any attempt to deal with the problem in any reasonably effective way. But we also have to be aware of the inherent limitations in that endeavor. First, I would argue that there is something analogous to the uncertainty principle developed in subatomic physics in operation in the social sciences as well. The fact of the matter is that we simply cannot figure it all out. We must recognize that there is always some element of uncertainty and indeterminance in our understanding of any social phenomenon. Any claim that the explanatory structures we create are complete and sufficient in themselves only serves to blind us to new possibilities and new perspectives. A second, and perhaps more difficult principle to many minds, is that seemly contradictory explanations can all be true. Once we recognize that no single explanations can capture the whole truth it becomes clear that different perspectives and approaches will capture different and perhaps seemingly contradictory facets of the subject of study but that all of these can contribute to our understanding. A third conclusion that follows from the others is that we always need to stand ready to revise our understanding in light of new facts and the emergence of new perspectives and ideas. In other words, theoretical understanding should be see more as a process than as some structure we produce. Finally, another key point that is of particular relevance in the study

of white-collar crime is that none of our explanations are value free. Our answers are only as good as the questions we ask, and our questions are rooted in our values and systems of belief. Moreover, the answers we construct only make sense in terms of the values that make our lives meaningful. The study of white-collar crime was, from the very beginning, motivated by a strong set of political values that took issue with the seeming impunity with which the rich and powerful were able to break the law. In the interest of the kind of open examination of our biases advocated by C. Wright Mills, I should make it clear that I have very much the same attitude toward such abuses as Edwin Sutherland did when he first created the concept of white-collar crime.

With these limits in mind, what I would like to do for the remainder of this paper is to outline what I see as the main currents in our thinking about the causes of white-collar crime, and set forth some ideas about the best ways to integrate them together into some kind of coherent whole.

Starting with Sutherland

The study of white-collar crime started, of course, with the great American criminologist, Edwin Sutherland, who coined the term and was the driving force bringing it into the mainstream of criminology. Sutherland's original definition of white-collar crime was broad and encompassing, but in practice he focussed primarily on crimes committed by business and the corporations. It is therefore somewhat surprising that his major contribution to the explanation of white-collar crime was on the social psychological level. Although Sutherland expressed many insightful views about the role of social disorganization in the etiology of criminal behavior in his classic text, *The Principles of Criminology*, it is his theory of differential association for which he is most famous. In Sutherland's view, differential association was a universal theory of crime which he believed was able to account for all types of crime including, of course, the white-collar crimes. In the 1947 edition of *Principles of Criminology* (the last revision made by Sutherland himself) he gave a nine point summary of his theory:

- (1) Criminal behavior is learned,
- (2) and that learning occurs in interaction with other persons in a process of communication,
- (3) which takes place primarily in intimate personal groups.
- (4) This learning includes techniques of committing the crime and motives, drives, rationalizations, and attitudes.
- (5) The specific direction of motives and drives is learned from definitions of the legal codes as a favorable or unfavorable.
- (6) A person becomes a criminal because of an excess of definitions favorable to the violation of the law over definitions unfavorable to such violations.
- (7) These differential associations may vary in frequency, duration, priority, and intensity.
- (8) The process of learning criminal behavior by association involves all the mechanisms that are involved in any other learning.
- (9) And finally, although criminal behavior is an expression of

general needs and values, it is not explained by them since all other behavior is also an expression of those needs and values (Sutherland 1947:5-8).

In applying these principles to white-collar crime, Sutherland vigorously rejected any notion that it was caused by the immorality, biological make-up, or psychological characteristics of the criminals. People become white-collar criminals because they learn to act that way, often from their associates on the job. In Sutherland's eyes at least, many types of business careers virtually required some criminal activities, as can be seen from his often repeated characterization of major corporations as habitual criminals that have repeatedly broken the law. In his 1949 book, *White-collar crime*, Sutherland cited the case of an idealistic young college graduate who had lost two previous jobs because he refused to become involved in unethical activities. After taking his third job, this time at a used car dealership, he found out that they, too, expected him to become involved in shady business practices.

When I learned these things I did not quit as I had previously. I sometimes felt disgusted and wanted to quit, but I argued that I did not have much chance to find a legitimate firm. I knew the game was rotten, but it has to be played—the law of the jungle and that sort of thing. (Sutherland 1983:241-242.)

Underlying Sutherland's approach was therefore a key political point: the attitudes of the world of business and the upper class promote a variety of criminal activities which required strong social action to bring under control.

Cressey: The Next Step

Of all Sutherland's students, it was Donald R. Cressey who became most closely associated with his ideas. Not only was Cressey a forceful defender of the theory of differential association, he was the one who took over the *Principles of Criminology* after Sutherland's death and carried it on for six more editions. It is hardly surprising then that Cressey's work on embezzlement was squarely in the Sutherland tradition. In exploring the rationalizations embezzlers used to justify their crimes, Cressey provided empirical support for the theory of differential association by showing the specific definitions that were learned by embezzlers. But Cressey also expanded Sutherland's original formulation by drawing more broadly from the symbolic interactionist theory of motivation which had been part of the original inspiration for theory of differential association but in a far less sophisticated form than Cressey utilized.

Unlike psychiatric perspectives that see motivation as the product of biological urges or unconscious desires, interactionists see motivation as a symbolic construct. The meaning that individuals attribute to a particular situation and to social reality in general, structures their experience and makes certain courses of action seem appropriate while others are excluded or ignored. But socially created symbolic constructs not only define reality, they allow individuals to

anticipate the kinds of responses their behavior is likely to bring and adjust their actions accordingly. Thus, on one side, individual motivation is seen to include a general symbolic construction of reality, definitions of various individual situations, construction of some ends as valuable and others as undesirable, and a set of expectations about the kinds of responses different behaviors can be expected to evoke—all of which can be seen as part of what W. I. Thomas termed the “definition of the situation.” In addition, there is also a more inward looking set of definitions which constitute what Mead term the self. The self concept is a set of ideas, definitions, and beliefs about who and what we are. In the interactionist view, our self concept and definition of the situation are the twin rails along which human motivation runs (Mead 1934; Thomas and Znaniecki 1927; Mills 1940; Foote 1951; Cressey 1969; Coleman 1978).

Because behavior is evaluated in terms of the actor’s symbolic construction of the responses anticipated from others, the expectations of significant others and the generalized expectations of society as a whole are critical elements in individual motivation (Mead 1934:152-163). This internal sense of what the “generalized other” demands of us provides a set of norms and ethical standards to which we attempt to conform. But the fact that this generalized other is held to be a central element in thought and behavior poses a problem for an interactionist theory of white-collar crime, because most criminal activities are likely to violate the expectations it embodies. Although Sutherland was the first to apply interactionist theory to the analysis of white-collar crime, he never explicitly recognized this contradiction. It was Cressey’s (1953) work on the way embezzlers “adjust” the symbolic construction of their behavior to conform to generalized social expectations that first came to grips with this problem.

After a series of intensive interviews with incarcerated embezzlers, Cressey concluded that three conditions were necessary for an embezzlement to occur. First, the potential embezzler must have a non-sharable financial problem. Second, he or she must have the knowledge necessary to commit an embezzlement, and third, embezzlers must use a suitable rationalization to “adjust” the contradiction between their actions and the normative standards of society. While the first proposition has not been supported by subsequent research (Nettler 1974; Zietz 1981), and the second is rather self-evident, Cressey’s concern with the process of rationalization was to become one of the major themes for white-collar research in the years ahead.

Cressey found that his respondents used many different rationalizations to justify their behavior, but they all claimed that they were just borrowing the money and will soon return it. As one embezzler put it, “I figured that if you could use something and help yourself and replace it and not hurt anybody, it was all right” (Cressey 1953: 101). A key point Cressey stressed was that these rationalizations were not just *ex post facto* excuses cooked up to justify an action already taken, but were psychology present before the crime was

committed and were a major part of the original motivation of the act. Four years after the publication of *Other People's Money*, Sykes and Matza (1957) called such rationalizations “techniques of neutralization”—a term that is now common in the literature on white-collar crime. Although there is some doubt that the borrowing rationalization is as important as Cressey claimed, the general process of rationalization he outlined is clearly of critical significance in understanding the motivation of white-collar criminals, and has been broadly supported in many decades of research on white-collar crime.

The Next Wave

While the original focus of research on white-collar crime was on the social psychological level, in the next wave the focus shifted to more structural concerns. Many researchers took up a macro sociological perspective that sees an emergent causality for the actions of an organization that is independent of behavior of individual actors—something Cressey never totally accepted but which laid the foundation for a whole new body of research. In general, this new wave of research followed two different approaches. At the highest level of generality, some researchers sought the causes of white-collar crime in the economic and political structure of capitalist society (for example, Pearce and Tombs 1998). Inspired by Marx’s insights into the nature of the capitalist economy, it is a fairly short leap to see the relentless materialism, the all important demand for profits, and the ruthless economic competition in industrial capitalism as prime motivators for corporate crimes and abuses of all sources. But despite its obvious intellectual appeal, this approach to the study of white-collar crime has not been as fully explored as one might expect. Perhaps this is because many Marxists and other radicals are highly skeptical of the current legal system and therefore reject the whole notion of white-collar crime. In this view, the legal system operates solely in the interests of the ruling classes and the fact that the abuses of business and the corporations are occasionally labeled as crimes has nothing to do with the desire to protect the interest of society as a whole, but serves only to placate the masses and prevent individual corporate interests from taking actions that might threaten the corporate class as a whole.

The more popular macro level approach focuses more on mid-level variables. While largely ignoring the impact of the overall structure of the political economy, these researchers focus on the causes of particular individual offenses or the variations in the patterns of offending. One of the primary areas of interest has been the exploration of some of the variables that influence corporation criminality. One question that has created a great deal of interest among quantitative researchers is the role that the market structure of an industry—and especially the degree of market concentration—plays in corporate crime. Most of the empirical research on this issue has focused on the antitrust laws, but its conclusions have tended to be contradictory (Pfeffer and Salancik 1978; Burton

and Riedel 1966; Hay and Kelley 1974; Posner 1970; Clinard and Yeager 1980). Many observers have claimed that there is a relationship between the size of a firm and its involvement in illegal activities, but once again they do not agree on whether large or small firms are most likely to break the law (Conklin 1977; Lane 1954; Clinard 1952; Katona 1946; Clinard and Yeager 1980). Given the primacy of the profit as a corporate motivator, it is not surprising that considerable research has been devoted to the role profitability plays in corporate crime. And unlike the research on organizational size and industry structure, there is general agreement in this area: firms with low or declining profitability are more likely than others to break the law (Katona 1946; Lane 1954; Geis 1977; Staw and Sz wajkowski 1977; Clinard and Yeager 1980; Simpson 1986; Jenkins and Braithwaite 1993).

Researchers utilizing a more qualitative case study approach have often commented on the role the “ethical climate” set by top managers plays in corporate criminality (for example, Clinard 1982). Another area of great importance is the role regulatory structure plays in corporate criminality. For one thing, firms in tightly regulated industries are far more likely to break the law since there are in a sense more laws to break. The strength of regulatory enforcement is another important variable. Theoretically, the highest rates of crime should come in industries that are subject to many specific regulations that are very weakly enforced such as in the American savings and loan industry during the 1980s (Calavita and Pontell 1991).

There has been considerably less work on the structural factors that influence occupational crimes, especially in light of the huge number of occupations and all the various cross-cutting structural forces influencing such crimes. Nonetheless, some areas have been sufficiently investigated to warrant some tentative conclusions. For example, it appears that the opportunities for bribery depend on the economic value of the services the holder of a particular job can offer in exchange for corrupt payments. One of the reasons police corruption is most common among officers involved in the enforcement of narcotics and vice laws is that organized criminals are willing to pay those officers large sums of money merely to look the other way. Other occupations with rich opportunities for corruption include purchasing agents, government inspectors, and politicians. Embezzlement seem to vary with the degree of financial trust placed in the holders of different occupational positions. Accountants, bookkeepers, and clerks have many opportunities for embezzlement, while other employees in the same organizations may have none. Opportunities for fraud and other illegal financial manipulations appear to be greatest in occupations with direct involvement in financial dealings such as salespeople and upper level executives (Weisburd, Waring and Wheeler 1987). In general, it appears that the opportunities for employee pilferage are more widely dispersed than the opportunities for fraud or embezzlement, but such opportunities are not, however, evenly distributed throughout the occupational structure. Hollinger

and Clark's (1983) comprehensive survey found that employees with access to and knowledge about vulnerable targets for theft (e.g., sales clerks in stores, engineers in factories, and nurses and technicians in hospitals) were the most likely to report having actually committed a theft.

Other Universal Theories

In addition to the differential association/interactionist approach attempts have also been made to apply two other universal social psychologically oriented theories to the study of white-collar crime. With its roots is what is perhaps the oldest theory in all criminology, the rational choice perspective argues that human behavior is based on a logical evaluation of the options available to a particular individual with the goal of experiencing the most pleasure and the least pain possible. Some observers have claimed that this approach is particularly well suited to the study of white-collar crime since corporate executives and high status offenders are assumed to be more rational and self-controlled than common street offenders (Cullen, Maakestad and Cavender 1987: 344; Bartollas and Dinitz 1989:114). Critics of this approach such as Diane Vaughn have pointed out while rational choice certainly plays an important role in the etiology of white-collar crime, there are clearly social and cultural restraints on its exercise. The subculture within an organization, for example, can blind an individual decision maker to many options that would appear to be highly attractive rational choices. Perhaps the reason this approach has not been widely used in the study of white-collar crime is that it does not appear to handle such dilemmas as effectively or add all that much to interactionist theory that has become so well established in the study of white-collar crime.

One of the latest universal theories of crime is Gottfredson and Hirschi's (1990) "general theory of crime." They argue that low self control is the key psychological variable explaining all types of crime in all circumstances. To make such universal claims they and their followers must, of course, account for white-collar crime and especially corporate crime (a type of crime for which such an explanation seems to have little natural affinity). Herbert, Green and Larragoite (1998) attempt this task by arguing that corporate crime can indeed best be explained by the lack of self-control of individual managers. Thus in their view all corporate crimes are individual crimes by the employees of the corporations. How can they account for the fact that that most corporate executives appear to have average or above average self-control? They don't dispute the fact that corporate executives are indeed self-controlled, but claim that compared to the huge number of business transactions that occur every day the rate of white-collar crime is actually very low. As Yeager and Reed (1998) point out, however, that argument make no more sense than claiming that the rate of rape is extremely low because there are so many interactions between men and women that do not result in a rape. Moreover, the idea that

corporate crimes are nothing more than crimes by individual executive flies in the face of generations of sociological work from Durkheim onward that has explored the autonomous force exerted by social organizations and social structures.

Constructing an Integrated Theory

I think any fair-minded observer would reject the claims of any theoretical camp to have The Answer to the conundrum of white-collar crime, but would also agree that most of them have something of value to contribute to our understanding. As I indicated at the start, the causal factors in human behavior are part of infinite web of causes and effects, so it seems clear we must be as inclusive in our theorizing as possible.

What then is the best way to construct an integrated theory that weaves all these theoretical strands together into some kind of coherent whole? The approach that I think works best is based on a simple common sense idea widely used in criminology. A crime will occur only if there is a confluence of an appropriate motivation and available opportunity. Most theories, as we have seen focus on either the social psychological forces that motivate individuals to violate the law or on the structural forces that account for the prevalence and distribution of those violations. The objective of this approach is both to explore those two dimensions of white-collar crime, and to bring them together in a single theoretical framework. At first, it may appear that such an analysis implies a strict division between the social psychological causes (motivation) and the structural causes (opportunity) of white-collar crime, but just the opposite is true. An opportunity must ultimately reach down and become psychologically available to individual actors or it will remain merely a theoretical possibility. And conversely, the roots of the individual motivations for white-collar crime can be traced directly to the culture and structure of industrial society. Motivation and opportunity are inseparably interwoven, and any successful theory of white-collar crime must take that fact into account.

What then is the best recipe to bring all these diverse elements together into a common theoretical whole? It seems clear that the foundation of our understanding of motivation must be built on the symbolic interactionist theory that has already been so widely used in the study of white-collar crime. But despite its enormous contribution, it is hard to avoid seeing this approach as too bloodless and rationalistic to encompass the full range of human motivation. To flesh out this approach, we must bring the emotions back in. Some would achieve this end by positing a rigid distinction between rational-intellectual side of our nature and its emotional-instinctual dimension, and then explore critical points where the domination of one mode succumbs to the domination of the other; as when the emotions “overpower” the intellect. However, this kind of dualistic understanding does a poor job of accounting for most of our daily behavior.

Ideas and emotions are not two discrete independent entities, but are intimately interrelated. Ideas and symbols take on varying degrees of emotional charge, so that the invocation of those symbols evokes a particular emotional response, and conversely, different emotions tend to call up certain kinds of ideational patterns. Symbolic and emotive processes work together; one providing the energy and the other of guidance for individual behavior. Thus, even someone who is swept away by emotion and behaving in a highly irrational manner is still guided by their symbols and definitions. It is just that the emotional charge associated with some particular ideas or events has become so strong that they dominate the individual's thought processes and crowd out other considerations. Motivation is therefore best conceptualized as a set of symbols and definitions that are charged with varying amounts and kinds of emotional investment (Coleman 1992).

Another essential need in an integrated theory is to show the roots of individual motivation in broader social structures and cultural orientations. To many people, this isn't really much of an issue—white collar criminals break the law because that want to make a fast buck, and they will pursue whatever opportunity offers the biggest payoff with the fewest hazards. It appears to simply be a matter of rational choice, but if we go into the matter more deeply such an explanation clearly becomes inadequate. For one thing, many white-collar criminals are already extremely wealthy, and would seem to have little more to gain and much to lose from criminal behavior. But more important is the fact that people in many cultures around the world simply have no interest in accumulating a horde of money and material possessions. For example, members of hunting and gathering societies, such as the !Kung bushmen of the Kalahari Desert and the Semai of Southeast Asia (Dentan 1968; Lee 1979) tend to share a cooperative egalitarian attitude toward their fellows and display little interest in acquisitive materialism.

To one degree or another, all industrial societies share in what I have elsewhere called a *culture of competition* which is radically different from the cooperative ethos of those hunting and gathering societies (Coleman 1987). From this perspective, the struggle for wealth and status is the central goal of human endeavor, which not only builds individual character, but ultimately provides the greatest economic benefits for society as a whole. The desire to best one's fellows in the competitive economic struggle and the pervasive fear that one may come out a loser, provides a powerful motivation to take advantage of whatever legitimate or illegitimate opportunities are available. A complete explanation of the reasons for this remarkable shift in cultural orientation is beyond the scope of this article, but it would certainly be tempting to attribute the structural origins of the culture of competition to the capitalist political economy now practiced in the wealthy nations of the world. But if we look more closely at the communist societies we can see that the origins of this cultural complex can be traced to fundamental structural characteristics that are present in

all industrial societies (Coleman 1988). The production of great surplus wealth and the complex hierarchy of specialized roles upon which that production depends, provide the objects of competition. The hierarchy of classes (clearly present in both communist and capitalist societies), the high degree of social mobility, and the accompanying economic uncertainty not only promote individual competition, but provide the wellsprings of the pervasive fear of failure as well.

The other leg of our integrated theory rests on an analysis of the opportunity structure in contemporary political economy. Everyone has the opportunity to commit some kind of crime, and almost all white-collar workers have had the opportunity to commit a white-collar crime. But most of the time, we pass those opportunities by. Sometimes, we may lack sufficient motivation, perhaps because we are inhibited by our ethical standards. But all opportunities are not equal. Individual actors evaluate the potential dangers and rewards of each opportunity in terms of their view of the world and how it operates. Thus, the attractiveness of an opportunity is strongly influenced by the individual's perception of how likely they are to get caught, how severe the punishment will be if they are, and of course how large the take. Each opportunity is judged in comparison to the other available options. The fewer legitimate opportunities an actor has, the more attractive a particular crime is likely to appear.

An individual's menu of opportunities is obviously determined in large part by the jobs he or she may hold just as a corporation's opportunities for action are determined by its internal dynamics and its economic and cultural environment. This is not the place for a thorough examination of what we know and do not know about the structure of opportunities in contemporary industrial society (see Coleman 1998:199-212). Suffice it to say that the wealth of mid-level empirical research mentioned above provides an excellent stepping off point to construction of a more comprehensive taxonomy of the structure of opportunity for white collar offenses.

How well does this integrated approach work in the light of the inherent limitations on the validity of explanation in the social sciences mentioned at the start of this paper? It obviously is a lot better than relying on one or another of the narrow theories even if they claim to have universal validity. Although even the most comprehensive integrated theory cannot provide all the answers, it can provide us with a solid theoretical basis to guide our response to the festering problem of white-collar crime. It is, however, essential that we maintain a flexible approach and not expect to find some constant universal principles that work in all places at all times. We need to keep adding new findings and new variables, and keep constantly working to refine and improve our conclusions. As long as we recognize the limits of what we are doing, this kind of theoretical endeavor can reap rich rewards.

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What Works in Combating White-Collar Crime: Some Reflections

Michael Levi

Abstract

This article examines the range of behaviours captured by the phrase white-collar crime, and the different extents to which there are reliable data from which we can deduce cause-effect relationships. In some spheres—insider dealing, for example—we can deduce little except that the absence of prosecutions or administrative sanctions suggests very modest effects. At the other extreme—payment card fraud—the data are so good that we can produce quite fine-grained analysis of the impact of particular measures. There is analysis of the consequences of technological changes—such as the Internet and call-forwarding—for fraud and fraud control opportunities. The importance not only of trust settings but also of outreach factors is emphasised, and the different aspects of reducing fraud against individuals and those against businesses of different types are explored.

Keywords

white-collar crime
fraud
trust
credit card
business
technology
crime reduction
crime prevention
what works

Introduction

Who cares about what works in controlling *white-collar* crime? From the amount of governmental, academic and, to a lesser extent, private-sector effort in most Western countries, one would have to conclude ‘no one very much’. Negligible research funding has been allocated to this area (or, at least until the late 1990s, to that of ‘organised’ crime). In the introduction to their edited book *Crime*, Wilson and Petersilia (1995:5) observe that:

By ‘crime’ we mean what the average person thinks of as predatory or street crime—muggings, murders, assaults, rapes, robberies, burglaries, and other thefts. This is not a book about white-collar or organized crime or about political or commercial corruption.

Judged by the infinitely greater subsequent interest of the public in the O J Simpson murder trial and in the Lewinsky sex scandal than in the Whitewatergate financial scandal, one might think they had a point, although one might counter that the ‘public interest’ is not the same as ‘what interests the public’. Yet to many people in Alaska, or in the sites of environmental disaster such as New Jersey whose plight has not been remedied by the Superfund (Barnett 1992), environmental corporate crime—part of Sutherland’s (1983) conception of white-collar crime—is a great deal more palpable than are the metropolitan street gangs who feature in the Wilson and Petersilia volume. True, the inhabitants of New Jersey may feel more ambivalent, since they have both corporate and gang crime. But on the financial white-collar crime side, some of the residents of bankrupted Orange County, California, may feel that allegedly reckless gambling with their taxes on the advice of (and to the profit of) Merrill Lynch—later the subject of administrative fines after a *nolo contendere* plea—harmed them more than did the nearby Los Angeles gangs.

Nevertheless, Wilson and Petersilia’s choice of omissions reflects one ‘populist’ view about the kind of crimes which are debated around election time, and which feature most frequently as representations of evil in the newspapers and on the television screens in the US and, for that matter, in other Anglo-Saxon countries. By contrast, in many former Communist and Third World countries and in Italy, the ‘crime debate’ may be less about street crime than about political corruption and white-collar crime, added to—since chaotic democratisation—organised crime. Scandinavia may be more aware environmentally and may have a more developed discourse of social conscientiousness about taxation to pay for welfare, but the principal diet of the media everywhere is police/court cases that can be reported dramatically and relatively cheaply. To the extent that white-collar crimes are not prosecuted, reporting them would be inhibited by libel laws, as well as by difficulties of simple representation within media-routine canons (Levi and Pithouse, forthcoming).

One might seek to differentiate between ‘frauds for gain’ and ‘corporate crimes that deliberately or inadvertently hurt people or the environment’. However, even if the harm caused by the latter crimes is not directly intended, it is

normally more profitable for them to occur than not to occur. Thus, financial motives are often implicated in ‘decisions’ not to prevent them (or in ‘non-decisions’ because the downside risk of unsafeness has not been high enough to make decision-makers conscious of its human significance). Since other articles deal with health and safety issues, I have decided to focus here on the control of financial crime involving the manipulation of trust.

Fraud—a heterogeneous phenomenon

In an attempt to focus on the characteristics of the crime rather than the status of offenders, Shapiro (1990) suggests that we begin sampling from *settings* of trust and examine how fiduciaries define and enforce trust norms, the structural opportunities for abuse, the patterns of misconduct that ensue, and the social control processes that respond. However, any ‘trust violation’ sample drawn from court processes leaves us with what one might term ‘blue-white collar crime’ (Hagan 1988; Weisburd et al. 1991; Levi 1992; Levi and Pithouse, forthcoming).

What is the relevance of this to a consideration of ‘what works’? There is a need for clarity in the objectives regarding what *forms* of white-collar crime one wants to reduce and by how much. Insofar as the answers are keyed to the areas in which data are most reliable and testable, they shift the analysis of effectiveness toward areas of volume crime, more often by outsiders against companies than by senior management against companies or against the public (whether as consumers or taxpayers). But even in the former case, data on fraud against insurance companies is poor compared with payment card fraud data. Developing the revisionist line of situational crime prevention from Clarke and Homel (1997), we can express the objectives and some possible ways of achieving them in the following formulation:

- **Increase the perceived effort of fraud and corruption**

- Targeted risk-based prevention efforts, with better regulation of contract bidding processes and vetting, and measures to make fraudsters work harder for the same level of income.

- **Increase the perceived risks of fraud and corruption**

- Faster reaction time in detecting fraudulent attempts. Efficient and independent investigations and processes of criminal justice to balance consciousness-raising.
- Proactive integrity-testing and independent complaint mechanisms.

- **Reduce the anticipated rewards from fraud and corruption**

- Catching the corrupt more quickly in supplier and purchaser countries, and better recovery of assets.

• Reduce the excuses for fraud and corruption

- Strengthen independence of media and civil society, with elite role models who are not fraudulent or corrupt.

However, even excluding those forms of behaviour such as insider trading where there are no identifiable victims or, arguably, no victims at all, there are so many different types of fraud and of victim/offender relationships that it would be a mistake to take all these as a homogeneous issue. ‘Fraud’ includes, for example:

- *crimes by elites against consumers, clients or other, lower-status businesspeople*, e.g. the looting of a bank or building society in a country that does not have a full compensation scheme; or misrepresentation of the quality of goods, beyond mere inflation of the quality of what one is selling (otherwise most salespeople would be committing fraud).
- *crimes by small businesspeople against consumers and employees*, e.g. selling counterfeit goods as genuine ones, or pocketing the National Insurance contributions paid by staff.
- *crimes by professional criminals against elites/large corporations*, e.g. bankruptcy ‘long firm’ fraud, major counterfeiting rings, mortgage frauds, ‘advance fee’ frauds.
- *crimes by blue-collar persistent offenders/opportunists against financial institutions*, e.g. using lost and stolen credit cards, or cheque frauds.
- *crimes by individuals of various status against governments*, e.g. EU fraud, social security frauds by landlords and claimants, and tax evasion.

Opportunities for crime: forms of social and technical organization as criminogenic factors

What factors influence the development of abuse of trust? Shapiro (1990) notes that agents end up with a great deal of power because they hold information that cannot readily be assessed or verified by their principals. Examples are information about profitability and risks, and information about how agents have disbursed funds (including, in some cases, to themselves or their covert nominees)—what insurers term ‘moral hazard’. Bank agents can make non-arm’s-length loans to their friends, using collateral which is fictitious, forged (most easily with new technologies), stolen, or grossly overvalued by supposedly independent professionals such as real-estate valuers.

To reduce the risks, principals seek out as their agents people of ‘good reputation’. Principals can seldom physically see what their agents are doing, but rely instead (1) upon contracts that may require (in law) prior permission for particular sorts of transactions (e.g. futures contracts) beyond a particular sum of money, and (2) upon the face validity of paperwork such as share certificates or contract notes or bank deposit certification. Still, they can be

deceived by the re-routing facilities generated by call-forwarding and outright telephone diversion, so that while they think they are checking with the British Embassy in Nigeria, they are in fact speaking to some conspirators of the Nigerians in an advance fee scam; or when they think they are phoning a number in the Cayman Islands, they are speaking to a con artist in the notorious fraudster haunt of Boca Raton in Florida.

In Internet fraud, imposing websites do not imply respectability, but *interpersonal* trust has been replaced by impersonal mechanisms. Instances are international credit bureaux (for traders assessing their customers), and government/regulator sites warning of particular scams and listing firms who are authorised to trade in financial services (in the country concerned only, since their jurisdiction is based on territoriality). By inference, anyone not authorised has to be taken at the trader or investor's own risk. In 'advanced' societies, authorisation carries with it a variable state-backed guarantee of compensation, should the financial institution collapse or the transactions prove fraudulent. This creates an incentive for regulators to detect and act against fraud and reckless trading.

Although some organisations are merely instruments of fraud, malpractice in financial services often seems to grow out of dependence on individual commission payments rather than salaries, which incentivises lying as well as selling. Following scandals over mis-selling of pensions, and large compensation payments and fines, major British life assurance companies have begun to change the salary balance for staff, although this might be reinforced by random 'mystery shopping' to test compliance. What effect it will have on level of sales and corporate profitability remains to be seen. Second, an unintended consequence of bonus payments for senior executives, combined with high job mobility, is to systematically disadvantage heavy investment by business in fraud prevention, since those making investment decisions do not expect to be around long enough to receive the benefits. Third, regulatory roles such as the compliance officer have much lower status than sales, on which corporate survival and growth depends—except after a major scandal, as at the Bank of New York, when compliance roles are given priority under severe political and legal pressure.

The control of white-collar crime

Recipes for 'effective' regulation can seldom have the same ingredients even within the First World, let alone throughout the world. Even allowing for the spreading of risks associated with globalisation, 'what works' will depend on the particular histories and cultures of different countries or even regions within countries. But what is *actually* practised is subject to fluctuations depending upon political and media pressures. Reisman (1979: 106) observes that there is a pattern in America of 'crusades' over commercial bribery, in which periods of

'sound and fury' are followed by 'business as usual'. As one may observe with the Italian enthusiasm for anti-corruption followed by mass support for Silvio Berlusconi despite convictions for bribery and tax evasion, this hypocrisy or deeply ambivalent world-view is by no means unique to America.

Nevertheless, as with its tendency towards prohibitionist crusades in general (from alcohol to insider trading and money laundering), there does appear to be a streak of Puritanism in American culture that wages internal cultural battle with the dynamics of profitability and global economic domination. At the level of policy instrument *adoption*, political pressure and the cultural hegemony of the War on Drugs have 'worked' in universalising anti-laundering measures. Pressure for fairness in business contracts, and leftist crusades against widespread theft of public resources, have 'worked' in enactment of the 1997 Convention prohibiting the bribery of foreign politicians and office-holders overseas: this universalised the Foreign Corrupt Practices Act discussed by Reisman.

What constitutes effective fraud prevention *practice* at the operational level is, however, more obscure. Following on from the theoretical approaches discussed earlier, it would seem that the routes through which white-collar crimes may be tackled are (a) rational choice theory, operating both on increasing the risks of detection and salient sanctions, and on reducing opportunities; (b) altering perceptions of harmfulness, reducing the cultural availability of 'techniques of neutralisation'; and (c) working creatively on ways in which people and corporations can prosper without breaking the law. But giving these hypotheses operational effect and evaluating the results is another issue.

Responses to financial crime

Criminal-justice policies are both a reflection and a cause of perceptions of harm. Generally, they are determined by what the political market will bear (and has become habituated to). This reflects populist pressures (including the media) and political lobbying. By contrast to the law-enforcement orientation against other crimes creating visible harm, most corporate crime control is conducted by *forward-looking* 'compliance' orientation. Arrest, prosecution and imprisonment are thus viewed as a subordinate method of behavioural regulation, even where corporations are victims (Wheeler et al. 1988; Levi 1987; 1989). Blue-collar frauds, lacking the drama of violence, and with victims who usually have some contributory negligent role which makes them 'impure' victims, likewise are not treated severely. This enhances the trend towards self-reliance on the part of the commercial sector.

Compared with street crimes, it is hard to predict in advance 'hot spots' where sophisticated fraud takes place (or even to conceptualise what this might mean spatially). Moreover, there are fewer high-rate offenders against whom to mount surveillance operations (which, in any case, might have to take place for a long time before they detected any criminal plots, making them relatively expensive compared with street crime). Consequently, there are two strategic

directions in which policing major fraud might go. First, both reactively and proactively, there is the development of long-term expertise and motivation among investigators and prosecutors. Second, more controversially, there is the development of more proactive policing strategies, such as placing fake get-rich-quick scheme advertisements in the newspapers and then sending warning letters to those who reply, to be on their guard against such schemes; or undercover work to expose corruption, money laundering, and other financial crimes (Marx 1988; Levi 1993; 1995). One danger in these strategies, however, is not only the up-front cost but also the risk to civil liberties in all proactive policing: how are targets determined, and how does one ensure that their selection is 'reasonable' and is not politically motivated?

This generates a major dilemma: the balance between ensuring independence from political interference, on the one hand, and preserving political and financial accountability, on the other. Not only does the financial expense of guarding the guardians—seen most wastefully in the low-yield rituals of many Police Complaints Systems which fail to satisfy complainants, the public, or the police (Goldsmith 1993)—drain the Exchequer of funds that can be deployed for other purposes. Worse, the re-investigation of white-collar scandals (such as Whitewatergate from 1994 to its eventual termination by the Independent Counsel in 2000) is itself part of the politicised process. The risk is that people will retreat into a post-modern epistemological nihilism in which 'the truth' is entirely a subjective artefact of the 'show trial'. Given the restricted access to the information (including judgments of 'witness credibility') upon which such decisions are based—including the decision not to accept a case for detailed investigation—it is almost impossible 'objectively' to disentangle whether the non-prosecution of senior industrial or governmental persons is due to direct 'influence', to the cultural homogeneity of the 'governing class', or merely to the well-attested fact that remoteness from actual decisions makes it hard to convict people for corporate crime. A requirement to give reasons for decisions to complainants, and/or to other governmental departments who refer a case for prosecution, may go some of the way. However, this may be unrealistic, as the justification offered may be quite bland.

Criminal prosecution has a considerable symbolic significance, and the re-drawing of boundaries of behavioural acceptability by public degradation ceremonies such as prosecution can have a substantial impact—insofar as, for many white-collar defendants, the process is the punishment, irrespective of conviction outcomes (Fisse and Braithwaite 1983; Levi 1993). One may see echoes of this in the prosecution of contemporary senior public figures in Europe, although Berlusconi's post-conviction electoral revival is a contra-indicator. The American criminal-justice system appears to have fewer difficulties in convicting white-collar defendants than do its common-law counterparts in England and Australia, or even in Canada, perhaps because lengthy sentences combined with plea bargaining lead defendants to co-operate (Levi 1993). There remains scope for heated arguments about how fair such sanctions are, compared

with sentences for other offences—as Reiman (1994) puts it: *The Rich Get Richer and the Poor Get Prison*. But when interpreting the data ideologically, one should bear in mind that (a) many of the *victims* of such frauds are wealthy individuals and/or corporations; and (b) it is arguably legitimate (on grounds of ‘rational choice’ deterrence and of retribution) to take into account the secondary impact on offenders’ occupational prospects and social position, even if this does look like ‘double punishment’ for those members of the ‘underclass’ who have no initial grace from which to fall (Levi 1987; 1989).

To the extent that the public believes that white-collar criminals are treated leniently, then from a retributive-justice viewpoint the system does not work. Nor, in rarely prosecuted cases, is the denunciatory principle of punishment achieving its purpose. The early Serious Fraud Office cases in the UK—Guinness and Blue Arrow—and the US insider-dealing cases involving Boesky and Milken (however satirised by Tom Wolfe in *Bonfire of the Vanities*) did redraw the symbolic boundaries of law, and persuade many financiers that the laws could have a very negative effect on them if they offended. Yet whether this led them to reappraise the morality or simply the expediency of this conduct is unknown (Levi 1987; 1991).

From a perspective of principled reform, in the case of crimes committed for the corporation (and where the corporation still remains alive, since many ‘slippery-slope’ offences are committed to postponing the date of liquidation or to stealing funds from companies going ‘bust’), far greater emphasis than at present might be placed upon the use of corporate probation and other ‘public interest’ sanctions. The aim is to disenfranchise the existing beneficiaries of crime without making employees or the public suffer from the imposition of a corporate death penalty (Etzioni 1993; Fisse and Braithwaite 1993; Lofquist, 1993).

Fraud prevention and reduction

This brings me to consider the final element in this paper: the prevention and reduction of fraud. Here, there is at least some evidence of ‘what works’ in highly defined fields. This can be taken at several levels: situational opportunity reduction, rationalization-stripping, and motivation reduction (although rationalization and motivation are connected). There are financial crimes where organisations themselves can be left to regulate in their own interests, and others where the state can (and/or should) play a role in ensuring protection for those ‘incapable’ of looking after themselves. (An example is consumer fraud in which no outsider can readily tell whether food content is impure, or differs from that described on the label.)

As regards external regulation, at a *normative* level, one possibility is to aim for a system of regulation based on trust, with regular inspections and graduated punitive sanctions for those who exhibit unwillingness to ‘play the game’. Illustrating with data from their study of nursing-home compliance, Braithwaite

and Makkai (1994) observe that nursing-home misconduct can be picked out by inspectors, using subtle contextual knowledge as well as quantitative predictors—but that when managers perceive that they are not trusted, their behaviour deteriorates. The authors recommend enhancing civic responsibility by creating dialogue between corporate managers (and their staff) and community groups. (See also Fisse and Braithwaite 1993, for a development of these themes.) This trust approach contrasts with the ‘amoral calculator’ perspective implicit in the work of Shapiro (1990) and in some of the (particularly US-headquartered) corporations I have interviewed, which stresses sanction risks and levels as the only relevant influences.

The choice of ‘appropriate’ regulatory strategy depends also on where the sources of harm lie—within the corporation or outside it—and on whether or not violators see that they are ‘doing wrong’ or even breaking the law at all. For example, if embezzlers truly believe that they are ‘just borrowing’, this may require a control strategy different from one where they are ‘just stealing but reckon they won’t be detected or prosecuted’. Given the flexibility of capital and the financial services industry in a globalised economy, the ‘what works best’ strategy may depend, too, on whether a tough policy will bring closure of the business: if a business is to go bust anyway, graduated sanctions are irrelevant. There is some ‘shadow boxing’ in business threats of movement away from ‘over-regulated’ economies—they may be just seeking to minimise expenditure on, in this context, consumer and investor protection—but even those who criticise conventional economists’ disregard of social values in utility maximisation models would accept the relevance of such issues to corporate behaviour (see Lehtola and Paksula 2000: 44-46).

It is important to clarify one’s target population for crime prevention measures. *Anyone* who has money, or is able to borrow it, is capable of being victimised by fraud. ‘Popular capitalism’ has spread securities ownership to the middle and even working classes, particularly following privatisation in Western Europe¹. If we add, to these, people who have an interest in investments via life assurance, personal pension schemes, and mortgages, the majority of the population are susceptible to being defrauded directly or indirectly. Only *some* of these victims are in a position to take evasive action on some kinds of fraud—although if they checked the regulators’ websites on which regulated firms are listed, they could avoid investing with unregulated firms (except with those who were simply impersonating legitimate businesses). Savers and investors can put pressure upon the people they entrust with their money, to take greater care of it (and upon compensation schemes which underwrite the conduct of the fraudulent and the reckless). But except for large institutional investors who

¹ Privatisation in Central and Eastern Europe did not have this effect: from poverty and pressure, many sold their shares to business and crime entrepreneurs—almost indistinguishable categories—and the system replaced state oligarchy by private oligarchy.

have often proved reluctant to intervene, they cannot *dictate* the fraud-prevention strategies of their management. In some cases, for example mail-order and telemarketing frauds, it may be rational to impose third-party liability on media advertising the activity, to ensure that they check that the firms exist and are properly set up for the kind of business that they advertise. Again, however, there is no evaluated evidence demonstrating the effectiveness of such advertising.

In the case of frauds *against* companies, prevention ideas must reach individuals at *all* levels of organisations. The credit manager or the head of security in a large company may be concerned about fraud, but the managing director may be more concerned about corporate image and sales. If organisational policy is to be changed, it is the *senior* managerial personnel who have to be convinced about the desirability or necessity of this. Fraud, in other words, should be part of the strategic plan of loss control within any organization (Levi 1988; Levi et al. 1991; Burrows 1991; 1997).

The criminological and 'grey' policing literature contains very few examples of evaluated efforts to reduce any sophisticated forms of crime for serious economic gain. The modest literature indeed illustrates how difficult it is to get the authorities to act in a cross-cutting, inter-agency way against such sources of crime for gain. (See Knutsson and Kühlhorn (1981) on the reduction of cheque fraud, and Eck and Spelman (1992) on thefts from vehicles in shipyard parking lots, though Levi and Handley (1998) and Levi (2000) illustrate more success in reducing plastic and cheque fraud due to inter-agency co-operation.) The analysis of Knutsson and Kühlhorn (1981) indicates the importance of looking at alternative explanations of changes in specific crime rates, and criticises the conventional assumptions of displacement effects which are still shared by members of the banking industry (Levi, unpublished interviews, 1997–present). There have been no major research studies in any key economic crime areas—whether fraud against business, fraud against the public, or fraud against the financial interests of the European Union—that conform to the normal canons of the Home Office crime reduction programme.

The prevention of plastic fraud: a case study

There are few systematic studies of fraud with good data, with the exception of payment card and cheque frauds. What the data, combined with interview and observational methods, tell us in the UK is that, as a result of changes in situational crime prevention and offender adaptation to those opportunities:

- Plastic fraud costs fell consistently from £165.6 million in 1991 to a 'low-water mark' of £83.3 million in 1995: from 0.33 per cent to 0.12 per cent of card turnover. This fall was due to the considerable efforts of the card industry and retailers as a whole in sharing applications-fraud data, secure delivery of cards to risky addresses and bank branches, and increased on-line authorisation and off-line checking against lost and stolen card files. At the 1991 fraud-to-turnover rate, the 1999 fraud losses would have been £532.6 million, not £189.4 million.
- Since 1995, card issuer fraud costs have risen consistently to £189.4 million in 1999 (0.117 per cent of turnover). In addition to these costs, the 1999 British Retail Crime Survey indicates a one-third increase to £13.5 million of retail store card fraud and charge-backs to its members, applications frauds of £1.6 million, and cheque frauds of £12.8 million. (Cheque frauds at point of sale are charged to retailers if the sum is over the guarantee limit, or if signatures etc. are deemed inadequate.) Finally, in 1999, the British Bankers' Association reports £32.4 million actual fraud (up 22 per cent) and £310.47 million potential loss from cheques not backed by guarantee cards (mostly under £5,000, where personal scrutiny is low and is considered not to be cost-effective).
- Fraud-to-turnover rates vary considerably, with credit cards (0.155 per cent) and charge cards (0.139 per cent) bearing a much higher risk than debit cards because of the much larger sums that people can expect to obtain from the former. As for Automated Teller Machines (ATM), except for rare serious technical faults and 'dummy terminals', risks are low because frauds can be committed only if the Personal Identification Number (PIN) is compromised, or if the card is stolen after the gang or individual has found a way of viewing the cardholder typing in the PIN at an ATM.
- Data for the first quarter of 2000 show large rises in counterfeit and frauds ordered by phone or Internet, by-passing many controls in face-to-face transactions. Interviews suggest that frauds may double by 2002.
- The rise in fraud was not *solely* a 'new economy' issue: fraud on lost and stolen cards went up almost as much as 'Card not Present' fraud. In the period January to March 2000, compared with the same period in 1999—whether measured in absolute terms, per card or per turnover—fraud losses rose on every single card type except ATM stand-alone and cheque guarantee cards. Losses from credit, charge and debit cards all went up by 50 per cent or more. Although straight-line extrapolation is dangerous, there is no reason to expect any reduction in growth

rates until reduction measures are in place. Except via impersonation, higher prices, and crimes committed solely for cards, the consumer is largely insulated from these costs: it is the financial institutions and the retailers who are the primary sufferers.

- Without further research, the 29.1 per cent rise in the number of cases of recorded cheque and credit-card fraud to 179,343 for England and Wales in October 1998–99 (of which 76 and 355 cases were in the two London areas) is difficult to explain purely in relation to changes in reporting or recording practice, or in any other artefactual way. Some issuers are requiring customers to obtain a crime number before they can obtain refunds on lost and stolen cards (to try to deter frauds by cardholders themselves), but there has not been time to ascertain how common such a practice is. Other informants state that there has simply been an increase in the number of frauds and in the number of cards stolen, so the statistics reflect the real picture.
- The total fraud reduction until 1995 could not be explained by a drop in stolen card availability or by policing or by offender incapacitation. The subsequent rise may owe something to an improvement in criminal market efficiency—cards which were formerly discarded may now be sold onward, or used longer, because of a perceived reduction in risk of police action. However, there are no national data on the proportion of lost and stolen cards that are fraudulently used, which might illuminate the ‘secondary card market’ issue.
- Identity checking and matching with known previous frauds continues to cut fraudulent applications. Comparability over time is difficult because of the continual rise in membership of the Credit Industry Fraud Avoidance System (CIFAS), which co-ordinates data on names and addresses involved in verified fraud. During 1999, 36,316 frauds were identified and reported to CIFAS in the banking sector, saving an estimated £47 million, while 25,948 frauds were reported in the retail credit (including store cards) sector, saving an estimated £9 million. In addition 17,608 frauds were identified as ‘first party fraud’ in which the cardholders themselves were implicated. The largest growth category in applications fraud was the creation of false identities, and fraud investigators reported a considerable rise in the number of occasions on which a stolen ID was used as a false identifier to get credit both from bank and retail credit grantors. Though the evidence for this or any other forms of fraud ‘migration’—a term which, properly applied, implies a direct substitution—is modest, the industry suggests that this rise in ID fraud may be a substitute for repeat fraudsters using their own details. This is plausible as an organised criminal response to improvements in crime control, in this case to get around CIFAS controls over applications from previous defaulters. A rise in impersonation fraud may also owe something to aggressive marketing competition, with many new entrants into the card-issuing market and with pre-approved card

applications being readily used by successor tenants after their intended recipients have left their accommodation. Secure card delivery to past risky areas led to dramatic falls in fraud on stolen unsigned cards. However, the recent rise may be due to fewer cards being delivered to customers via collection from bank branches, as well as new entrants failing to appreciate the risks arising from normal postal deliveries. A method of mitigating these risks is to require customer activation of new cards, at which point identification procedures can take place: this has been very successful in cutting losses for businesses such as American Express, Marks & Spencer and MBNA. There were 6,304 new charge, credit and debit cards issued in 1999 (plus many store cards and others not part of the APACS² stable), and this generates 'good' criminal market opportunities for those offering accommodation addresses and postal services, as well as causing losses to card issuers.

- At retail points of sale, lower card floor limits and more electronic authorisation/ 'hot card' files have dramatically cut fraud after cards have been reported stolen, from 70 per cent in 1991 to 40 per cent in 1996 to 20 per cent today. Since 1991, numbers of transactions requiring authorisation have doubled to 55-60 per cent in 1999. Cheque and card fraud dropped markedly when more banks provided data on stolen cheques and cards to firms operating electronic 'negative files' against which cheque and card transactions could be verified. The authorisation rate may increase further with the advent of chip 'smart' cards, though retailers may resist this due to the effects of such electronic communications on through-put speed at the till.
- Modelling of customer transaction patterns, assisted by neural-network generic models such as Falcon, has helped many issuers to identify and prevent fraud before customers' notice cards have been stolen or copied. Issuers vary in the way of using these models, but their use partly explains the huge high-low variations between APACS members in losses per card of all types.
- Control of fraud committed by, or in collusion with, merchants has been enhanced by the National Merchant Alert Service database of 'struck-off' merchants, and by greater checks by some acquirers on merchants' fraud-to-turnover rates. (Data protection currently forbids such prevention systems in some EU countries.) However, competitive pressures, and the reduction of investigative staff within some sectors of the merchant acquirer industry, have led to incomplete information-sharing among acquirers, and this facilitates merchant fraud. Moreover, the identification and 'incapacitation' of individuals working for otherwise honest merchants requires the ability to identify persons as well as 'hot spots' for Common Purchase Points for skimming, avoidance of authorisation controls, etc., and this may be difficult, especially when criminal groups or networks target employment opportunities for this purpose.

² APACS is the Association for Payment Clearing Services.

- Co-operation between public and private policing has led to successful international prosecutions of counterfeiters, and to closure of manufacturing plants overseas and in the UK, where this is more of a cottage industry. But the velocity of such frauds appears to be increasing, and the time from card number compromise to first use is decreasing. Card details are often stored and sent electronically to Italy or the Far East, where they are immediately encoded onto cards and used before the retailers or issuers suspect anything.

This brief summary of developments illustrates the importance of validated evidence and market analysis for modelling crime reduction efforts and measuring their consequences. Unfortunately, there are few industries that possess anything approaching the adequacy of these data and are willing to grant access to the data. It would be a mistake to generalise the findings to *internal* fraud against companies, or to fraud by companies against the government or other private-sector firms or consumers.

Preventing frauds on individuals

Growing disposable income in some parts of the First World, combined with increased direct as well as indirect participation in stock markets, has altered the face of vulnerability to fraud in the markets. Online trading and the disintermediation of the adviser class have also enabled more direct deception on the Internet to reach more people more quickly than in the past. Many investment frauds succeed by convincing members of the public that they have an opportunity to get in on the ground floor of a sure-fire winner and that if they do *not* invest, they will bitterly regret their over-cautiousness. Considerable psychological pressure is exerted to achieve this goal. Rationally, and after the event, participation in such schemes often seems absurd, and victims are humiliated by their gullibility, making them feel guilty as do some rape victims and reluctant to report (Levi and Pithouse, forthcoming).

For example, mathematically, any chain letter or pyramid/'multi-level' selling scheme will have exhausted the entire country's population within six months, so the simple rule is: *don't subscribe*. There are measures advertised by the Financial Services Authority and many international equivalents about not falling for easy profits, and about checking against authorised financial services firms; but their effectiveness has not been measured (or, if measured, has not been published). (See Levi 1988 for an early prevention guide, though this represents plausible exhortation rather than evidence-based prevention.) Insider-trading regulatory impact remains as mysteriously under-explored as ever, despite the global attention it has received in the legal sphere and vast numbers of academic and professional articles. Some forms of illicit scheme—Nigerian '419' scams, for example—can be prevented directly by intercepting letters which have

counterfeit stamps. Other multi-level sales schemes can be closed down under regulatory powers, though usually only once they have already done considerable harm.

Preventing fraud on business

The aim of crime prevention is to keep the criminal out. Normally, this is conceived in terms of steering columns, locks, and bolts: better physical protection. However, in the case of fraud, a different set of preventive methods must be employed. There are *some* physical measures that are relevant—access controls to reduce the risk of illicit entry to computers or computer areas, and random checks to ensure password change and difficult password availability—but the major threat comes from people with whom the defrauded party has a contractual relationship of some kind. In this sense, fraud prevention is closer to family violence prevention than to burglary prevention: the danger is already within. What businesspeople need to do is to take evasive action and change the nature of the relationship.

(1) Entry control

The first line of defence against fraud is entry control, which may be applied both to employees and to outside contractors. For *internal* frauds, entry controls may take the form of vetting employees or members of professional associations, to ensure that they are “fit and proper persons”. However, the absence of criminal convictions is by no means a guarantee of probity. In the past, the low rate of reporting and prosecution of fraud meant that fraudsters were unlikely to be convicted: many people suspected of dishonesty are allowed simply to resign rather than being prosecuted. The absence of any real references on employees is commonplace in fraud cases, and temporary staff are often allowed access to sensitive locations where they may access computers, intellectual property or take/copy personal details that can be used later in identity frauds.

(2) Post-entry controls

Many of the largest frauds have been committed by people whose personal backgrounds are such that they would have satisfied the *prima facie* integrity and competence checks implicit in the Gottfredson and Hirschi (1990) model of generic anti-sociality and poor self-discipline. Disciplined fraudsters (whether or not they initially intend to defraud) will therefore readily pass this Maginot line. The focus then shifts to internal management systems and compliance monitoring (for internal frauds), and creditworthiness checking (for external ones). Here, organisational tone is important. There is insufficient evidence to demonstrate any ‘displacement effect’ whereby intending fraudsters choose to work for organisations that have a lax reputation, but ‘sucker lists’ are passed around by *external* fraudsters, and this may be true of internal ones too. Though there will always be people whose ability to rationalise verges on the magical, clear policies which set out the acceptability and unacceptability of particular

practices will diminish the scope for self-deception, particularly if they are applied consistently and fairly.

More generally, fraud prevention measures might involve educating colleagues and internal security to watch out for and enquire into the circumstances of employees who are living in a style far in excess of their salaries. Several defrauded firms had allowed employees on modest salaries to go on driving new Porsches and taking expensive holidays without conducting any enquiry, or more than a superficial one, into how they could afford this. Where the 'high liver' is a member of senior management, however, as many post-scandal reports have noted, there are serious difficulties in knowing to whom one should report. Here, non-executive directors can play a vital role as impartial insiders, but since they tend to be selected by the existing senior executives, measures to enhance their independence in reality might include 'public interest' directors, as well as 'whistleblowing' legislation which protects employees from dismissal and/or provides rewards. This is not a panacea, because the social stigma for 'betrayal' needs to be tackled. The underlying theory is that employees and 'the public' are all stakeholders, directly and indirectly, and that they (along with minority shareholders) should be able to influence fraud prevention as well as other areas of potential misconduct by the corporation or its senior personnel.

Clear rules on own-account dealing by employees of financial institutions are vital. Yet the mere existence of clear rules tells us nothing about whether they are followed. Although the Financial Action Task Force and OECD have been effective in reducing the number of jurisdictions offering nominee and bearer accounts, suspense accounts—from which one can load profitable deals into one's own account and unprofitable deals into the trust's accounts—are examples of activities which are difficult to monitor successfully. Unless the individual is very greedy or unless there is some reason for stock exchanges to mount special investigations, e.g. suspicions of insider dealing should arise from sudden market-price movements prior to company announcements.

The role of 'ethical statements' is a controversial one in business schools and practice. Some American-based transnationals I interviewed had codes of ethics which are expressed strongly and are applied vigorously. Companies send letters annually to suppliers drawing their attention to the code of business ethics, and in particular to the requirements not to make gifts or take other actions towards employees which would contravene this. All senior employees have to sign an annual representation that they are aware of the code and have not contravened it during the year. There is a limit as to how much private sector monitoring can occur, but the important thing is to have lines of accountability which can lead subsequently to individually attributable blame.

Much more difficult to prevent are frauds that involve collusion, and they can occur in any area of business. People in the cashier's department (perhaps in league with computer assistants) may pay phoney invoices against goods that have not been received. People in the purchasing department (or, perhaps,

more senior than that) may get a rake-off from the supplier. A manager may extend loans or credit terms to doubtful enterprises in which he or she has a covert interest. The main preventive method is to require standard devices like double signing of cheques, counter-signing of *records* of cheques, and careful controls over purchasing and contracting in public and private sectors, with *prompt* verification of claims about how the money was spent. However, where there is collusion (and/or hostility to management and poor internal communications, often as a result of authoritarian management styles), the devices do not operate, and this increases the length of time that the fraud can continue undetected.

Crime prevention in the business world has to be seen in its economic, political, and social contexts (Levi 1987; 1988; Burrows 1997). Theoretically, private sector judgments should differ from public sector concerns, because it may not—in narrow terms—be rational for private sector organisations to take into account the ‘externalities’ (i.e. the costs and benefits accruing to ‘society at large’) of their crime-prevention decisions in the way that it would be rational for public sector organisations to do so. (Thus, if opportunities to use stolen credit cards lead to street robberies and burglaries, this is not part of the private sector cost-benefit analysis unless this leads to fewer people being willing to work in the business or shop there.) In practice, of course, many public sector organisations behave as if they were private ones: they have their own organisational agendas, unless benefits to other public sector units can somehow be built into their own performance indicators. Even then, *personal* ‘glory factors’ often intervene to frustrate bureaucratic harmonisation. However, the classical theory of the corporation as profit-maximiser would suggest that in the private sector, the *organisational* financial ‘bottom line’ reigns supreme, though the social and political advantages of being seen as a ‘good corporate citizen’ mean that it is not easy to predict precisely what a rational corporation would do.

Conclusions

I have tried to indicate the interconnectedness between the causes and control of white-collar crime, not just in the tautological sense that opportunities are part of ‘causes’, but also in the sense that a cultural climate can be created (or inhibited) in which financial crimes of various kinds become commonplace. Conventional candidates for deterrence—imprisonment, director disqualification, and even social stigma—have not been seriously evaluated in the economic crime arena, and one may expect these to have different effects depending partly on fraudsters’ embeddedness in their local communities (Levi 2000a; Levi and Pithouse, forthcoming). ‘Rationality’ of both individuals and organizations, let alone of ‘society as a whole’, is a more difficult concept to operationalize than is commonly assumed, for it depends partly on value choices and risk orientations which can properly vary.

In the neo-liberal obsession with ‘private sector good, public sector bad’, the role of public regulation has been subjected to considerable strain, as the debacle of Savings & Loans illustrates (Calavita and Pontell 1990; Pontell and Calavita 1992). Simultaneously, with the devaluation of ‘civic responsibility’ in the rush for personal advancement as the engine of the enterprise culture, and in the enhanced climate of job insecurity with which even the middle classes in the ‘culture of contentment’ have been plagued in the 1990s, the motivation to be honest has been submerged in the politics of envy. The ambivalent tension between *laissez-faire* ideology and the control of fraud is clear. Particularly given the imperfect informational market necessitated by the growth of agency and organisational complexity, not all people are good judges of their own interests, especially when they are being actively deceived.

What is required is not just some modicum of initial vetting of the competence and integrity of those who hold funds in trust. Also needed is a more continuous flow of monitoring which ensures that even if—as is inevitable—people are able to defraud, their gains will not be allowed to continue for long without detection, so that the total losses will be diminished. (Similar issues of transparency arise in corruption: see Grabosky 1989.) The values of those in power may have to be modified, too, by reducing the amount of social distance—and thereby the subculturally reinforced sociopathy—between themselves and other stakeholders in society: workers, consumers, and citizenry in general. This may go against the grain of history, but even though the collapse of Communism has left people bereft of international alternative models, the danger still exists that the authoritarian populist Right has the opportunity to gain from a collapse of confidence in capitalism and in its abilities to handle the complexities of an interdependent global economy.

In the aftermath of the collapses of the Bank of Credit and Commerce International (BCCI) and of the huge offshore derivatives firm Long-Term Capital Management, banking regulators moved towards a more integrated approach to global regulation, with clearer lines of responsibility for institutions operating in more than one market. How far the revised Bank of International Settlements guidelines of 2001 will improve this is yet to be seen. Furthermore, in many First World countries—though not in the former Communist countries that remain vulnerable to fraudulent dream-sellers—national regulators such as the US Securities and Exchange Commission impose informational requirements upon those who wish to do business in their country. Nevertheless, until businesspeople learn to share information that reduces their exposure to multiple victimization, and until we have the self-confidence to build up a more communitarian trust culture of regulation backed by sanctions, the anomic nightmare of a decentralised universe of unregulatable institutions will lurk just around the corner, as countries vie with each other to underbid regulation in order to attract providers of employment. In order to be clearer about ‘what works’ in the prevention of economic crime, we have to be clearer about what we want to achieve, and at what costs in terms of interference with personal and commercial liberties we are prepared to pay.

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Three Decades of Researching and Combating Economic Crime – the Swedish Case

Lars Korsell

Abstract

Although economic crime has been an important legal policy issue in Sweden since the 1970s, it is only recently that research on economic crime has begun to gain momentum here. The need for research had been emphasised earlier, but it was not until the 1990s that efforts were made to support research on economic crime in a way that has allowed this form of research to begin to evolve as an important sub-discipline in its own right. Swedish economic crime research is still searching for a sound footing concerning a number of basic theoretical and intra-disciplinary research issues. In this context, the funding that has now been made available may prove decisive in establishing a tradition of economic crime research at the national level.

Keywords

economic crime
research
policy issue
reform programme
Sweden

Introduction

Since 1998, funding has been made available specifically to support research on economic crime, and at present approximately twenty projects are underway at various universities and colleges (see appendix). This investment can be seen as an acknowledgement of the importance of this research from the state authorities. The importance of research on economic crime was also emphasised in the strategy for combating economic crime adopted by Sweden in 1995. In the context of what is a very eventful period in economic crime research, there is good reason to reflect over the past and also to direct our gaze toward the future. The following questions are of some interest and would bear closer scrutiny.

1. What role has been played by researchers and research in the programme of reforms introduced in the area of economic crime since the 1970s?
2. How have issues relating to research been treated in the reform programmes of the 1970s, 1980s and 1990s? What form of organisation has been proposed for research on economic crime, for example?
3. To what extent have the reform programmes been based on empirical surveys of economic crime?
4. What significance might the current research programme have for combating economic crime in the future?

The 1970s: The authorities and the criminological research community working together

While political interest in economic crime did not emerge in Sweden until the 1970s, the phenomenon itself had been noted prior to this point in time. The world of high finance witnessed the Kreuger crash, which is mentioned as an early case of white-collar crime in the international literature (Sutherland 1949). The Wenner-Gren affair also took place in the high finance sector (Sund 1999). The precarious position of Kreuger and Tolls had been concealed by means of a complex system of consolidated companies spread over a large number of countries (Svensson 1984). But in Sweden, none of these various “affairs” were described in the context of white-collar or economic crime.

During the 1970s, the problem of economic crime became the focus of attention not least as a result of the mass media coverage of various specific cases which helped set the political agenda (Heckscher 1980; 1983). A number of political events were also of some significance. At the meeting of European Justice Ministers in Stockholm in 1973, the Minister of Justice, Lennart Geijer, called for international efforts against environmental and commercial offences. With this, the international debate on economic crime had reached Sweden (Svensson 1984). There were no doubt several related factors which combined to bring economic crime to the fore as an important justice policy issue at this time and which also provided the prelude to the reform work of the decades that followed.

At the meeting of European Justice Ministers in 1973, a proposal initiated by the Swedish and French delegations was adopted directing the Council of Europe to carry out a study of economic crime (Svensson 1979). The fear was of “a wave of economic criminality” (Svensson 1979:169). A committee was formed, and the psychological and sociological aspects of economic crime were discussed at the 12th Criminology Congress in Strasbourg in 1976. A meeting was also held in Lille in 1976, and the following year saw London play host to the second Annual Conference on Economic Crime, where Delmas-Marty, Levi and Leigh were counted among the participants (Leigh 1980).

In the mid-1970s, the National Council for Crime Prevention made financing available for research on economic crime, which then became an area of priority. Several projects were financed, but few made it to completion, despite a positive research climate. Many researchers felt that research on economic crime would achieve a higher profile than turned out to be the case. A Nordic network emerged.

The first sizeable inquiry in the area of economic crime in Sweden was carried out by a working group against organised crime (AMOB 1977) which had been appointed at the National Police Board but which also comprised criminologists and representatives from the State Prosecution Service, the Central Bank and the Tax Administration. It is worth emphasising that in the context of this inquiry, researchers worked in close co-operation with the most important authorities in the field. AMOB charted organised and/or economic crime at the national level primarily by means of a questionnaire to police authorities, the prosecution service, tax offices and crown bailiffs. Thus the inquiry had empirical material on which to base its conclusions and proposals, which is unusual within the context of the Swedish inquiry system (Korsell 2000c). This was the first study of the extent of economic and organised crime in Sweden, and remarkably it remains the only such study carried out at the national level, despite the fact that the economic crime issue has experienced two boom periods during the 1980s and 1990s. The AMOB inquiry also made reference to international research. The overall impression is that research findings were not simply presented in the report, but were also of some significance for the work carried out.

According to the AMOB report, tax offences were responsible for a revenue shortfall of between five and twenty billion kronor per year based on the value of the krona at the time. As a result of the size of these amounts, the AMOB report really set the debate in Sweden ablaze (Svensson 1982). The figures reported by AMOB have remained reasonably stable according to later calculations, once adjustments are made for levels of inflation (Korsell 2000a).

In the Swedish context, an early definition of economic crime was developed by the AMOB inquiry in 1977. Economic crime should take the form of a business enterprise of some kind and be both systematic and organised. These criteria are also characteristic of organised crime, but the essential difference

between the two lies in the fact that in the case of economic crime, the enterprise (i.e. the company) is not itself criminalised, but constitutes the basis for recurrent criminal activities. As examples of economic crime, the AMOB inquiry cited black (or grey) market dealing in cars, property, companies, credit and labour power as well as offences against industrial safety and environmental protection regulations. One factor presented as characteristic of economic crime was that it often takes place somewhere on the border between the legal and the illegal, and that the people involved have a far-reaching influence over the various objects of these crimes.

The definition formulated by the AMOB inquiry is to all intents and purposes present in the description of economic crime which was presented by the Justice Committee at the beginning of the 1980s, and which then continued to set the tone until the mid-1990s (JuU 1981).

On a few occasions, there have been discussions relating to the introduction of some kind of instrument aimed at improving the possibilities for systematically analysing legislation, scrutinising legislative proposals and suggesting legislative changes with regard to economic and organised crime (Korsell 2000c). Crime-preventive factors have also been emphasised. The AMOB inquiry suggested the founding of a *central co-ordinating committee* against organised and economic crime, comprising persons representing the leaders of the National Police Board, the Prosecution Service, the Tax Administration, the Central Bank and from among leading criminologists (AMOB 1977). In other words the criminological research community was to be included when problems were analysed at an advanced level, and when potential means of dealing with problems were discussed. Such a group was never formed.

In 1977, the City Council executive in Stockholm initiated an investigation into social exclusion and economic crime. The focus of the study was economic crime, but with a shifting border between this and the organised crime phenomenon. In the local authority in Malmö, an examination of the black economy was carried out. A study was made of the social significance of certain clubs and commercial establishments (Larsson and Månsson 1976). The study constituted a comprehensive investigation of the gambling, liquor- and drug-dealing, assaults, fencing operations and bankruptcy crimes that took place around these commercial establishments. The Stockholm and Malmö projects are interesting since they were undertaken by local authorities in isolation in order to increase the level of knowledge relating to economic crime.

The overhaul of legislation carried out by the National Council for Crime Prevention

In 1977, the National Council was commissioned by the Government to carry out a comprehensive overhaul of the legislation against both economic and organised crime (National Council for Crime Prevention [BRÅ] 1978). The work

was conducted in various working groups or by specific officials. The results of the National Council's overhaul were presented in a total of 25 memoranda. The project had an impressive breadth, dealing not only with tax and bankruptcy crime, but going beyond these areas to examine the lot of other groups of victims such as employees being subject to breaches of the Health and Safety at Work legislation, and crimes against the environment. The work was very successful and many of the proposals were put into practice.

The researchers involved in the legislative overhaul were to a large extent legal experts, but then the focus of the project was clearly law-related in that the aim was to produce legislative proposals. Descriptions of the problems to be dealt with were often derived from central authorities, and for this reason the reports are highly reminiscent of those produced in the context of the Swedish committee system. A further indication that those involved in the legislative overhaul did not regard social-scientific research as an important instrument in the context of this work was that, parallel to the work on the overhaul taking place, the National Council arranged a conference on economic crime where researchers with an orientation in the sociology of law met with practitioners (BRÅ 1979). The researchers who took part included Holmberg, Jepsen, Leppä, Magnusson, Stangeland, Takala, Tiedemann and Tråskman.

As has been mentioned, the AMOB inquiry had suggested a few years earlier that legislative issues should be discussed in a special group including representatives from both the criminological research community and the central authorities. The National Council overhaul also proposed the founding of a *central body* to which authorities and individuals could send strategic information relating to tax and currency offences. This group would then be in a position to make proposals regarding legislative and other measures. A central body of this kind was never established.

The Economic Crime Commission

In 1982, the Government decided to rescind the National Council's overhaul assignment. Instead, the newly elected Social Democratic Government formed a commission to propose suitable measures against "economic crime and tax evasion" within the framework of a "unitary and co-ordinated strategy" (Directive 1982). The Economic Crime Commission, or the Heurgren Commission as it also became known, after its chairperson, produced thirty reports, memoranda and statements during 1983 and 1984. By means of the Economic Crime Commission, Swedish efforts to counteract economic crime were raised to a higher position on the political agenda than they had occupied up to that point (Axberger 1988; Lindgren 2000; Nord 2000). For this reason, the question of which measures it was reasonable to introduce against economic crime now became to a large extent dependent on one's political standpoint.

For the most part, the Economic Crime Commission made use of the AMOB inquiry's definition, and the Justice Committee's description of economic crime,

but made certain adjustments, amongst others that the crimes should relate to large amounts of money, around half a million kronor at the prices of the time (SOU 1984). The Economic Crime Commission has been criticised for focusing on regular “white-collar” crime which ought hardly to exist in Sweden (Axberger 1988), but if one looks to the legislative proposals actually presented, these were not in fact directed to any great extent at “*kavaliersdelikt*” (Korsell 2000b). The Economic Crime Commission also excluded environmental offences (SOU 1984) unlike both the National Council’s earlier overhaul and the reform programme of the 1990s.

In the context of the work of the Economic Crime Commission, research was given a large degree of influence in several ways. A criminologist was given a central role as one of the secretaries in the comprehensive investigation project, with responsibility for, amongst other things, the final report which formulated the framework for the whole of the Commission’s work. This was the same researcher who had been working for the AMOB inquiry and who was active in the overview undertaken by the local authority in Stockholm. In addition, the Commission wanted to establish a co-ordinated follow-up of ideas and proposals, and intended that issues relating to economic crime would be attended to at a strategic level in order to be able quickly to set in measures, legislation and so forth. The formation of a *special group* within the Cabinet Office was therefore proposed. A further group, comprising researchers, was to be closely connected to this first group (see below). The group described would be close both to the seat of power and to the legislature, but also with close links to current research. Such a group might then have had considerable significance for questions of risk assessment and the prevention of economic crime by means of, for example, legislation. The proposal was never put into practice. There are similarities between the Economic Crime Commission’s proposal and both the proposal made by the AMOB inquiry and that made in connection with the National Council’s legislative overhaul regarding the establishment of central groups assigned to attend to legislative issues and so forth.

The Economic Crime Commission also examined the state of research on economic crime. In one of its reports, it stated that the production of knowledge relating to economic crime

[c]onsists to 90 per cent of investigative work such as we described in the previous section, around ten per cent of problem-oriented research, and approximately one per cent of pure research. These proportions are measured in terms of numbers of projects, reports, pages of published text, etc. (Rapport 1983:7.)

The “previous section” referred to deals with the investigative work carried out by the authority’s own investigation operation. Research at the universities thus existed only on a small scale. This description from 1983 remained a true picture of the situation until a few years ago when the major efforts in the area of economic crime research were set in motion.

The Economic Crime Commission stated that in the long term, the existence of an independent research sector was vital to the production of knowledge. No proposal as to the content of the research was issued, therefore, but rather the importance of “independent” research was emphasised. The Economic Crime Commission stated that economic crime could become the focus of research within a wide variety of academic disciplines. The central subject areas were criminology and criminal law, but tax law and other legal disciplines could well become involved. In addition, such research could be carried out by micro- and macroeconomists as well as behavioural scientists from a variety of disciplines. This situation reflects the existence of a problem at the level of research policy.

A large proportion of the most important social-scientific research tasks are of an interdisciplinary nature. They thus require the active exploitation of expertise from different research areas, and the employment of different research methods. In such circumstances there is a clear risk that important research tasks will not be undertaken because they lack a natural organisational habitat. (Rapport 1983:12.)

In order to come to terms with this problem, it is necessary to facilitate interdisciplinary research work.

University research was not deemed suited to steering into areas of special importance to the central authorities. It was therefore important to find an organisational framework for the problem-oriented research that was required. The Commission saw both advantages and disadvantages in giving this task to the National Council for Crime Prevention. The Council is a small department and was deemed likely to experience problems when it came to standing up to the much larger authorities active in the area of crime policy. The Commission therefore suggested that the working group in question should be housed at the Cabinet Office. The task of the working group was to last for a period of three years.

The National Council's overview and research seminar

The Economic Crime Commission's proposal that a research unit be established at the Cabinet Office was never realised. Instead, the National Council for Crime Prevention was given an investigative role towards the end of 1984. Against this background, the Council arranged an international research seminar in May of 1985. The objective was to provide a forum for the communication of economic crime research experiences from other countries and to discuss Swedish economic crime research, which would gather momentum now that the National Council had been given the task of carrying out a research programme. Different approaches to research were discussed in various working groups and the proposals that came out of these meetings, as well as the

presentations of the invited researchers (Kellens, Levi, Strøm, Gustafsson, Tiedemann and Wiener), were published in the Council's report series (BRÅ 1985).

One could not say that the seminar was decisive in the matter of the areas then chosen for research by the Council, which were later presented in a total of four research reports: An overview of the police economic crime divisions (Persson 1986); An overview of the proposals and measures of the Economic Crime Commission (Axberger 1988); Calculations of economic crime (Wibe 1990) and A study of the criminal businessman—myth or reality? (Holmquist 1990). On the other hand, several of the research projects supported by the Council today—fifteen years after the seminar—can be classified as belonging to those areas discussed by the seminar's working groups. The intention was that the research report published by the Council on the police would be followed by studies carried out by other actors in the area of economic crime prevention, such as the Customs and Excise office, the Crown Bailiffs, and the prosecution service (Persson 1986:7). Sadly, though, none of this work was ever carried out.

The 1990s' drafting committee on economic crime

Political interest in the question of economic crime gained momentum towards the middle of the 1990s, and in 1995 the Government presented a strategy for society's co-ordinated response to economic crime, which is still in effect today, although the level of commitment has waned somewhat recently following a period of intense reform work (Skr. 1995; Korsell 1999; 2000b).

The core of the extensive reform work is an interdepartmental group comprising, in particular, representatives from the Ministries of Justice, Finance, Trade and Industry, and the Environment. The economic crime drafting committee does not include a representative from the research sector. This is different from the situation of the AMOB inquiry and the Economic Crime Commission where there was some research influence.

A number of institutional solutions have been introduced, one of whose objectives is that of providing government authorities with information on economic crime and on the need for legislation and so forth. In every county there is now a *co-ordinating body* for measures against economic crime. Authorities that come into contact with economic crime now co-operate with one another under the auspices of the county governors. At the central level, there is a further co-ordinative body—the *Economic Crime Council*—providing for co-operation among the heads of important authorities in the area of economic crime.

The Economic Crime Council has one central function that is somewhat reminiscent of the proposal presented by the AMOB inquiry regarding the

establishment of a central co-ordinating committee. One important difference, however, is that the Economic Crime Council contains no researchers, only representatives of state authorities.

The Parliamentary Auditors' examination of economic crime control was of considerable importance for the strategy against economic crime later developed by the Government (Korsell 2000b). One of many questions raised by the Auditors was that of the need for improved knowledge in the area of economic crime (RR 1994). Government strategy for society's collective response against economic crime included improving the level of expertise on this form of criminality. An inquiry into the state of economic crime research was therefore established, which produced a report entitled *Research on Economic Crime* (SOU 1996:84). This report was never sent out on referral but was included as part of the basis for a later inquiry into how the research and inquiry work within the justice system should be organised (Research for the justice system, Ds 1997:28).

Having made an inventory of existing research, the inquiry into economic crime research stated that economic crime gave the impression of being a seriously neglected area of inquiry. There was therefore no doubt that a long-term development of expertise in this area was essential. The inquiry proposed that a centre for economic crime research be established at the University of Uppsala (comprising at least eight post-doctoral researchers within relevant disciplines and as many research positions for graduate students). In addition, the University of Lund was to receive funding for economic crime research (three post-doctoral research positions and three for graduate students).

In the context of the inquiry into economic crime research, Gandemo and Träskman suggested the following areas as suitable points of focus for research in this area (SOU 1996):

- Research on "everyday" economic offences, such as work in the black economy.
- Research on organised crime at the international level, such as international drug trafficking.
- Research on crime in the commercial and industrial sector and in company operations.

In the budget proposal, it was stated that responsibility for ensuring that research be carried out into economic crime should initially lie with the National Council for Crime Prevention (prop. 1997/98:1). Since 1998, the Council has received funds for such research, which have been passed on in the form of funding to research projects at universities and colleges. During the budget years 1998-2000, a total of 17 million kronor has been pumped into this kind of research. For the budget years 2001-2002, nine million kronor will be devoted to research.

A few conclusions

1. The role of research

The strategy underlying economic crime control during the 1990s has involved something of a boom for research on economic crime. At the moment, approximately fifteen projects are under way, and within two years or so the total number of projects being funded may be approaching 20. Seen in the context of the thirty-year perspective described above, the glaring need for economic crime research has finally begun to be met.

Looking back, in the 1970s, the Government initiated international economic crime research within the context of the Council of Europe. International research was assimilated and the AMOB and SPANEK inquiries of the 1970s included a significant input from the research community. On the other hand, the efforts made by the National Council for Crime Prevention to contribute to domestic research were somewhat more limited in their effects.

The overhaul of legislation carried out by the National Council for Crime Prevention during the years around 1980 was clearly directed at concrete legal issues, and was thus a consequence of the proposal made by the AMOB inquiry. For this reason, there was little research involved in the overhaul itself, but some research was conducted outside the confines of the legislative overhaul and a research conference was held in 1979. The work of the Economic Crime Commission during the first half of the 1980s included a significant element of research.

During the 1970s and 1980s, discussions also focused on the need to keep the legislation under constant review and to suggest new measures to reduce crime. In this context, the research community was included as a central actor together with the most important of the central authorities. The Economic Crime Commission wanted in addition to establish ties between the research community and the Cabinet Office, but at the time the work in question was more assignment-oriented. The Economic Crime Commission emphasised the importance of independent research at the universities.

During the 1990s, considerable support has clearly been provided for research on economic crime, but this research has not been afforded a prominent position either in the work leading up to the establishment of the economic crime strategy in 1995, or in the institutional solutions that comprise an important element in the strategic control of economic crime. These solutions include the drafting committee on economic crime at the Cabinet Office and the Economic Crime Council in its co-ordinative capacity, which comprises amongst others the heads of the most central authorities in the area of economic crime. The research community has also been rather poorly represented in the work, particularly committee reports and departmental memoranda, that has been produced since the mid-1990s (Korsell 2000b; 2000c). This is a general problem in relation to all committee reports where crime-related issues are discussed (Korsell 2000c).

There are no doubt a number of explanations for the less than prominent role that research has been afforded more recently. As usual, personal factors and pure coincidence play a part, but there is good reason to point to an additional factor, namely the need of politicians and authorities for clarity.¹ One problem may be that research on economic crime has not been sufficiently specific. There is a need to operationalise research results so that they are useful for politicians and authorities. Moreover, the results must reach the legislators and the administration in the Ministries. In this respect there are undoubtedly failings in the research community, and thus also room exists for improvement. But it is also the responsibility of authorities and politicians to acquaint themselves with the findings that are produced, and here too there have been failings during the 1990s (Korsell 2000c).

2. Research issues and the reform programmes

During the 1970s, some research on economic crime took place in Sweden, partly as a result of the funds distributed by the National Council for Crime Prevention. Research issues then surfaced in connection with the Economic Crime Commission, which emphasised the importance of research on economic crime, not least “independent” research at the universities. As has been mentioned, it was also suggested that research should be based at the Cabinet Office. But the proposals from the Economic Crime Commission led only to a number of projects being carried out by the National Council for Crime Prevention.

During the 1990s, research issues were once again brought to life and examined in some detail on two occasions. The first of these inquiries proposed the establishment of an interdisciplinary research centre. The second proposed that research be steered so as to better fit the needs of the authorities, and for this reason research was to be associated with the National Council for Crime Prevention, at least for a transitional period. The National Council has now been distributing research funds for three years, and will be receiving further resources for the funding of research for some time to come.

3. Data

Although economic crime issues have assumed a fairly important profile in relation to justice policy, the empirical material for the reform programmes carried out over the course of the last three decades has been rather thin. Amongst other things, the AMOB inquiry administered a comprehensive questionnaire. The legislative overhaul conducted by the National Council for Crime Prevention contains research study elements, but only such as are focused on “known” problem areas. The Economic Crime Commission built on both national and international research, while the efforts made during the 1990s

¹ This has been suggested by tax director Karl-Erik Nord at the National Tax Board who has followed economic crime issues since the time of the AMOB inquiry. Interview 2000-09-12.

have had a somewhat weaker empirical foundation. This is a little contradictory since it has been during the 1990s that the reform programme has focused most heavily on economic crime research.

4. What of the future?

It remains to be seen whether the research now under way will be used in combating economic crime. In this respect the National Council for Crime Prevention has a large responsibility to spread the findings by means of publications, seminars and summaries of results. In addition, the findings must be formulated in such a way that the reports will be read by decision-makers. It is not impossible that the coming mass of research findings, with the National Council as the filter through which they are spread, may lead to a situation where the demand for research increases. This at least is the Council's objective.

The findings will hopefully also lead to demands for higher standards in the work carried out within the context of the Cabinet Office and by other authorities. In order to be able to conduct methodical and thorough analyses, researchers are needed, and perhaps the recruitment of researchers will increase to these areas, which at the moment are more or less completely lacking in officials with this kind of background.

If a greater emphasis comes to be placed on the crime-preventive perspective in the future—as has been intimated in Government communications in this area—it is reasonable to assume that the influence of the research community will become greater, if only for this reason. It is not possible to carry out effective crime prevention work without a certain level of expertise in relation to the crime which one is trying to prevent.

An old problem for which no solution has yet been found is that of introducing the element of risk assessment into the legislative process, i.e. to better estimate the consequences that proposed legislation will have on crime. Such estimations are closely related to crime prevention since negative effects that are foreseen can be taken into consideration in order to reduce the opportunities for crime. There are particularly large gains to be made by legislating with a greater awareness of the consequences in the areas of economic and organised crime. Research ought to play a decisive role in clarifying opportunity structures and the way they interact with legislation (Korsell 2000c).

Finally, there is a need to move into new areas. Rather than simply spending time carrying out evaluations and inquiries, it is important to allow research into economic crime to evolve on the basis of theoretical considerations. If research into economic crime can be revitalised by these means, this ought also to spread to the area of economic crime control.

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Appendix

Research projects into economic crime financed by the National Council for Crime Prevention:

- The opportunities and conditions for collective criminal liability. Per Ole Träskman and Sverker Jönsson, Department of Law, Lund University.
- Environmental standards and risk assessment in Swedish industry. Håkan Hydén and Carina Pettersson, Institute for Interdisciplinary Studies, Göteborg University .
- Unlawful quarrying operations and land ownership. Lars Ericsson and Magnus Larsson, Department of Sociology, Lund University.
- Environmental crime in commercial enterprise—the effectiveness of criminal justice controls. Leif Lenke and Helena du Rées, Department of Criminology, Stockholm University.
- Economic crime statistics. Hanns von Hofer and Martin Bergqvist, Department of Criminology, Stockholm University.
- Insider trading—the working methods of the control authorities and the attitudes of the market. Antoinette Hetzler et al., Department of Sociology, Lund University.
- Transfers, concealment and nest feathering—offshore financial operations and improper business transactions. Sven-Åke Lindgren and Oscar Engdahl, Department of Sociology, Göteborg University.
- Economic crime in connection with bankruptcy. Karin S. Thorburn, Tuck School, Dartmouth College.
- An overview of international research into economic crime. Sven-Åke Lindgren and Christer Theanderson, Department of Sociology, Göteborg University.
- Tax offences: the individual and the offence. A study of persons convicted of tax offences. Jonas Ring, National Council for Crime Prevention.
- The character of the economic offender—a study of the importance of personality factors in economic crime. Tage Alalehto, Institute of Social Work, Umeå University.
- Economic crime in Scandinavian container traffic—deviance or the norm? Henrik Tham, Per Ole Johansen, Lotta Pettersson and Vanja Lundgren Sörli, Criminology Departments of Stockholm and Oslo Universities respectively.
- The connection between economic and organised crime. Helén Örnemark Hansen, Department of Law, Lund University.

- Preferential rights in connection with bankruptcy and the handling of shell companies during the crisis years, 1987-1992. Clas Wihlborg, Claus Buttwill and Thomas Lindemann, School of Economics and Commercial Law, Göteborg University.
- What is environmental crime? On the growth of a new crime concept 1960-2000. Sverker Sörlin and Erland Mårald, Institute of Historical Studies, Umeå University.
- The auditor's role in the control system—the origin and effects of the duty to report the suspicion of economic crime. Sven-Åke Lindgren and Bengt Larsson, Department of Sociology, Göteborg University.
- Strategies for cheating. Tage Alalehto, Institute of Social Work, Umeå University.

Pre-Sutherland Views on White-Collar Crime

Sven-Åke Lindgren

Abstract

The object of this paper is to discuss the intellectual roots of the white-collar crime concept. This is achieved by exemplifying and discussing selected parts of classic works from the fields of sociology and criminology. The principal focus is on contributions that deal in some substantial way with social phenomena implicit in the concept of white-collar crime. The better known aspects of the classics' theoretical and conceptual arsenal are referred to only occasionally. The intention is not to identify specific lines of influence or transmission between this area of knowledge and the pioneering works of Edwin Sutherland. Rather, the contention is made that there is a significant kinship between Sutherland's work and the formulation of problems and analyses found in several of the classics produced in the late 19th and early 20th centuries. There is a rich intellectual legacy that requires closer examination in order to locate the study of white-collar crime in relation to wider research traditions in social sciences.

Keywords

sociological and criminological classics
moral indignation
criminogenic conditions
elements of social control
broader research horizons

Sutherland and the American Context

The birth of research on white-collar crime is usually dated to Edwin Sutherland's (1940) presidential address to the American Sociological Association in December 1939. It was here that Sutherland presented the term *white-collar crime* for the first time, and it was in the course of this speech that he pointed out that such actions are not simply morally objectionable—they are criminal. Over the following decade, until the publication of the classic *White Collar Crime* (1949), Sutherland continued to collect and systematise empirical data on the legal transgressions of the large American corporations (including offences against civil, administrative and criminal law). In the course of this work he made a number of amendments to the definition he had presented in 1939 (Sutherland 1945; 1948).

The *white-collar crime* concept is thus Sutherland's invention. But this in no way means that he was the first to problematise the greed of executives and industrialists, their misleading and fraudulent behaviour and their recklessness. American reviews in this area (Wheeler 1983; Geis and Goff 1994; Friedrichs 1996) often refer to Edward Ross. In his work on sin and society from 1907 (Lemert 1997) Ross used the concept *criminaloids*¹ to denote individuals occupying high-status positions who committed criminal offences. The sin that worried Ross most was the betrayal of trust, and he identified a spreading perfidy that he regarded as the root cause of socially damaging phenomena such as price fixing and the formation of cartels, insurance fraud and growing contempt for laws and regulations. There is also a conceptual kinship between Sutherland's work and that of Albert Morris, who made use of the term *upper world crime* in a criminological textbook from 1934 (Geis and Goff 1994). Sutherland (1949) himself refers to the economist Thorstein Veblen ([1899]1992) who in his work on the leisure class focused attention on the role of the all-pervasive money culture and the conspicuous consumption and extravagant habits of the *nouveaux riches*. According to Veblen, the businessman of the new age (the model of "pecuniary man") was strikingly similar to the habitual offender in his unscrupulous consumption of both objects and people in order to satisfy his own needs and interests. But at the same time, he was unlike the thief in that he had a stronger sense of the importance of status as well as a capacity to realise longer-term goals.²

¹ The term *criminaloids* was originally employed by Cesare Lombroso (5th edition of *L'Uomo delinquente* 1879) to denote the group of offenders who could not be classified as either born criminals or insane criminals. This third group was characterised, according to Lombroso, by a mental and emotional disposition which meant that under certain circumstances they might indulge in malevolent and criminal behaviour.

² Veblen relates here to an idea which can be traced back to Greek mythology. There, Hermes embodies both the enterprising nature of the merchant and the thief's dishonesty.

Running parallel to these evocations of the work of earlier academics, Sutherland's work ties in with another tradition. This time it is that of the *muckrakers*, journalists who during the early years of the 20th century dug up revealing and troublesome facts about people who were otherwise able to avoid negative publicity, prosecution and conviction as a result of their social position. Sutherland (1949) refers to such individuals as *robber barons*, exemplified by J. P. Morgan, John D. Rockefeller, Andrew Carnegie, Cornelius Vanderbilt and others. They were the personification of the old adage that excessive private wealth always originates in crime. Sutherland regarded the white-collar criminals of his own time as more considerate and affable, but they were nonetheless, in his view, every bit as criminal.

The classics of sociology

For a sociologist, it is easy to make the connection between the thematic implications of the white-collar crime concept and a number of elements from the classics of sociology produced in Europe from the mid-1850s onwards. In Karl Marx's ([1890]1954) studies of the consequences of bourgeois capitalism for the working class, we find many accounts of how producers and other owners of the means of production ignore laws and regulations in their hankering after increased profitability. On the basis of reports from English commissions and inspectors, Marx provides detailed descriptions of working conditions in potteries, matchstick factories, bakeries, wallpaper factories, etc., with regard to child labour, the length of the working day, the work environment and the effects of the shift system. We are presented with a social struggle where the role and function of the judicial system in particular are of central importance. Marx observed amongst other things *the incredible adulteration of bread* ([1890]1954:248), i.e. the contamination by discharge of abscesses, cobwebs, dead black-beats etc., and the admixture of alum, sand and other mineral ingredients. An examination by one of the House of Commons' Committees in 1855–56 (*on the adulteration of articles of food*) led to the 1860 *Act for preventing the adulteration of articles of food and drink*. For Marx this was an ineffective piece of legislation, since:

[i]t naturally shows the tenderest consideration for every Freetrader who determines by the buying or selling of adulterated commodities 'to turn an honest penny.' (Marx [1890]1954:248.)

Another case concerns the circumvention of the 1833 Factories Act (legislation on working hours) and the 1848 Act specifying a ten-hour working day, and the court proceedings taken against lawbreaking factory owners that were initiated by incorruptible factory inspectors. Marx follows the cases as they make their way upwards through the justice system and notes one acquittal after another, despite the explanations of the Crown barristers showing the

factory owners to have interpreted the law in an unreasonable fashion. Socially, the composition of these courts was such that:

[i]n these tribunals, the masters sat in judgement on themselves. (Marx [1890]1954:289.)

When one of England's four highest courts passed a judgement in 1850 which effectively undermined the statutory status of the Ten Hour Act, the result was mass demonstrations. For Marx, the law had shown itself to be pure humbug, a political deception, and members of the working class came to share this sentiment in increasing numbers, with mass protests as a result—protests which gradually led to more comprehensive and tighter legislation in this area.

In the works of Émile Durkheim several themes are discussed which recur in the context of the current discourse on white-collar crime. In his major work on the division of labour in society ([1893]1964) he emphasises the role of professional ethics for the social cohesion of modern society. In the foreword to the second edition, Durkheim stresses, however, that professional ethics are often a little thin on content ([1893]1964:1-2):

But if one attempted to fix in a little more precise language the current ideas on what ought to be the relations of employer and employee, of worker and manager, of tradesmen in competition, to themselves or to the public, what indecisive formulas would be obtained! Some generalizations, without point, about the faithfulness and devotion workers of all sorts owe to those that employ them, about the moderation with which employers must use their economic advantages, a certain reprobation of all competition too openly dishonest, for all untempered exploitation of the consumer; that is about all the moral conscience of these trades contains. Moreover, most of these precepts are devoid of all juridical character, they are sanctioned only by opinion, not by law; and it is well known how indulgent opinion is concerning the manner in which these vague obligations are fulfilled. The most blameworthy acts are so often absolved by success that the boundary between what is permitted and what is prohibited, what is just and what is unjust, has nothing fixed about it, but seems susceptible to almost arbitrary change by individuals.

Somewhat later, Durkheim analysed ([1898-1900]1992) statistics describing long-term crime trends in 19th-century France. He noted that offences such as theft, fraud and embezzlement increased, whilst other crimes such as murder were on the decrease. He associated this change with a number of characteristics fundamental to the changes taking place in society as a whole: a generally increasing level of civilisation in the transition from an older societal form (mechanical solidarity) to a new, modern form of social cohesion (organic solidarity).

A further similarity is to be found in Durkheim's ([1897]1951) analysis of the anomic suicide. It is a well-known fact, he contends, that economic crises as manifested in stock market crashes and increased numbers of bankruptcies result in higher suicide rates. But it isn't the fact that people's ability to maintain their economic position, or even to survive financially, has been lost that leads to this increase. Dramatic economic upswings can also result in increases in the suicide rate. Durkheim contends that variations in the suicide rate are

instead to be explained by the disturbance caused to the regulation of social life. Both economic depressions and booms create a breakdown in the regulation that balances people's needs and aspirations against the means and opportunities that are actually available. It is this state of anomie—normative dissolution and insecurity—that leads to a certain type of suicide.

A third common element is to be found in Durkheim's ([1898-1900]1992) historical analysis of the relative value placed on the interests against which law-breakers were deemed to have transgressed, and changes in the way society reacted to crime. Formerly, actions directed against collective values and interests—religion, the monarchy and the family—were those that were punished most severely. Transgressions against the sacred or secular authority led to the forfeiture of one's life, whilst murder could be expiated with gifts or pecuniary compensation paid to the victim's relatives. With the emergence of humanism and individualism as the basis of ethical considerations, the individual and the rights of the individual have assumed an increasingly central position, just as social institutions and groups (church, state, family) have lost their previously dominant influence. This shift has meant that transgressions against the individual, particularly those directed against life, well-being and personal integrity, now give rise to a stronger emotional reaction (and therefore a more punitive reaction) than transgressions directed against collective values and interests.

Vilfredo Pareto's ([1901]1991) description of the decline and fall of the old elite can in large part be read as a moralistic censure of various expressions of decadence among the ruling class. Pareto notes two indications of decline:

1. The declining elite becomes softer, milder, more humane and less apt to defend its own power.
2. On the other hand, it does not lose its rapacity and greed for the goods of others, but rather tends as much as possible to increase its unlawful appropriations and to indulge in major usurpation of the national patrimony.
(Pareto [1901]1991:59.)

Pareto was disturbed at the way the ruling class turned a blind eye to the disreputable actions of members of its own social group. In Italy of the day, such individuals not only escaped punishment, Pareto complained, they were rewarded with important posts and enjoyed public respect. For Pareto, this lack of judgement entailed a risk that in time the leading class would be weakened even further, since:

When, as happens in Italy, a gentleman is faced with the dilemma of either approving the malpractices of his class such as embezzlements of banks, and the facts of the Notarbartolo trial, or of his joining the socialists, he is irresistibly driven toward the latter. (Pareto [1901]1991:73.)

In a way similar to Sutherland, Pareto looked to the robber barons of earlier times to find comparative examples of this combination of greed, brutality and exploitation. Pareto contended that the robber barons' more recent counterparts

illicitly acquired just as much wealth as their predecessors. The only advantage as compared with the earlier forms of extortion was that the means employed had evolved somewhat. It was no longer associated with quite the same level of destruction.

Max Weber ([1904-05]1978)—who was an economist, a sociologist and a lawyer—made an important distinction between rational capitalism—the enterprise capitalism of the bourgeoisie—and adventure capitalism. For Weber, the latter constituted an irrational variant of capitalism, characterised by high-risk speculation and violent, brutal methods. The difference between the two forms is well expressed in the following quotation ([1904-05]1984:76):

Similarly it is one of the fundamental characteristics of an individualistic capitalistic economy that it is rationalized on the basis of rigorous calculation, directed with foresight and caution toward the economic success which is sought in sharp contrast to the hand-to-mouth existence of the peasant, and to the privileged traditionalism of the guild craftsmen and of the adventurers' capitalism, oriented to the exploitation of political opportunities and irrational speculation.

The difference between the two also manifests itself in a dissimilarity in relation to ethical qualities. The rational form of capitalism distances itself from both the noble's lofty luxuries and the vulgar rakishness of the upstart. These approaches to living are essentially alien to the asceticism that for Weber forms the foundation of the spirit of rational capitalism. It is the civic-minded man, who has made it on his own, who makes good use of his time and manages surplus according to long-term plans, that constitutes the ethical role model of the socially useful form of capitalism. According to Weber, this spirit struggled against both dishonesty and pure, instinctive greed. Striving for wealth simply in order to become rich was condemned as mammonism.

Weber's work includes a number of market analyses (Swedberg 1998). In the context of two short essays from 1894, he discusses ([1894]2000) the stock market and stock market trading in late 19th-century Germany. The essays were written against the background of the implementation of reforms intended to bring about a more effective regulation of stock market activity. The tone of Weber's texts is instructive. His intention was to inform his readership about the modern stock market trading and how it could best be regulated. The first essay examines the stock exchange as an institution, its historical development and organisational differences between the stock exchanges of New York, Paris and London and those in Berlin and Hamburg. A number of other differences are also discussed, including those between totally closed associations and completely open markets, as well as distinctions concerning requirements for the legal authorisation of agents and brokers, etc. Weber's principal interest concerns the dramatic growth in the trade in bonds, shares and other securities as well as new forms of instrument that were now being bought and sold. Here he was concerned with the trade in futures, i.e. speculating on future price changes (goods), or on a future increase/decrease in value (securities), as well as the introduction of promissory notes for both buyers and sellers. This trade

involved an increase in the level of risk-taking, which in turn gave rise to additional trading. The combination of the expansion in trade levels and the introduction of new instruments led to profound changes in the securities market, and Weber was worried not least by effects such as the growth in the number of small speculators with no capital, individuals with no professional expertise and whose judgements could be questioned. “It’s all a matter of the persons involved”, explains Weber ([1894]2000:332). But unsuitable and undiscerning people are not only to be found among the groups commonly identified as such by the major capitalists, and Weber continues:

[t]hese ‘elements’ are certainly not only found among less-wealthy segments of the exchange-traders, for nothing goes less hand-in-hand with an honorable attitude than the size of one’s purse. ([1894]2000:333.)

In the second essay, Weber provides a detailed description of new forms of speculation. In particular, he takes up the differences between an older form of cash purchase speculation and the modern trade in futures and options. For Weber, the trade in expected outcomes has become an easily accessible means to “harvest where one has not sown” ([1894]2000:361). Among the risks and unwanted side effects described by Weber are the increased eagerness for speculation and the involvement of people with few resources and no expertise, the opportunities to speculate on credit, the increased speed of transactions and the limited time available, which meant that brokers no longer had time to inform their clients—with the brokers becoming increasingly independent and also starting to trade on their own account. For Weber, the fact that trusted agents were increasingly becoming their own men and were trading for themselves without the knowledge of their principals also increased the risks of price manipulation. Large banking firms were responsible for a particular form of artificial price manipulation—as Weber warned ([1894]2000:367):

The whole horde of small speculators, armed with practically nothing beyond good lungs, a little notebook, and a pencil, have in general—just like the helpless public—little other chance than blindly to follow the word given ‘from above’—that is, by the great banks—to buy, on a speculative gamble, as prices are driven up by the bank’s expensive purchase offers, made for whatever reason of their own. Everyone realizes very clearly that this rise in prices will at some point make way for the opposite, but they hope that this will only occur after they have realized their dealings at a profit—so that the losses that are surely to be expected will strike someone else, as with ‘Black Petter’.

Concerning countermeasures, Weber emphasises the importance of “honourable business practices”, internal regulations and controls, and external (state) involvement and inspection. According to Weber, the decisive issue with regard to external control was which specific procedures one wanted to and could control—which forms of trading, or trading between which individuals, one wants to, and it is possible to, avoid. He emphasised the importance of safeguarding and supporting an expanded stock exchange dealing in new forms of financial instrument. It was not speculation *per se* that should be

resisted, but rather the undesirable side effects that were not rational at the macroeconomic level. Countermeasures should therefore be directed at speculators with few resources and bad judgement as well as those with no feeling for “honourable business practice” (taking the form of, among other things, penalties for behaviour that misleads inexperienced and impressionable persons into beginning to speculate); at preventing speculation in unusual securities and those with a low trading volume (speculation of this kind is more difficult to discover and the consequences are more drastic than in cases where the securities in question have a greater trading volume); at prohibiting the publication of writing about price levels and price fluctuations, as well as the concealment of illicit securities that are exchanged in parallel with legitimate exchange trading. In addition, Weber promotes a system whereby a state authority supervises trading and has a veto over which commodities and securities may be traded.

It is important for Weber that the measures employed do not detract from the most important consideration, that of defending German interests in the economic competition taking place at the international level. In the gauging of economic power between nations with leadership pretensions, the stock exchange is an extremely important means of competition. It is there that trading in both commodities and securities is located, which promotes a strong national economy.

In Georg Simmel's ([1900]1990) major work on the essence of money and the pecuniary system's all-pervading and levelling influence, the author takes up the psychological consequences of the way money transforms means into a goal. Simmel writes about personal characteristics such as greed and the desire for money, and he describes those characteristics that distinguish social types such as the miser and the spendthrift. He also analyses the ancient phenomenon of bribery, and contends that the monetary system, due for instance to the formlessness and anonymity of this means of exchange, constitutes an incitement to increased trading in services, insurances and protection. The origins of money, as compared with various forms of gift, are more difficult to trace, and to use Simmel's words, it is a simple matter to bribe a person behind his back. In other words, the bribed individual can more easily hide the fact and pretend nothing has happened. But at the same time, the bribe made with money is judged more harshly than that based on a gift. Here Simmel makes a comparison between servants who take a bottle of wine or some toilet articles and those who steal money. The former is perceived as a trivial matter, whereas the latter, even where it is a question of a relatively insignificant sum, is regarded as a more serious offence. In the same way, the taking of a bribe of money is regarded as symptomatic of a more corrupt and depraved moral character.

Ferdinand Tönnies, known for his description of the transition from traditional to modern society in terms of the transition from *Gemeinschaft* to *Gesellschaft*, was also interested in changes of crime patterns (Oberschall 1973). He interpreted

the increase in what he referred to as occasional offences, in relation to habitual offences, as a manifestation of the process of modernisation. In his later works he used the categories of crooks (*Frevler*) and fraudsters (*Gauner*) to express a difference relevant to the conceptualisations of *Gemeinschaft* and *Gesellschaft*. The actions of the first of these categories are characterised by their immediacy, violence and complete lack of restraint (*Wesenwille*), whilst the actions of the second group manifest a rational and calculating pattern of behaviour (*Kürwille*). Using extensive empirical data, Tönnies also attempted to show the relationships between *Gesellschaft*-type offences (premeditated) and the city-based origins of the perpetrators of such crimes, and between *Gemeinschaft*-type offences (affective) and the offender's ties to a rural environment.

Early criminologists

It was not only sociologists and economists who during the 19th and early 20th centuries showed an interest in various negative aspects of the emergence of capitalism and the destructive effects of an increasingly all-embracing monetary system. Among criminologists too, primarily those with a social science orientation, we find elements associated with approaches that would later become a focus for the attention of Sutherland and his successors. One such example is provided by the work of the Belgian mathematician Adolphe Quetelet, who early in his career became interested in new statistical techniques and thereby also new social data in the form of statistics on crime and causes of death. Using newly published French statistics covering persons suspected of various kinds of criminal offence during the years 1828-29, he examined (Quetelet [1842]1996) various regularities and associations between types of offence and such social factors as gender, age, level of education and profession. A number of economic offences such as bankruptcy fraud and document forgery were included among the crimes Quetelet studied. He concluded among other things that improved education had not had the reductive effect on crime that had been hoped for and expected.

The work of Gabriel Tarde (Wilson Vine 1960), another of the 19th century's sociological criminologists, is characterised by a similar emphasis on the significance of the social environment for the commission of various types of offence, but also for the emergence and spread of an individual propensity to engage in crime. In the present context, Tarde's conception of the criminal as a professional "tradesman" is of particular interest. He regarded murderers, pickpockets, swindlers and thieves as individuals who served a long apprenticeship in just the same way as doctors, lawyers, farmers and professional craftsmen. This conception, together with his imitation theory, recurs in several of Sutherland's works and in his theory of *differential association*. As was the case with many of his contemporaries, Tarde also analysed differences between urban and rural crime. He found that urban crime more often comprised burglary,

fraud and swindling, whilst violent offences such as murder and assault were more often included among rural crimes.

A clearer example of an interest in offences based on commercial activity is to be found in the work of the Dutch criminologist Willem Bonger ([1916]1969), whose classification of white-collar crimes differentiated such offences as he regarded to be perpetrated exclusively by members of the bourgeoisie. Included here were bankruptcy frauds, adulteration of foodstuffs by means of dilution, for example, and other similar crimes. As regards the causes of offences such as these, Bonger named societal circumstances such as speculative environments, the desire for profit, and the pressure of competition. He saw the individual criminal as being morally weak rather than reprobate, and in the majority of cases, the offender is conscious of the injury suffered by others, but is not strong enough to resist the pressure of circumstances, or in Bonger's ([1916] 1969:137) famous words:

As always it is the environment that is the cause of the crimes' taking place; it is the individual differences which explain in part who is the one to commit them.

One particular category of economic offenders are referred to by Bonger as *the great criminals*. Examples include those who enter into rash business ventures despite being aware that they are likely to fail, or those who buy securities in large quantities and thereafter drive up their value by spreading false information. This is a category of offences that Bonger associates with his contemporaries' "unquenchable thirst for gold" and "lust for profit". These great criminals are equated with professional criminals, and Bonger ([1916]1969:141) describes the damaging consequences that this type of crime can lead to:

What an ordinary criminal does in a small way, they do on a gigantic scale; while the former injures a single person, or only a few, the latter bring misfortune to great numbers. And they do it with indifference, for the disapprobation of honest men does not touch them.

Bonger also comments upon societal responses to various forms of white-collar crime, and he makes the point that the punishments for economic offences are relatively mild by comparison with those associated with ordinary theft offences, particularly considering the fact that the harm caused is much greater. In addition, he concludes that only a limited number of practices are regulated in criminal law, compared with the large number which ought to be punishable in view of their harmfulness. For Bonger this was a clear manifestation of the class-based character of criminal legislation.

Significant themes

This retrospective survey has focused attention on a number of early sociological and criminological works which either directly take up elements included in Sutherland's conceptualisation of *white-collar crime* or concern approaches that are implicit in the concept. In the majority of these works, it is possible to identify a moral indignation at what is laid bare by such critical social analysis – resentment over phenomena that would later be labelled *the higher immorality* (Mills 1956). More precisely, we find a number of themes which recur in the work of Sutherland and in the subsequent problematisation of white-collar crime; themes which focus on criminogenic conditions at the structural and cultural levels, and themes which focus on elements of social control:

Factors influencing the character and extent of white-collar crime:

- the role of urbanisation in the changing crime structure—increases in economic (rational) crime (Tarde, Tönnies, Durkheim, Bonger);
- a state of judicial and moral anomie within the socio-economic sphere (Durkheim);
- the conditions of capitalist production and trade as an incitement to white-collar crime (Marx, Bonger);
- irrational elements (generating negative side effects) in the capitalist system (Weber);
- the morally transformative and criminogenic function of the monetary system (Simmel).

Factors affecting social control:

- the question of the class-related partiality of legislation and the court system (Marx, Bonger);
- conflicts of interest and goals in association with the regulation of vital socio-economic institutions (Weber);
- assessments of the relationship between the harm caused by various offences and the severity of the societal response (Durkheim, Bonger);
- the relationship between behavioural codes inherent in the systems of interest and state authority-based (external) controls (Weber).

By means of a better connection to related aspects of these classic works, research on white-collar crime can be rooted more deeply in the traditions of social science. These works contain analyses and theoretical conceptualisations with whose help we can understand and explain social phenomena that are still of significance for the white-collar crime of our own time. In addition, closer attention to these classics expands the opportunities for the broadening of research horizons. These texts can make us more familiar with an area of research where, alongside the sociology of crime and criminology, many of the themes referred to above have been developed. Examples of disciplines where

the current research agenda is illuminated by the legacy of the classics include modern economic sociology, political sociology and the sociology of law. Research on white-collar crime has much to gain from assimilating findings from these fields, not least since it means integrating expertise on different forms of capital, the distinctive features of the institutions of the modern market and exchange mechanisms, and the development of management and control strategies at different social levels.

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What is “Economic” about “Economic Crime”?

Bengt Larsson

Abstract

This article analyses differences in definitions of “economic crime” in Sweden from a sociological perspective. The aim is to show from which perspectives different definitions are formulated, and with what purpose in mind. The first part of the paper concerns what aspects of a crime qualify it as “economic” by different definitions: characteristics of the actor, the motive, the means, the context, the consequences, legislative demarcations, or the competence that is needed to investigate it. The second part discusses from which perspective different definitions seem fruitful: political, judicial, governmental/official, or criminological/sociological.

Keywords

Sweden
white-collar crime
economic crime
definitions
relational terms
perspectives and interests
professional groups
“epistemic communities”

“If there’s no computer involved, then it’s not an economic crime,” states a policeman with considerable experience of investigations into economic offences. (BRÅ 2000:2:20.)

Introduction

The Swedish concept “ekonomisk brottslighet” (economic crime) is not a legal construction. It is employed primarily in the political sphere, in the work of governmental inquiries and state authorities, and in the social sciences. This versatility is linked to a conceptual vagueness and elasticity. For this reason, the majority of analyses, surveys and studies in this area begin with an examination of existing definitions. So many attempts have been made at producing definitions that the problem has occasionally been pushed aside. Earlier anthologies from the Swedish National Council for Crime Prevention (Brottsförebyggande rådet/BRÅ) have included requests both to avoid the definitional issue altogether, and to devote more time to it (Magnusson 1985:148; Korsell 1999:41-44). What is striking, however, is that even in the former case the question was nonetheless taken up and examined. This situation is not, of course, unique to Sweden. Definitional problems and conflicts over terms such as “white-collar crime”, “corporate crime” and “occupational crime” are well documented (Helmkamp, Ball and Townsend 1996; Slapper and Tombs 1999:1-19).

The differentiation between economic crime and other crime ought to involve criteria both for *separating* economic crimes from other crimes, and for establishing what economic crimes have *in common*. If this cannot be achieved fruitfully, then the only reasonable option would be to stick with the specific legal offence categories (fraud, tax offences etc.). The question of who gets to decide how fruitful such a generic concept is deemed to be, however, is of critical importance. A sociological perspective on the definitional issue should therefore take into account *who* does the defining and *for what purpose*.

The objective of this article is to clarify the reasons which justify the differentiation between economic and other crime, and why the definitions differ between professional groups, perspectives and interests. By this means, definitional differences between legal, political, police and research perspectives can be both explained and “legitimised” sociologically. This does not mean that the problem of economic crime is relativised, only that the use of conceptualisations must be understood in *relational* terms—i.e. in relation to the practical operations and the “epistemic communities” that give them their relevance and plausibility (Braithwaite and Drahos 2000:501-504).

What is “economic”...

The main conceptual conflict connected with terms such as “white-collar crime”, “corporate crime” and “economic crime” is that concerning the second component in them. As early as the Sutherland-Tappan debate of the 1940s,

discussion arose as to which irregularities within the economic sphere and among the powerful constituted (white-collar) *crime*. This question is closely connected to the fundamental issue within criminology of whether to employ a strict legalistic interpretation of the term “crime” or whether it is reasonable to use a wider, social-scientific and political conceptualisation. As we know, Sutherland advocated the latter alternative, whereas Tappan prescribed the former, according to which only those offences that constitute a breach of the criminal law and that have been so adjudged in the courts are to be regarded as “crimes” (Sutherland 1949:29-55; Tappan 1947).

The first component in these concepts is also a disputed issue at the international level. Many alternatives have been suggested, often amid claims that they are more unambiguous and clearly demarcated than their predecessors, and that they have more relevance for research. Among these suggestions are white-collar, commercial, business, corporate, occupational, economic and organisational crime; crimes of the powerful, of the top, of the suites and of capital; as well as, among other terms, elite and organisational deviance (Slapper and Tombs 1999:8 f.).

In Sweden, as in some other European countries, there has been a gravitation towards one particular concept—“economic crime”. In consequence, the question of *what* is “economic” about “economic crime” has been the focus of less attention. I have therefore chosen this question as a starting point for the analysis of the definitions in the Swedish context. Initially, however, something should be said about the concepts “economy” and “economic action”. In everyday use, these terms are relatively unproblematic. This may be the reason why they are not usually elaborated when defining “economic crime”. As a result, the vagueness inherent in the everyday understanding of these concepts has found its way into the definitions of “economic crime”—for better or worse. Hence, a closer examination of the definitions of these concepts is required.

To begin with, “economy” can be defined analytically with the focus placed on the societal level or on the maintenance of a certain “function”. Among economists, the scarcity definition is that which is most well established. Here “economy” refers to the management of scarce resources. In more concrete terms, this relates to the production and distribution of goods and services in society (Begg, Fischer and Dornbush 1987:2; Smelser 1963:23 f.). Among sociologists too, the scarcity and resource allocation definition is common, as in definitions that describe the economy as the means by which societal goals are achieved, or as a society’s capacity to adapt to its environment (Holton 1992:8-20; Parsons and Smelser 1956:20; 39 f.).

A second way of defining “economy” has a more empirical focus on the activities, organisations and institutions with whose help the resource management referred to above takes place. Here the economy is the societal sphere in which the production and distribution of goods and services take place—or alternatively the societal system in which activities are primarily co-ordinated

by money and the price mechanism (Luhmann 1988:14-16; 63-65). The market is usually presented as the central institution within the economy, and it gives rise to a set of “roles” which define the actor’s position and relationship with others in the economic sphere—producer, employer, owner, director, supplier, financier, employee, consumer, etc. While this empirical definition is in many ways similar to the analytical definition, the two are not identical since “the management of scarce resources” also takes place outside of the economic sphere: in the family, school or church (Parsons and Smelser 1956:14-22; Smelser 1963:69-98).

If the first definition captures the function fulfilled by the economy and economic activity, and the second captures the context in which economic activity takes place, then a third definition focuses on “economic action”. In neo-classical microeconomics, the principle of economic activity is highlighted by means of an ideal type—“economic man”—whereby actions are characterised by a rational calculus which maximises personal utility (Holton 1992: chapters 3-4). This definition thus extends beyond the boundaries defined by both of the previous definitions based on resource management and the economic sphere, at least by those who contend that this form of logic is characteristic of all human actions, of marriage as much as crime (Becker 1993).

This brief overview shows that the concepts “economy” and “economic action” provide no solid foundation for a definition. “Economic crime” might include offences committed in the context of societal resource management processes, offences against the rules, organisational forms and institutions with whose help this resource management is carried out, or offences based on a rational calculus that maximises personal utility. It is true that many of the activities which are commonly classified as economic crimes would be covered by such a broad definition, but so are more traditional offences such as thefts. There is thus good reason to carry out a more “inductively” based inquiry into those aspects of an offence which are deemed to qualify it as an economic crime in the context of Swedish definitions.

...about “economic crime”

In Swedish definitions, at least seven aspects of an offence have been referred to as crucial to whether it is to be considered an “economic” crime. In the vast majority of cases, several of these aspects are combined. Here they will be presented individually, however, in order to clarify to what end they may be useful and on what grounds they may be criticised.

a) The actor: One possibility is to designate as “economic” those offences committed by a certain type of actor. There are two variants. The first is related to Sutherland’s definition of “white-collar crime”, according to which the offender is a businessman or a member of a certain class or status group: “a crime committed by a person of respectability and high social status in the course of

his occupation” (Sutherland 1949:9). Definitions of this kind have been advocated by the Swedish trade unions TCO and LO (Lindgren 2000:100). This influence has been discussed by the National Council for Crime Prevention:

The influence of this American criminology is clear in the definitions of economic crime that began to find their way into use both in this country and elsewhere in the Western world during the second half of the 1970s. Stated somewhat simply, the term “economic crime” is employed as a general label for crime committed by high-status individuals in the context of their companies. (BRÅ 1987:5.)

Another designation focusing on the actor instead labels as economic those offences committed by juridical persons. This definition is relatively closely related to the concept of “corporate crime”, defined as “any act committed by corporations that is punished by the state” (Clinard and Yeager 1980:16). In Sweden, a conceptualisation of this kind has been formulated by Träskman, using the term “crimes of the economy”:

With regard to a large part of the crimes of the economy, it is difficult to trace the liability to a single physical perpetrator or to a few physical co-perpetrators. The guilty party is usually a collective, a juridical person, a company. The crimes of the economy are most often the crimes of a corporate body. (Träskman 1977:179.)

Both these types of designation have been criticised for being problematical in the research context—the former because it confuses the definition and the explanation of the offences. According to Shapiro, it misses the facts that actors in the economy can commit “traditional” offences, and that “white-collar crimes” are committed by “offenders clothed in very different wardrobes” (Shapiro 1990:358). The designation emphasising offences committed by juridical persons (primarily companies) has in turn also been criticised from a research perspective, the argument being that theoretical models must work on the assumption that it is people, and not organisations, that think and act (Cressey 1995). The use of this designation may also face criticism in countries where, as is the case in Sweden, the law states that only physical persons can be deemed to have committed offences and may therefore be punished.

The usefulness of this type of designation lies principally in the way it can shed light upon the asymmetries that exist in the way deviant and harmful acts and enterprises are dealt with, depending on who commits them. In both the research and the political contexts, it may be of interest to address legal imbalances of this kind. In countries where juridical persons can be punished for crimes, this type of definition is naturally quite reasonable from a research point of view. This is also true in countries where no such legislation exists, but in this case the approach clearly becomes more politicised.

b) The motive: A second option is to highlight the economic motivation or objective underlying a criminal act. This is often done in official Swedish definitions where economic crimes are deemed to be crimes motivated by economic profit:

According to the description of the concept employed by the crime-control authorities, i.e. primarily the police and the prosecution service, economic crime comprises first and foremost offences that are motivated by economic profit. (JuU 1980/81:21:62.)

Even if the profit motive is complemented by other factors, it can nonetheless be criticised. It provides no clear demarcation in relation to many other offences, such as thefts. One research-related problem with designations of this kind is that the motive is already established by definition, which reduces the opportunities for researching the motivation behind economic crime.

This approach appears to be most useful where the objective is to call attention to “the criminogenic character” of capitalism and the profit motive. By associating the profit motive with economic crime, attention is focused on the problematic aspects of a market economy that is maintained by and encourages interaction based on a rational calculation aimed at maximising individual utility. This argument implies that there is a need for the economy to be embedded in judicial or moral principles of conduct.

c) The context of the action and the means employed: A third way of differentiating economic offences from other forms of crime is to limit them to crimes against rules that regulate the context where economic activity takes place. On the basis of a designation such as this, “economic crime” is offending that takes advantage of the transactional and organisational forms of the economic sphere—contracts, monetary transactions, corporate forms, etc.—in a criminal way. This is one of the most commonly found components in official Swedish definitions of economic crime, often in combination with the profit motive, and often formulated in terms such as that the offences take place “within the framework of (legal) commercial enterprise” (BRÅ-PM 1996:5:17-22; Ds 1996:1:189). A somewhat broader variation specifies “economic crime” as including not only offences committed within the framework of commercial activity, but rather all breaches of the system of regulations relating to the economy:

[t]he economic crime found in a country at a certain point in time is a reflection of the economic system in operation in that country. There is no country that would feel itself able to give market forces a completely free hand [...] All breaches of the regulation of the economy of a society, or at least all such breaches that are punishable, can therefore be described as economic crime. (Svensson 1979:94.)

The first of these designations, according to which “economic crime” is differentiated from “organised crime” through its legal organisation, can be questioned on both theoretical and empirical grounds (Passas and Nelken 1993). The second variation is instead open to criticism on the grounds that the majority of the regulations that circumscribe the economic system are not part of the criminal law, but are rather based on civil law or are administrative in nature. For this reason, many social scientists have employed a broader definition of “crime”, or have spoken of “corporate deviance” or “organisational deviance”

in order to construct a concept that includes breaches of all regulations and controls that demarcate and regulate the economic sphere (Punch 1996:50-59).

Definitions of this type appear to be useful from both a research and a political perspective. A designation that specifies control systems and sanctions by which the activities of the economic sector are regulated provides room for relevant research questions in the social sciences. Such a definition would appear useful to politicians too, since it facilitates the problematisation of, and improvements directed at, the effectiveness of the economic system.

d) The character of the act: A fourth factor that may be used to classify offences as “economic crimes” relates to the character of the act in question. The best known of such designations is that coupled to the concept “white-collar crime”, which focuses on acts that involve a breach of trust (Sutherland 1949:13; Shapiro 1990). In the Swedish context, quite different characteristics have been introduced. In the official definition cited earlier, the profit motive is followed by a specification of the character that acts must possess and of the context in which they must be carried out:

In addition, in order for offending to be regarded as economic criminality, it must be of a *continuous character*; be practised in a *systematic fashion*, and take place within the context of a commercial enterprise that is not in itself criminal, but which constitutes the basis for the criminal acts. (JuU 1980/81:21: 62 [emphasis added].)

In addition, the directives issued by the National Police Board (RPS) might be mentioned. Here a further criterion was adopted, in that the offences should manifest themselves in “well planned and organised forms” (Persson 1986:10). While the primary value of designations of this kind is that they direct resources and police activities at those problems which are regarded as the most considerable, this also constitutes the principal ground for criticism. One drawback is that a definition based on the systematic nature and magnitude of offending is of little relevance from a research perspective. Another is that it may direct resources and activities in the “wrong” direction, as Axberger claims was the case in Sweden:

The type of offending that is conjured up by the definition is of an extremely serious nature. It is a question of systematic long-term crime, within the framework of legitimate and more or less respectable enterprises, with the sums involved tending towards millions. [...] It is not very likely that the Swedish commercial sector, well regulated and well organised as it is both professionally and in terms of public sector legislation, could play host to very many, if any, such malignancies. (Axberger 1988:23.)

Irrespective of the correctness of Axberger’s opinion, he points out that the value of this kind of definition is primarily political, as against the more research-relevant designation relating to breaches of trust found in the Sutherland tradition.

e) Consequences/barm: A fifth way of establishing what is economic in “economic crime” is to focus on the consequences of the offence. Using this approach, economic offences would be those that give rise to an economic

injury or that damage the economic system. In Sweden, this definition has primarily been advocated with reference to the definition made by the German legal scholar Tiedemann (1976:210).

Economic crime is that criminal behaviour whose effects disrupt or damage economic life or the economic system in such a way that it is not only the interests of individuals that are affected. (Magnusson 1985:24.)

According to Magnusson, this type of definition can be combined with the profit motive, but not with the close ties to the commercial sector and specific actors present in other definitions. This means that “economic crime can occur anywhere in society” (Magnusson 1979:46). On the basis of another formulation, it is not economic injury *per se*, but whether such injury is inflicted upon the state, that is decisive for where the line is drawn in practice between economic offences and other forms of crime:

In reality, the term economic crime refers to illegal acts that lead to an economic loss for the community at large, i.e. crime that causes injury to the financial interests of the state. However, illegal acts that involve individuals appropriating from the public purse greater benefits than those to which they are entitled are not included in the concept of economic crime, provided they do not concern commercial activity. (Petrén 1986:15 f.)

A first criticism that can be levelled against designations based on the economic nature of the consequences of the act is that they provide no clear demarcation between “economic” and “traditional” or “ordinary” offences. On the one hand, many crimes designated as economic offences also cause damage of an environmental, psychological or physical nature. On the other, many traditional offences give rise to economic injuries for individuals, organisations or society as a whole. In spite of this, the presence of economic injury is a factor that has been ascribed substantial weight in the Swedish context. One reason is that the state and the commercial sector make powerful victims. A victimologically inspired criticism is therefore that this definition devalues other types of victim:

Two factors would appear to be important for the introduction of greater consideration for individual persons as victims and to injuries other than the directly economic. A definition of the problem is required whereby the economic profit motive is complemented so that other damaging consequences are also taken into consideration, and repression should be directed at practices that are in breach of regulations and laws in a broader sense, and not merely concentrated on actions that are in breach of the criminal law. (Lindgren 1999:96.)

The limitation of the “economic crime” concept to injuries inflicted on the economy and the economic interests of the state is probably most useful as a means of establishing, as a political priority, offences that bring about negative economic consequences for businesses and the state. From a research perspective, however, it seems to be less fruitful.

f) The legislation: A sixth means of establishing the economic component of “economic crime” is to determine which legislation is “economic”. This may be

done, for example, by means of an enumeration, as in the instructions issued to the Swedish Economic Crimes Bureau (Ekobrottsmyndigheten):

The Economic Crimes Bureau deals with [cases] relating to Chapter 11 of the penal code, the Act (1967:531) on the Safeguarding of Pension Commitments, the Tax Offences Act (1971:69), the Joint-Stock Companies Act (1975:1385), the Insider Trading Act (1990:1342) or the Act (1991:980) Relating to Trading in Financial Instruments, or which demand special knowledge of financial conditions, the commercial sector, tax law or the like. (SFS 1997:898.)

The rather open-ended formulation at the end of this citation indicates, however, some of the problems involved in attempts to enumerate the laws to be considered sufficiently “economic” that offences against them may be dealt with by the Economic Crimes Bureau. For this reason, the point is also made that, in addition to the crimes of the commercial sector, “economic crime” covers “offences committed by private individuals that are focused on regulatory systems of strategic importance to the economy” (Ekobrottsmyndigheten 1998:3:17). The criticism of these attempts to identify the laws against which economic crimes are committed has to do with the fact that Swedish law is not organised to correspond to such a concept:

[i]n actual fact [economic crime] covers an almost impenetrable jungle of hundreds of regulatory systems containing criminal law provisions focused on commercial activity. These include the regulations of association law, of health and safety at work and working hours, environmental legislation, provisions relating to conditions of competition etc. In addition there is the entire body of tax legislation as well as the provisions of the penal code relating to, among others, debt offences, accountancy offences, fraud and embezzlement etc. The crimes involved are of very diverse character and the only thing they have in common is that there is some form of commercial enterprise in the picture. [...] it is profitable to discuss each offence in isolation without pretending that the different crime types have a great deal in common. (Korsell 1999:41.)

The advantages of a definition based on legislation are obvious. The problem is that on the one hand, the economic crime concept has no judicial status, and on the other, most of the laws relating to the economic sphere are not part of the criminal law, but are rather of a civil or administrative kind. Hence, terms such as “economic delinquency” or “economic offences” might be more relevant from a research point of view if all legislation relating to the economic sphere were to be brought together (Tiedemann 1976:209).

g) Expertise: The seventh means of establishing what is economic in “economic crime” is to begin with the expertise required of police, prosecutors and judges. If anything, this may appear to be putting the cart somewhat before the horse; but as in the above quotation from the instructions issued to the Economic Crimes Bureau, this pragmatic approach is not uncommon in official definitions, and in those used by various state authorities:

The most important aspect of the definition of economic crime is the requirement for expertise. It is around this specialist expertise that the organisation and work of

the authorities must be built up. The requirement that there be a connection to commercial operations is therefore of secondary importance in the definition of economic crime. (Ds 1996:1:189.)

One variation on this designation goes even further along the road to circularity in the definition and states that “economic crimes” are quite simply those offences that are investigated by relevant authorities (Ekobrottsmyndigheten 1999:3). One criticism that can be directed at definitions of this type is that they do not provide a stable definition or one that is relevant from a research perspective. If the focus of the authority changes, so does the object of study, and the possibility of making comparisons over time and across national borders is reduced. In addition, the expertise criterion can be questioned on the basis of operational factors:

The control of economic crime requires special knowledge and access to particular forms of expertise, but so do other forms of criminality. Economic crime does not differ from other forms of modern intellectual criminality in any essential manner, and it is not possible to draw a very clear line of demarcation around it. (Romander 2000:7.)

Definitions of this kind are not, of course, intended to be employed in research. Their usefulness lies in their ability to bring about a division of labour, whereby resources and expertise are assembled for more effective crime control. In addition, operational praxis is based on the legislation in force at a particular time, and therefore the need to specify the contents of the term “economic crime” is not entirely relevant.

Definitional practices in different epistemic communities

Both in Sweden and in English-speaking nations, the central definitional conflict has been seen as that between the legal tradition of emphasising the breach of law, and the sociological focus on the status of the perpetrator and the breach of norms in a broader sense (Korsell 1999:44; Poveda 1994:39-42). The survey presented above shows, however, that when the question shifts from what is “criminal” to what is “economic” in “economic crime”, the definitional issues involved become more complex. It is true that several designations are often combined in one definition, but the analysis nonetheless shows that the choice of aspect to be emphasised is dependent on what is regarded as relevant from research, political, or practical crime control perspectives. What the “economic” component of “economic crime” comprises is decided on the basis of the *perspective* from which the issue is examined, *who* is doing the defining and *to what end*.

I have attempted above to consider potentially fruitful aspects of different definitions of “economic” crime as well as those aspects that are open to criticism. It is of course nothing new to suggest that different definitions are advocated by different groups, and this fact can doubtless be dismissed as a trivial observa-

tion. However, since attempts are made to establish the general acceptability of definitions originally formulated with specific ends in mind, there is a need to clarify both the ways in which the concept of “economic crime” can be employed, and in which “epistemic communities” this is done.

From a *judicial* perspective, the term would seem to be of little importance, since it has no legal status—which does not of course mean that the term is not used in the field of legal science (Wiener 1985). This is also the reason behind the jurists’ criticisms of the broad and weak “sociological” or “politicised” concept of crime that is often discussed in terms of “economic crime”, in Sweden as well as in other countries (Victor 1979:67 f.; Axberger 1988:27-29).

From an *administrative* perspective the term “economic crime” has been more useful, primarily as a tool to mobilise resources and expertise, and to effectively organise crime control in relation to legal regulations and transgressions. This has also been pointed out by police and prosecutors (Victor 1979:66). In Sweden, this perspective has become the central one, not least because the early definitions were based on police-related and operational considerations (Lindgren 2000:98). The objective was not to create a formal legal definition or to demarcate an area for research, but “to find a formula that in a manageable way could narrow down the illegal phenomena that one wanted to prioritise with regard to crime control” (Romander 2000:32). This was why the emphasis on a “legal commercial operation” and economic gain was combined with requirements that in order to be regarded as economic, the crime should be of a certain size, continuous and systematic.

Also from a *political* perspective, the issue is dominated by pragmatic considerations. Political definitions of economic crime have not focused on existing legislation, but are instead intended to mobilise opinion and push through changes affecting legislation and the distribution of control-system resources, in line with the political interests and ideologies on the basis of which they are formulated. The political objectives are associated with concrete problems: to collect state tax revenues; to protect consumers from bad products and cartels that reduce the level of competition; to create a stable framework for actors within the economy, in order to maintain the effectiveness of the market system; to protect sound companies and actors from the unfair competition of cheating and illegal operations; and to prevent activities that cause too much damage to the environment (Victor 1979:66).

Differences in political ideology have proved to be the decisive factor as regards which of the above problems has been profiled. In Sweden, crimes against the state (tax offences committed by individuals) have been discussed at greater length by the Social Democrats and the trade-union movement, while centre-right politicians have emphasised offences which cause harm to the commercial sector. For the most part, the political positions assumed from left to right have corresponded to the traditional division between a fairness/solidarity perspective and a deregulation/tax-cuts perspective (Lindgren 2000:205-207).

When compared with the political formulations, the definitions of economic crime produced from the *social science* perspective are based on more abstract and general—theoretical—problems. This does not, of course, prevent some research being carried out in the service of politicians or the state. Nor is there any objection in principle to the legalistic perspectives. Social science research may well base itself on the provisions of existing legislation and attempt to measure, describe and explain fraud, offences related to the regulation of competition, criminal breaches of trust and so forth. But there is no reason for social scientists to restrict themselves to these issues.

The differences between two perspectives in the sociology of law can be used as an illustration of how social science approaches the problem of economic crime in a more theoretical and abstract manner. The way law is perceived from a *class and conflict* perspective is very different from the way it is perceived from a *functional differentiation* perspective. The former approach regards law as an ideologically biased instrument of domination, whereas the latter views it as an instrument for the co-ordination of expectations and the differentiation of social spheres. These antagonistic conceptualisations give rise to quite different questions in relation to economic crime. From a conflict perspective, the central issue is whether law gives special treatment to persons committing breaches of norms and harmful behaviour on the basis of their class background and status—most clearly accentuated above in attempts to define “economic crime” on the basis of the characteristics of the actors. In terms of the differentiation perspective, the important issues are those relating to the ways in which a differentiated economic system can be regulated functionally, i.e. so that both internal efficiency and external confidence are maintained. This approach is most clearly visible in the above designations of “economic crime” in terms of crimes that are committed in a certain context, or which cause certain types of harm. The political antagonism between the fairness/solidarity and market/efficiency perspectives is thus reflected in the social science tradition in a more abstract antagonism between these two theoretical perspectives.

Epistemological vigilance

The crucial point made in this article is that different definitions and designations of “economic crime” are not so much in competition with one another as they are integral parts of separate practices belonging to different “epistemic communities” and relating to the specific problems relevant to these communities. The concentration in Sweden around a *single* concept can appear to be an advantage by comparison with the great variety of concepts found in the Anglo-Saxon tradition. However, the question is whether such an all-embracing concept does not in fact give rise to more problems than a field that is conceptually splintered. There is a risk that too many perspectives and approaches may be

gathered under one roof, without consideration of the fact that they focus on quite dissimilar phenomena. Hence, it is important to be clear as to the objectives that different definitions are suited to. It is, of course, not self-evident that administrative practice based on scientific definitions, or research grounded in political definitions, would produce the best results. Nor is it reasonable to exclude certain problems from research, or to reduce them to one another. It is therefore impossible to resolve the definitional issue once and for all. On the contrary, its presence as a recurrent issue in the research should be seen as a positive sign, indicating the presence of “epistemological vigilance” (Bourdieu, Chamboredon and Passeron 1991:2-12).

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Survey Methods —A Means of Providing Information on Economic Crime?

Martin Bergqvist

Abstract

There is currently a research project underway in Sweden whose objective is to examine the possibilities for improving official statistics relating to economic crime. One part of this work involves investigating, by means of a literature study, which of the available methods and sources might be suited to a statistical illumination of various types of economic crime. This chapter examines the case of one particular method of data collection—questionnaire surveys. The specific methods examined are victim surveys, self-report studies and bystander reports. The principal focus is directed at the first of these methods. General advantages and disadvantages are discussed for each form of data collection. Thereafter, this discussion is related to studies that have made use of these data collection forms concerning economic crime.

Keywords

victim surveys
self-report surveys
bystander reports
methodological problems
sources of error
complement to crime statistics

Introduction

There is currently a research project underway in Sweden whose objective is to examine the possibilities for improving official statistics relating to economic crime. One part of this work involves investigating, by means of a literature study, which of the available methods and sources might be suited to a statistical illumination of various types of economic crime. This chapter examines the case of one particular method of data collection—questionnaire surveys. *The intention here is to discuss whether such surveys may contribute relevant and reliable data such as can provide the basis for continuously updated statistics.* The text should not be seen as an attempt to advocate the use of this particular method, but should rather be understood in the context of a much larger project—discussing several different methods and analysing the types of data that can be collected with each. The literature survey will then provide the basis for a number of pilot studies.

The remainder of this article is organised in the following way. Three distinct types of survey will be discussed: (1) victim surveys, (2) self-report surveys, and (3) bystander reports. The principal focus is directed at the first of these methods. General advantages and disadvantages are discussed for each form of data collection. The discussion then turns to the extent to which it is possible to employ these methods to measure the economic crime phenomenon. Thereafter, the focus shifts to studies that have made use of these data collection forms. To begin with, however, there follows a short review of the type of data that is of interest.

The concept *economic crime* has long been a matter of dispute within the research community, among public authorities (Bergqvist 2000) and for politicians (Lindgren 2000). The current project approaches this issue from a pragmatic perspective. A narrow definition will inevitably be disputed and runs the risk of being discarded. A wider definition may last, on the other hand, and at the same time provides room for typologies that allow for the inclusion of descriptive accounts of different phenomena (cf. Wellford and Ingraham 1994). No precise definition is specified here, but activities are discussed that have elsewhere been referred to as *corporate crime* and *occupational crime* (Clinard and Quinney 1973), as well as individual frauds not requiring a position in a legal economic operation, such as certain forms of tax offence and frauds perpetrated on firms or public authorities (cf. Wellford and Ingraham 1994).

A further critical issue is that of the type of information relating to economic crime that is actually sought. In response to enquiries made by the Economic Crimes Bureau (Ekobrottsmyndigheten), suggestions were presented by representatives from a number of state authorities and trade organisations (Ekobrottsmyndigheten 1999). Interest was expressed in finding out about the forms taken by this kind of offending, the scope of the offences and the sums involved, as well as the effects of these crimes and the harm they cause. In addition, information is sought on the supervisory and crime control activities of

state agencies, the measures against economic crime taken by actors within the industrial and business sector itself and others, as well as background information such as the sector involved, the size and type of company, its age and geographical location, and the age and sex of the perpetrator (Ekobrottsmyndigheten 1999). In addition, it is desirable that improvements be made to the international comparability of the data collected (cf. Joutsen 1998). These factors should be borne in mind when discussing the suitability of survey studies as a means of measuring the economic crime phenomenon. The extent to which methods provide information of this kind is an important issue.

Victim surveys

Victim surveys are now regarded as a valuable source of data for estimating trends in traditional forms of offending as well as the distribution of this type of crime. Since 1978, Statistics Sweden (SCB) has been asking the Swedish population about their experiences of exposure to crime (SCB 1995), and international victim surveys have been administered since 1989 (van Dijk and Mayhew 1997). These studies ask a representative sample of the population if and to what extent they have been exposed to various types of crime, and about the circumstances of these offences. Compared with the registers maintained by various authorities, the data collected in this way lie much closer to the actual offences in question (Green 1990).

Victim surveys have often been said to be unsuitable for the measurement of exposure to economic crime (cf. Zedner 1997). This method of data collection has not been exclusively employed to measure thefts and assaults against private individuals, however. Victim surveys have also been used to study offences directed against businesses (Levi 1992; Walker 1994; Ellingsen 1995; van Dijk and Terlouw 1996; KPMG 1996; Ohlemacher 1999; RRV 1997; Aromaa and Lehti 1999; BRÅ 2000a) and frauds against private individuals (Jesilow, Klempner and Chiao 1992; NWCCC 2000). These attempts to study economic and other related offences are presented later in this chapter. To begin with, there follows a review of the arguments that have been put forward against the use of victim surveys in general and their use in relation to economic crime in particular.

What can victim surveys contribute?

Victim surveys may be used as a direct complement to official crime statistics. The method measures the prevalence of crime by means of asking the respondent about the crime he or she, or the business, has experienced. This is not to say that the objective is to establish the “correct” crime level by comparison with the number of offences reported to the police. The victim survey does not constitute some form of “answer sheet” against which the validity of register data can be judged in absolute terms. It is probably better to regard the results more as an independent supplement—allowing them to speak for themselves (Mayhew 2000).

It is also important to point out that in addition to this function, the victim survey fulfils a number of other objectives. The first of these consists in the fact that surveys of this kind can contribute to our understanding of the degree to which offences are reported to the police, and the factors that affect the level of such reporting. In addition, victim surveys contribute information relating to the risk of criminal victimisation. When it comes to economic crime, no data are collected relating to the trade or business sector of the actors involved. It would certainly be possible to register information of this kind in connection with official statistics, but it is likely that related factors also affect the extent to which businesses find their way into official crime registers to begin with. Victim surveys are unlikely to be subject to biases of this kind to the same degree. Finally, the victim survey can be used to ask other crime-related questions for which answers cannot be found in official register data (Mayhew 2000). One example of this is information on measures taken by organisations to prevent and uncover economic crime.

Methodological problems in victim surveys

Traditional victim surveys are subject to a number of methodological problems (Sparks 1981; SCB 1995). These traditional problems are naturally present even in this context. Two of the more important elements involved here are attrition and the extent to which events are actually reported in victim surveys.

It has been argued that one strength of the economic crime victim survey, as compared with victim surveys of traditional crime, is that it is likely that they are not subject to the same form of problematic attrition comprising individuals of great interest who cannot be reached. It should be borne in mind, however, that there may be businesses which cannot be included in the survey as a result of bankruptcy, and which were exposed to a considerable amount of crime prior to going under. Other businesses may have more to gain by keeping a low profile. The attrition might affect the result in different directions; the consequence can be either an over- or an underreporting. It may be that some refuse the survey because they feel uncomfortable about how their company or authority is run. But it may also be that those who see themselves as especially law-abiding or spared from economic crime would refuse participation because they feel it does not concern them (Ellingsen 1995).

The issue of the extent to which events are actually reported in victim surveys is related to several problems. There are a number of factors that may influence reporting. For one, the respondent may have been exposed to crime without being aware of the fact that he or she (or the organisation) is a victim. For many reasons, this is regarded as a particularly significant problem in relation to economic crime (Simpson, Harris and Mattson 1993). Whilst the victims' lack of awareness of their victimisation may constitute a problem, however, the survey itself may also contribute to defining an experience as criminal victimisation. It is possible that victims are only diffusely aware that the event

which they have experienced is in fact a crime (Reiss and Biderman 1980). However, the criminal part of economic crime can be difficult to define and events may be interpreted differently by different groups, which means that certain acts are defined as crimes in certain circles but not in others, i.e. reports do not reflect a commonly accepted condition of 'normality'. Another factor that may influence reporting is that the respondent may have forgotten the incident (exclusion), or may incorrectly remember when it occurred and thus incorrectly report it or not report it when asked (telescope effect). Finally, it is possible that the respondent does not want to report the incident. This may happen when incidents are highly charged emotionally, or when the respondent feels they are embarrassing or may be dangerous to report. It is possible that a business does not want to risk sensitive company-related information becoming public. It is also possible that the victim has participated in the offence, which will make reporting more difficult.

One problem that has already been touched upon is that certain forms of economic crime are quite uncommon. This means that relatively large samples are required and that the survey focus must be directed at offences that are believed to be relatively common (Reiss and Biderman 1980). One way of correcting for this is to extend the length of the recall period covered by the survey (Ellingsen 1995), as is discussed below.

There are, however, a number of arguments in support of the use of victim surveys, even though such surveys do not provide a complete picture of the crimes actually taking place. For one, this method may provide a picture of the forms of offending that are experienced as constituting a problem; i.e. even though unknown crimes committed against an organisation will not come to light, it is theoretically possible that offences which are known to have been committed, but which were not reported to the police, may be included. A second argument is that the bias affecting which acts are reported and which victims do the reporting is likely to be different from that operating in relation to the official registration of offences. Finally, as long as errors are constant, which is not the case in the official report and conviction statistics, they provide a reasonable reflection of trends over time (Ellingsen 1995). There is thus a difference between using victim surveys on a one-off basis and using them repeatedly, for example every third year, as a means of measuring trends. Furthermore, additional information can be collected which is not directly related to the measurement of the crime level. The latter is important since this type of information is sought, as has been mentioned earlier. In the course of the sections that follow, a number of victim surveys are discussed. The focus of these discussions is on the type of information that has been collected, the sample and the level of attrition, as well as any special factors that may be of interest. Somewhat less attention is devoted to the results.

An international perspective on businesses' exposure to crime

Victim surveys are usually advocated as a means of measuring crime in a way that allows for international comparisons. An international victim survey of businesses has been carried out within the context of a project known as the *International Crimes against Businesses Survey* (ICBS) (van Dijk and Terlouw 1996). The project is sponsored by the Dutch Department of Justice, the British Home Office, the Australian Institute of Criminology, and the University of Sheffield. The survey's objective was to collect comparable data relating to the companies' experience of crime, the costs of this crime and the preventive measures taken by the businesses in question. Carried out in 1994, the first survey focused on the retail trade in a large number of countries. In certain countries, including the Netherlands, other sectors were also included and it was thus possible in these instances to compare experiences of exposure to crime across different trades and sectors. None of the Nordic countries were included in these studies.

The sample comprised a total of 7,558 companies and was stratified on the basis of the size and type of the businesses concerned. In order to be able to draw conclusions relating to large corporations, the sample was constructed so that organisations of this type were over-represented. The data were collected by means of telephone interviews. The response rate is to be regarded as very good. In Holland, between 79 per cent (companies with 1-10 employees) and 72 per cent (11 or more employees) completed the interview. The corresponding figures for Great Britain were 82 and 77 per cent respectively. In France, Germany, Italy and Switzerland, the rates were lower, varying between 49 and 66 per cent. Van Dijk and Terlouw (1996) consider the results collected in the Netherlands, Germany and Great Britain to be comparable, but they are more sceptical as regards the remaining countries as a result of the fact that in these countries it had not been possible to carry out an analysis of the attrition, while the response rate had been considerably lower. The offences that were included and that are relevant in the current context were internal and external frauds and corruption. The proportion of companies reporting experience of internal fraud varied between 1.3 per cent (Switzerland and France) and 6.0 per cent (Czech Republic). The proportion experiencing external frauds ranged between 11.2 (Hungary) and 42.3 per cent (France) and corruption between 1.0 (Australia) and 4.8 per cent (France). Corruption and external fraud were among the offences that distinguished themselves with regard to repeated victimisation, i.e. a large proportion of those reporting experience of these offences reported more than one such crime.

Sweden was included in an international victim survey carried out in 1996 by the company KPMG (1996). The study included 19,000 businesses from different regions in eighteen countries. The Swedish sample comprised 1,000 businesses but of these only 60 per cent completed the questionnaires. This response rate was nonetheless exceptionally high when compared with many

of the other countries; the lowest response rate was recorded in Great Britain at a meagre six per cent (compare the 82 and 77 per cent recorded in the study described above). Various types of information were collected. Respondents were asked whether the company had experienced frauds, and where they answered in the affirmative they were asked to specify the type of fraud in question. In addition, the questionnaire included a question on financial losses in relation to the fraud, how the episode was discovered and what measures had been taken in response. Results from the Swedish companies show that approximately 43 per cent reported an awareness of at least one fraud within the organisation. Of the Swedish companies with operations abroad, a little over ten per cent had experienced “international frauds” comprising cheque and credit card frauds as well as frauds associated with financial transactions and bribery offences.

National representative samples of companies and organisations

The Norwegian National Crime Prevention Council (Ellingsen 1995) has carried out victim surveys focusing on economic crime on three occasions. The objective was to increase the available knowledge on the extent to which the commercial sector is affected by economic crime and on the extent and character of economic crime generally, as well as to develop a picture of the relationship between those running commercial enterprises and the state control apparatus in this area. In addition to the Norwegian studies, two surveys of computer-related crime should be discussed since, although they have little to do with economic crime, they are of considerable relevance from the point of view of methodological difficulties and opportunities. These surveys focused on Swedish organisations and were carried out on two occasions—the one looking at the years 1995–1996 (RRV 1997), and the other 1997–1998 (BRÅ 2000a). The objective of the surveys was to “chart the extent of computer-related abuses and offences in Swedish organisations, i.e. both privately and publicly owned companies, as well as public agencies” (RRV 1997).

The Norwegian study collected data by means of telephone interviews with Norwegian businesses on three occasions—1988, 1992 and 1994—and the results thus give an indication of trends in economic crime. On each occasion, the sample comprised 600 trading companies with at least five employees. This sample is taken from a nationwide population of approximately 40,000 companies of this kind, and thus constitutes 1.5 per cent of this population. No public sector operations are to be found in this material. The sample was stratified on the basis of company size, trade/sector, and geographical location (Ellingsen 1995). The rate of attrition was considerable. In 1994, 607 interviews were completed whilst a further 807 were attempted without success. Approximately half of this attrition resulted from practical difficulties, i.e. a large proportion of respondents (386) could not be reached, and another group

(86) were found not to be part of the population of interest. In such cases it is reasonable to assume that the attrition will not affect the results of the survey. Once these have been discounted, there remains a total of 382 phone calls which resulted in a refusal to participate in the study. Counted in this way, 989 phone calls produced 607 completed questionnaires, which amounts to a response rate of 61 per cent. It is more difficult to judge whether these refusals may have had any systematic effect on the results, and no analysis of the attrition was reported.

The Swedish studies of computer-related crime were focused on organisations with over 50 employees. Unlike the Norwegian studies, those carried out in Sweden included public sector organisations and, instead of telephone interviews, the data were collected by means of a postal questionnaire. On the first occasion, the sample comprised 1,693 organisations, and on the second occasion 1,564. In Sweden there is a total of 5,400 organisations of this size, which means that this sample includes over 25 per cent of the organisations in the population of interest. The sample was stratified on the basis of trade/sector and size of organisation. The response rate for the first study amounted to 77 per cent and for the second to 67 per cent. One factor probably responsible for raising the response rate in the first study was that the confidentiality of the data collected was secured by means of a special governmental ordinance. But the way the data were collected is also likely to have contributed to the high response rate. The questionnaire was completely anonymous as a result of the way the dispatch of the forms was organised. The questionnaire and a special response card, on which the respondent could order a copy of the final report, were returned in separate envelopes. In this way it was possible to keep track of which organisations had answered, while the organisations themselves remained confident that their replies were still anonymous (RRV 1997).

The first two Norwegian studies dealt exclusively with exposure to crime, but in the most recent questionnaire (1994) a number of additional attitude questions were included prior to the questions on experience of crime. The respondent was asked about the crimes committed against the company, who had carried out the activities in question, whether the occurrence had been reported to the police and why. Thereafter the respondent was asked a question relating to the experience of crime in that specific trade/sector in general. The alternatives that were read out were: fraud, embezzlement, bankruptcy offences, pirate copying of products, corruption and computer crime. This study does not indicate, however, whether information was recorded on the number of offences committed. In cases where a company reported several offence types or instances of an offence, it was not possible to collect information relating to incidence.

This was possible, on the other hand, in the study of computer-related crime. In this respect the questionnaire here was better formulated than its Norwegian counterpart. The companies received a questionnaire containing general

questions on computer security and the like, which included only a single question on whether the company had experienced any form of computer-related crime. If a company answered in the affirmative, there was a special form containing questions relating to the circumstances of the offence and what measures had been taken—one such form for each offence. A relatively large amount of data was thus collected relating to the crimes. As was not the case in the Norwegian study, the data collected in the computer-related crime survey provided an opportunity to count incidence, i.e. the number of offences, which may be important given the fact that six per cent of those reporting experience of fraud in a British study reported having experienced more than one offence (Levi 1992).

In the Norwegian studies, the questions were formulated so that the respondent would report incidents that had occurred within a period of two years. Otherwise, a recall period of a year is the norm in victim surveys. There were two reasons for choosing this longer time frame. The first was that the number of respondents was limited to 600 as a result of purely financial considerations. The second reason was that, when all is said and done, the activities being studied are relatively uncommon. The problem is that less serious incidents are forgotten in the context of a longer recall period. This may be less of an issue in the present context, however, since the respondents can be assumed to be more “professional” in relation to the incidents in question, and to their depiction. The experience constitutes a part of their professional lives and there may be a requirement that the crimes be reported internally and that related losses be included in accounting procedures (Ellingsen 1995). It is also possible that the experience of criminal victimisation in the commercial sector is less traumatic and stigmatising and thus easier to report. At the same time, certain incidents may be under-reported since they lead to the spread of suspicion within an organisation and are thus regarded as “traumatic” (Ellingsen 1995). There is also a risk of fear that negative publicity may result from exposure to crime.

The Swedish studies of computer-related crime are likely to be subject to under-reporting; incidents that are very similar to one another may only be reported once. Furthermore, the National Audit Office (RRV) states that respondents from regional and local authority administrations reported that they could only answer for the central administration, since they had no information on what takes place at the various remote offices and workplaces. In addition, it has come to light that there is not always a central reporting of incidents within large organisations. A number of organisations have gone so far as to ask permission to use the questionnaire as the basis of such reports within the organisation. The National Audit Office concluded that as a result of these factors, their estimation of the level of computer-related abuses and crime is likely to represent a lowest possible level of such activities in Sweden (RRV 1997).

Representative samples of private individuals or households

It is not only businesses and organisations that are exposed to economic crime. The American *National White Collar Crime Center* (2000) has carried out a national study of private individuals' attitudes towards and experiences of economic crime. The study constitutes an example of how it is possible to measure consumer-related offences, a neglected aspect of economic crime in Sweden (Korsell 1999). Telephone interviews were conducted with 1,169 households. Questions were asked relating to the respondents' opinion on economic crime, whether they were afraid of becoming victims of economic crime, and what they felt the characteristics of the average economic crime victim to be, as well as the extent to which they themselves had experience of economic crime and whether the incident had been reported to the authorities. The response rate was very low. In half of all cases, the interview was obstructed by various "gatekeepers", i.e. persons who answered the phone and then did not pass the call on to the intended respondent. Further interviews were obstructed by answering machines and caller identification features. The proportion of households participating in the study was thus reduced to 37 per cent. Of those cases where the interviewer managed to overcome these obstacles and reached the intended respondent, 74 per cent completed the interview (1,169 of 1,582). The attrition comprised 25 per cent (408 interviews) who refused to participate and less than one per cent (5 interviews) that were interrupted prior to completion.

The questions included whether one had paid for unnecessary car repairs, been conned out of money in connection with an Internet transaction, or been quoted a false price by a salesperson and then invoiced for a larger sum. The results relating to the experience of criminal victimisation showed that 36 per cent of households had experienced at least one of the offences over the course of the year prior to the interview. Forty-one per cent of these had reported the incident to an authority of some kind. The questionnaire is a good example of a means of collecting information on crimes against consumers.

Controlling validity in a victim survey

There remains the question of the extent to which these results are to be trusted, however. It is possible to test validity to some extent, although this raises a number of ethical issues. Such a test can be conducted by means of control studies, perhaps taking the form of a "reverse register check" for example (Green 1990). In this case one begins with a number of victims registered as such by the relevant authorities. These are then asked about their experience of crime, preferably by interviewers who are not themselves aware that the respondents are part of a control group. It is possible in this way to examine the extent to which known offences are reported in the context of a victim survey. The results provide an indication of the validity of the study as a whole. One requirement for the victim survey results to be considered reliable is that

at least these known offences are reported. In addition, this method provides information on which offences are not reported in victim studies, as well as on whether there is any pattern to under-reporting of this kind. It might be the case, for example, that the offences which are not reported are of a trivial nature.

Data of this kind were collected by Levi (1992) although the objective was not that of conducting a control survey. The study focused on *known victims* found in court data from the Central Criminal Court in London (1984–1985) and Cardiff Crown Court (1983–1984), as well as a number of other victims identified through contacts with various private businesses (“private police”). The survey shows that it is possible to conduct a control study even though Levi (1992) points out that obtaining the necessary information is a time-consuming task.

Self-report surveys

Self-report surveys are another form of survey method that has been used to obtain information on crime and crime-related issues. Respondents are asked about the extent to which they have committed acts in breach of the law. Such questions have been employed to measure juvenile crime both internationally (Junger-Tas, Terlouw and Klein 1994) and in Sweden (Ring 1999; BRÅ 2000b). There are felt to be a number of problems associated with the employment of this method as a means of measuring economic crime, however (Reiss and Biderman 1980).

Few studies of economic crime have used this method of data collection. The National Audit Office (RRV 1998) has used the self-report method to study the occurrence of black market labour. Telephone interviews were conducted with 2,181 individuals aged 18 to 74 years, with a response rate of 73 per cent. Such offences are included in the economic crimes category as long as a broad definition of economic crime is applied, as it has been in the current chapter. Even where such a broad definition is not acceptable, this type of study can be of interest. It may function as an indicator of the extent to which companies employ black market labour, since not all such labour is carried out between private individuals.

It is nonetheless possible to question the suitability of this method in relation to the measurement of other forms of economic crime. It is more difficult to measure crimes committed by organisations in this way, among other things as a result of the difficulties involved in finding a perpetrator, i.e. identifying a single person as responsible. It has been argued that self-report studies are only suitable in cases where there is a lone perpetrator, or where the perpetrators comprise a small group and where the role each played in the incident is known (Reiss and Biderman 1981). The method works less well in the context of larger, more diffuse groups. In addition, the study might be focusing on incidents of a very sensitive nature. It is unlikely that a respondent will answer a question truthfully if he or she is troubled over earlier behaviour or feels that doing so

may involve some kind of personal risk (of losing a job, for example). Another problem is that the act may not be defined as criminal by the perpetrator—or the actors may be unable to estimate their own contribution to the criminal event (Simpson, Harris and Mattson 1993).

One possible means of circumscribing the respondent's unwillingness to answer sensitive questions, as will be discussed below, is to ask questions relating to a trade/sector in general or to competitors. An alternative strategy that has been proposed as a means of avoiding this same problem is to employ *random replies* in combination with self-reports (Green 1990). The point of this strategy is that the questioner does not know whether the respondent has answered a "real" question or a "dummy" question. This is decided at random, by the tossing of a coin for example. On the basis of certain known statistical conditions the questioner can then estimate the aggregate proportion of those who have committed offences. This strategy has been suggested as a means of measuring other offences too, such as tax evasion, employee thefts, price-fixing cartels and insider trading offences (Green 1990). Although the method may be better suited to sensitive questions, however, it is also more limited. It does not allow one to establish specific characteristics in a respondent or group of respondents, for example, without dispatching the questionnaire in several editions.

Bystander reports

One variation of the self-report method that has been employed in economic crime research might also be termed 'bystander-reported' crime. The respondent is asked about the extent to which competitors or "others in the sector" engage in different kinds of illegal activities in order to attain an advantage. This is one way of avoiding the issue of sensitivity that affects respondents' willingness to report their own offences. Several studies of economic crime have employed this method, asking representatives of companies in general (Ellingsen 1995), restaurateurs (Alalehto 1999) and fund managers and analysts (Hetzler 1999; Affärsvärlden 1999) about crime in their respective sectors of the economy.

The general public, too, may be in possession of knowledge relating to economic crime, as was shown in a study conducted by the Economic Crime Authority and Statistics Sweden (Nya Åtalet 1999). These agencies studied the Swedish people's attitudes towards and contacts with economic crime. Questions were asked about the extent to which they had come into contact with certain types of crime such as smuggled liquor, smuggled cigarettes and black market labour. The public's contact with such offending might be interpreted as a measure of its occurrence and extent. The use of bystander reporting requires that the respondent can be assumed to have a good knowledge of the occurrence of crime. The principal problem with this type of study, however, is the circulation

of myths and rumours. Reporting the crimes of others may in addition, in certain circumstances, prove every bit as sensitive as reporting one's own offences.

Concluding remarks

The objective of the paper presented above has been to *discuss whether survey methods can provide relevant and reliable data on economic crime such as may constitute the basis for continuously updated statistics*. The principal focus has been directed at victim surveys, but both the self-report and bystander-report methods have also been discussed briefly.

The victim surveys that have been discussed serve as examples of research designed to collect the desired information relating to the situation of businesses. The surveys provide information on the prevalence of crime, the financial cost of criminal victimisation, the identity of the perpetrator where this is known, how the offences were discovered, whether they were reported to the police and whether the company has taken any measures against this kind of activity. Information has been collected on a large number of different types of offence referred to as examples of economic crime. In addition, a means of measuring the incidence of offending, as was employed in the Swedish surveys of computer-related crime, could also be used to measure the incidence of economic crime. The Norwegian surveys were limited, however, to companies' experience of crime, and while they could be extended to include organisations, it is not only organisations that are victimised by economic crime. The American study entitled *The National Public Survey on White Collar Crime* provides an example of how one can study the victimisation of private individuals in their capacity as consumers by means of various kinds of fraud.

The question remains, however, as to the reliability of the results produced by these surveys. They are of course subject to a number of shortcomings. Specific to the context of organisations is that the level of knowledge relating to exposure to crime and measures taken against such activities may vary considerably within an organisation. It is probably very important that the right person answers the questionnaire, even if the significance of this factor is empirically unknown. Certain offences are less easily uncovered and reporting can be biased depending on the type of control resources available within an organisation. This can affect results in both directions. A large organisation may have better procedures for conducting routine controls, but at the same time its size makes it more difficult to keep tabs on. In the studies focusing on private individuals, too, it is possible that the respondents are not aware of having been victimised. It is also possible that incidents which are not in fact criminal offences are reported as such.

There are also factors that tend to support the use of victim surveys. The response rate is relatively good. The method can produce a picture of the

crime that is experienced as a problem; i.e. even if certain crimes of which there is no awareness within the organisation are not included, the survey may in theory include those that are known but which have not been reported to the authorities. In addition, the studies provide information on when and why an offence is brought to the attention of the police. Compared with police statistics, the information collected probably is not subject to the same bias with regard to which acts are reported and which victims do the reporting. Finally, provided the errors are constant, which they are not in police and conviction statistics, they may reflect trends over time. There is thus a difference between using victim surveys on a single occasion and employing them repeatedly, every third year for example, as a means of measuring trends. There is also the matter of the additional information not directly related to the measurement of the level of crime. It should be underlined that this is an important contribution. One example of this is information on the measures taken by organisations to prevent and uncover crime which, besides being interesting in themselves, can contribute to our understanding of traditional crime statistics.

Finally, it must be pointed out that the distinctions that have been made between different types of questions are constructions. A single study can of course include questions of different kinds; the Norwegian studies contain questions relating both to the companies' own experience of crime and to the trade/sector in general. In this way they can be used for validation purposes, even though it is not certain that the results will be in agreement. Further, survey results should not be interpreted in a vacuum, but should rather be validated by means of other information to the extent that this is possible. Survey studies can, however, function as a complement to traditional crime statistics.

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Offshore Financial Centres, Tax Havens and White-Collar Crime: Historical Developments and Contemporary Usage

Oskar Engdahl

Abstract

Since their establishment in the late 1950s, OFCs and tax havens have always been associated with diverse kinds of organised and economic crime, such as money laundering operations, tax offences, fraud and insider trading. This paper deals with the question of how offshore financial operations in the form of OFCs operating as tax havens have been used for economic crime. The paper is organised in the form of a summary historical account illustrated with several specific cases. It constitutes a preliminary study in a project that will comprise theoretical development with a number of case studies. The objective of these case studies is to clarify whether, and if so how, OFCs and tax havens can be said to make possible, create incitement for, and facilitate economic crime.

Keywords

Offshore Financial Centres (OFCs)
tax haven
economic crime
white-collar crime
organised crime
globalisation

Introduction

Having once been regarded as obscure operations on the fringes of the financial system, an increasing number of the world's OFCs (offshore financial centres) operating as tax havens have come to play, during recent years, an ever more significant role in a financial system that is itself assuming an increasingly global character.¹ At the same time, ever since they first emerged, these centres have been associated with financial operations of a more or less unscrupulous nature, often bordering on the illegal. Nor has the involvement of OFCs in financial crashes, scandals and crime been a rarity over the years; far from it. There is much ignorance in this area, however, and research remains sparse. This is true of the phenomenon as a whole, but of the criminal aspects in particular.

The American Mafia —“mother of the offshore invention”?

On the basis of the available material, the American Mafia, with Meyer Lansky at its head, was first to establish financial operations of an offshore nature as a means of carrying out and concealing economic crime.² During the 1950s, the Mafia controlled extensive operations of a more or less illegal character in the USA and Cuba (Lacey 1991:6). These brought in large sums of money, and in order to conceal the origins of this money, it was transferred to Switzerland. In this way, the money was placed beyond the legal reach of the American authorities, making scrutiny impossible. At the same time, Switzerland was known for its far-reaching confidentiality regulations with regard to financial operations (Clarke and Tigue 1976:70 f.). This confidentiality meant that American authorities could not, even with the help of their Swiss counterparts, examine how much money the Mafia had placed there, the transactions that the money had been involved in, or even whether an account existed in the Mafia's name. Swiss confidentiality regulations therefore came to serve as a safe means of concealing illegally acquired assets.

¹ The designation “offshore centres operating as tax havens” generally refers to jurisdictions which allow banks and firms to run offshore operations and which simultaneously exempt them from taxation and regulations that are normally applied to onshore operations. Jurisdictions which allow this to take place only in certain narrowly defined areas are not included. Today approximately fifty jurisdictions across the world are counted as OFCs. See Engdahl 2000:35.

² Exactly when Lansky and the Mafia used offshore accounts, trusts and companies for the first time is unclear, however. There are those who contend that this occurred (in Switzerland) as early as 1932, whilst others are of the opinion that such operations did not commence until the 1950s. For discussions on this theme see Faith 1982:218 f.; Lacey 1991:5 f.; but also Naylor 1987:21 ff.; Ehrenfeld 1992:4 ff.; Robinson 1994/1998:4 f.

At the time, this way of handling money was probably unusual, but it would be difficult to contend that it was an altogether new phenomenon. It is likely that the practice of conveying illegally acquired assets out of one state for storage in another has been going on for some considerable time. But Lansky and Co. did something more than this. Both they and their operations were based in the USA, which meant that the money was of little use to them in Switzerland. It was not transferred there because plans were brewing to expand operations onto an international footing, or because of a desire to maintain a financial “cushion” out of reach of the authorities in case someone was forced to make a sharp exit. The money was transferred to Switzerland merely in order to conceal its origins. The Mafia were therefore forced to evolve different methods of conveying the money back to the USA, if possible without arousing either attention or suspicion. They succeeded in this by borrowing the money back (Naylor 1987:7, 21 f.). Borrowing money was legal, and by exploiting the confidentiality in place, the terms and conditions of the loan could remain a secret. They were thus able to conceal the fact that they were simply loaning the illegally acquired money from themselves.

The Mafia thus devoted themselves to money laundering by transferring money to a jurisdiction where they had no cause to worry about the abilities of the American authorities to trace it. This was achieved without using the money in the new jurisdiction (Faith 1982:29). The accounts, trusts and companies that were registered in such jurisdictions were therefore, by and large, feints and paper constructions that functioned in a way essentially very similar to the way offshore financial companies and OFCs are used today for economic crime. It appears that Lansky and the American Mafia were the first to deal with their assets in this way, and for this reason Lansky has been named both the “God-father of money laundering” and “the mother of the offshore invention” (Ehrenfeld 1992:4 f.; Maingot 1995:3; Naylor 1987:7).

The growth of offshore operations and the transformation of tax havens into OFCs

At the time of Lansky’s operations, what we today know as OFCs were still unknown, and the tax havens that are now so closely related to OFCs were a fairly marginal phenomenon.

Offshore financial operations emerged in the financial district of London during the years 1957–1958 when currencies began to be placed and used outside the jurisdictions within which they functioned as legal tender (Engdahl 2000:20). It was primarily a question of American dollars in Great Britain, referred to as “eurodollars”. In this way, it was possible to circumvent various types of regulations and to promote liquidity and profit margins. As the practice has grown, offshore has become a general label for the financial instruments and companies formed on the basis of the same principle as the “eurodollar”

(Versluysen 1981:16; Strange 1971:207). It involves loans, bonds, shares, derivatives, accounts, trusts and companies (Fischer 1997).

During the late 1960s, many of these operations began to be located in small jurisdictions characterised by low (or a complete absence of) taxation in relation to financial operations, bank confidentiality regulations that protected against inspection, and comfortable establishment procedures for financial operations controlled from abroad (Engdahl 2000:25 ff.). In general, it is these operations that are referred to as OFCs. After Switzerland, the Bahamas became one of the first jurisdictions during the 1960s to establish itself as a centre for offshore financial operations. The Bahamas had long had a reputation as an island that was

[c]onvenient for playboy heirs and covetous moguls in retirement who could not bear to lose a penny from their grasp. The island had served as a staging post for bootleg liquor in Prohibition days, and now it seemed that they might be connected with racy commerce of another type. (Lacey 1991:302 f.)

The Bahamas became a perfect refuge for the American Mafia once Fidel Castro had taken power in Cuba and made it impossible for them to continue their operations there (Naylor 1987:40; Maingot 1995:3; 1988:312). As with Switzerland, the Bahamas was used to convey money via companies and trusts shielded by confidentiality regulations. The money was placed in different accounts and transferred back to the USA through loans and investments in legal businesses so that the actual origins of the assets could be concealed. Different OFCs were often employed in a single chain in order to attain a “double wall of secrecy” (Naylor 1987).

The Bahamas was also used to establish a similarly large gambling operation (Messick 1971:246 ff.). Close ties were developed to the island’s political leadership (Faith 1982:232), while at the same time the white businessmen’s party of government, the *United Bahamian Party*, built up the Bahamas’ tourist and financial operations and in 1965 introduced strict confidentiality legislation (Maingot 1988:169; Stephens 1982:36-46). An important part of this process was related to the fact that the major part of the eurodollar market concentrated in London at the end of the 1960s started to move via the Bahamas. This was due to tax and regulatory factors as well as factors related to establishment procedures, and was especially exploited by actors from USA. By means of the euro-dollar, a previously obscure tax haven like the Bahamas was transformed into an offshore financial centre (Hampton 1996a:26; Hudson 1998:920; Johns 1983:195 f.).

OFCs, international finance and “white-collars”

International financial operations in general, and offshore operations in particular, were carried on throughout the 1960s, but on a relatively small scale (Fischer 1997:8, 34-38). As a result of comprehensive regulatory systems, they were also difficult to manage except for the relatively few people who were very familiar with the area (Engdahl 2000:15 f.). It is not so strange, therefore, that the cases

of offshore-related crime from this period for which there is evidence (besides the cases that will be referred to specifically) were without exception carried out by “white-collars” within the financial sector.

A number of cases of confidential accounts in Switzerland being used to manage securities received a great deal of attention as early as the end of the 1950s (Fehrenbach 1966:9 f.). While in a strict legal sense there were no criminal elements in those cases on which attention was focused, the possibilities of committing offences in this way dominated the discussions, in combination with a worry that communist interests would be able to anonymously buy up American commercial interests (Fehrenbach 1996:9 ff.). There are examples of offences committed at the end of the 1950s in which the Swiss accounts played a central role, but the USA of the 1960s appears to have been the first place where foreign accounts, shielded by confidentiality regulations, were used in a systematic fashion to both protect and acquire assets by means of illegal transactions (Clarke & Tigue 1976:170). One offence that appears to have been common was the circumvention of provisions regulating the proportion of financial securities that could be purchased by using loaned funds. In many instances, these regulations were systematically circumvented by way of brokers in the USA and bankers in Switzerland exchanging services with one another, using confidentiality-shielded accounts. By such means, taxes were also avoided (Clarke & Tigue 1976:160-170).

Entrepreneurs from the 1960s operating in the grey area between legitimacy and crime: Lefferdink, Cornfeld and Vesco

During the 1960s, financial instruments based on the offshore principle developed apace (Engdahl 2000:22 f.). Several of these made it possible for smaller actors to participate in the international financial markets, which were dominated by big banks and their clients, primarily governments and multinational companies (Engdahl 2000:23). Of particular interest in this context is the evolution of the Eurobond market. These bonds constitute a form of security that is not taxable at source. Thus they are not only financially profitable, they also make it possible for those investing in them to remain anonymous. In many European countries, they became a popular form of investment as a result of the technicalities of taxation:

In the early years, most Eurobond investors were rich individuals in the Benelux countries, or Swiss banks managing money for their private clients. [...] Much of the Eurobond market was...built on tax avoidance. (The Economist 1986:68.)

Long before the established banking and finance world availed itself of the opportunity to provide offshore services to a wider section of society, this had begun through the offices of financial “entrepreneurs” and “outsiders” who

saw offshore instruments and jurisdictions as a means of making headway on the national financial markets, which at this time were strictly regulated. The first of these entrepreneurs was Allen Lefferdink of *LE (Lefferdink Enterprises)*; the largest was *IOS (International Overseas Service)*, the brainchild of Bernie Cornfeld; and the worst was Robert Vesco, Cornfeld's nemesis.

LE and *IOS* were established in jurisdictions that were on their way to emerging as OFCs, and they were more or less completely in place by the time that well-established banks and multinational companies did the same thing. In large part, they appear to have moved offshore as a consequence of the fact that their ability to act in the American market had been rendered more difficult following the financial failure of earlier companies, and in the face of strict regulations (Clarke and Tigue 1976:64 ff.). Jurisdictions such as the Bahamas, Panama, Luxemburg and Switzerland offered comfortable establishment procedures by means of which they could set up securities funds, insurance companies and banks that quickly became marketable:

Vagabond IOS men sniffed out Americans wherever they could be found—on military bases, at oil-drilling sites in the Middle East, at out-posts of the U.S. Agency for International Development in Latin America and Africa, in the foreign branches of American multinational corporations. (Henriques 1995:143. See also Henriques 1995:126; Naylor 1987:27.)

In this way, they were able to participate in the incipient internationalisation of production, labour power and financial systems, while at the same time coming into possession of much-sought-after dollars even outside the USA (Naylor 1987:37). These operations grew quickly and soon evolved into nothing less than an industry in their own right, with hundreds of employees. A central part of this process involved the placement of various operations offshore (Henriques 1995:144). Of considerable importance in all this was the protective confidentiality that was becoming formalised during the 1960s in increasing numbers of small jurisdictions with a British connection. This attracted clients who needed to conceal money, whilst at the same time these funds could be managed by *IOS* and *LE* in a way that was not in conflict with existing regulations:

One of [Allen Lefferdink's] ... bank's greatest selling points was its secrecy. Its literature promised complete and impenetrable secrecy. No government authorities would ever be allowed to see the records of the Atlantic Trust Bank. Little did depositors know that this secrecy was soon to be extended to include the location of their money, the headquarters of the bank, and the whereabouts of Lefferdink. (Clarke and Tigue 1976:65.)

By making use of offshore conditions, *LE* and *IOS* were built into billion-dollar operations that essentially took the form of pyramid schemes (Henriques 1995:127). This was brought about in large part thanks to fraudulent marketing (Raw, Hodgson and Page 1971:15 f.). The operations were inspected and found wanting by American authorities, which prohibited Cornfeld and Lefferdink from operating in the USA (Henriques 1995:164; Clarke and Tigue 1976:64; Raw, Hodgson and Page 1971:17). By making use of dummy operations and companies

in offshore jurisdictions, they were nonetheless able to carry on their activities, which would later be revealed for what they were and sanctioned (Henriques 1995:165).

With the bursting in the early 1970s of the bubble of speculation that had blown up during the “go-go years” of the 1960s, *LE* and *IOS* both failed. Internally, attempts were made to maintain the value of the funds by manipulating prices and concealing failed deals under cover of the protective confidentiality regulations. All these efforts were in vain, however. Both Lefferdink and Cornfeld were soon to lose control over their respective operations, and in 1971 *IOS* was taken over and ruined by the financier Robert Vesco. In 1972, Vesco disappeared from the USA with hundreds of millions of dollars that would never be seen again. The same thing happened with Lefferdink and *LE*. And the reason why the cases were never completely cleared up is not difficult to find:

Investigations into Lefferdink’s activities have been launched by authorities in Europe, the Caribbean, and the United States. None of them have resulted in criminal charges. The greatest obstacle to investigators of international figures such as Lefferdink is that their financial records are unavailable because of the secrecy laws of the jurisdictions in which they have carefully chosen to operate. (Clarke and Tigue 1976:71.)

Welfare states and tax havens—“hand in hand” thanks to high taxes, affluent citizens and creative advisors?

An essential component of *LE* was the bank that was established on Guernsey, a British crown colony just off the northern coast of France. On Guernsey there were few regulations relating to financial operations at the beginning of the 1960s and the field was wide open to financial entrepreneurs. The *Atlantic Trust Bank Ltd.* was therefore established without having to fulfil the criteria demanded by most states the world over for the administration of banking operations (Clarke and Tigue 1976:64 ff.).

Guernsey was among the first of the British crown colonies in Europe to establish itself as a tax haven and centre for offshore financial operations at the transition from the 1950s to the 1960s. It was preceded by Jersey and joined shortly afterwards by the Isle of Man. This took place in parallel with the emergence in the Caribbean of (primarily British) colonies undergoing similar developments, foremost among these being the Bahamas, the Cayman Islands and the Dutch Antilles.

The Caribbean tax havens have been associated with serious and organised crime to a greater extent than their European counterparts. The emergence of the Caribbean operations was also more the result of efforts made by financial interests than was the case in Europe, where developments were rather encouraged by state authorities as a matter of policy. To begin with, the growth

of tax havens in British colonies in Europe was facilitated by authorities reducing tax rates, or maintaining them at a low level, in order to attract residents (Engdahl 2000:25-28; Hampton 1996b:59 ff.). This was taken over by financial actors who established themselves on these islands. The islands were then transformed into tax havens by means of tax planning in consultation with the authorities, and into OFCs by means of financial operations linked to the eurodollar (Roberts 1992:73; Hampton 1996a:61).

The development of tax havens in Europe has thus been closely linked to financial advisors, their wealthy clients and the international financial operations that emerged in association with the eurodollar. Due to their low tax rates, strict banking and company confidentiality and lack of regulations for financial operations in general, jurisdictions such as Guernsey, Jersey and the Isle of Man became increasingly distinct from the surrounding countries. From the time of the Second World War onwards, the latter had been transformed into welfare states which were run by means of collective financing and involved increasingly high levels of taxation. These taxes were, of course, legitimated by the strength of popular demand for the welfare state system in these countries, but they constituted a problem for the more affluent groups in society, the HNWI's (High Net Worth Individuals). Many of these saw a threat both to the wealth they had already accumulated, and to the opportunities available to them to accumulate further wealth in the future. In this context, the conditions of the emerging offshore markets and tax havens functioned as a kind of "safety valve" which allowed these HNWI's to continue to work in their native countries whilst transferring their wealth abroad (Lacey 1991:306). Professional advisors and entrepreneurs operating in the "grey area" showed the HNWI's how to make use of these conditions as they worked to find loopholes in and ways around the regulatory systems in place (Hampton 1996b:60 f.).

The best example of a group of individuals who exploited these conditions is found in the network-based organisation named the *Rossminster Group* that grew up around two highly motivated lawyers. These lawyers had a class background different from that of the traditional advisors, and a powerful drive to achieve high-status positions; in addition, they had acquired experience of the techniques and ideas of aggressive American accountancy and consultancy bureaux introduced into Britain by *Arthur Andersen* (Gillard 1987:18). By creating a large network of collaborators who were either completely or partially incorporated into the one organisation, different forms of tax avoidance schemes could be constructed and sold to thousands of "...wealthy individuals and large firms..." (Hampton 1996a:34). Using offshore companies, trusts and advisors in OFCs such as Guernsey, Jersey, the Isle of Man, the Bahamas and Panama, it was possible to take advantage of the conditions prevailing in various tax havens without having to become a resident. From being complete unknowns at the end of the 1960s, the group had managed to become perhaps the best-known tax avoidance consultancy in Britain by the end of the 1970s, at which

point the British tax authority, the *Inland Revenue*, put a stop to their activities (Hampton 1996a:34). Their use of OFCs was certainly far from unique, but not so the systematic approach they employed. They built schedules made up of long chains of circulating money, with whose help they could "...turn tax avoidance from a craft designed for the few into a mass-production industry aimed at the many." (Gillard 1987:15.)

Although lawyers and accountants in London were selling tax avoidance schemes throughout the 1950s, it was the 1960s and (above all) the 1970s that were the "boom years" for tax avoidance and tax fraud operations in Britain (Hampton 1996a:34, 115). It was then that offshore activities really took off for the first time. This new momentum was not least the result of the involvement of a number of new professional groups that were less tied to and dependent upon traditional societal forms (Hampton 1996a:34, Gillard 1987: 8 ff.).

Drugs, money laundering and small, vulnerable nations

The reason that OFCs are able to provide the conditions described above is related to their lack of capital, labour and natural assets, as well as their access to resources that make them an attractive environment for financial operations. These resources include a well-developed communications infrastructure, an English-speaking workforce, political stability and a favourable regulatory framework (Engdahl 2000:38 f.). Financial operations, in combination with tourism, have been regarded as activities involving good opportunities for creating economic growth, income (for the government) and job opportunities (McKee and Tisdell 1990:48 f.). This is in large part brought about by financial interests whose origins are essentially foreign. It is not unusual for both banks and large accountancy and auditing firms not only to be consulted, but actually to become deeply involved in many of the concepts that later become the regulatory systems in these jurisdictions (Blum 1984:140; Johns 1983:220; Roberts 1992:81). During the 1990s, on Jersey for example, there has been such an expansion in this field that researchers have been prompted to describe this small jurisdiction as having been "captured" by international finance capital, and its regulatory system as "for hire" (Christensen and Hampton 1999; Mitchell and Sikka 1999:8).

This also creates favourable conditions for crime. Since the OFCs constitute an environment characterised by a significantly lower level of supervision and control, and in addition by strict confidentiality regulations, they make very suitable "entry points" into the global financial system. By this means, criminal groups are able to

[b]ase their management and production functions in low-risk areas, where they have relative control of the institutional environment... (Castells 1998:163. See Levi et al. 1998:39 f. for examples.)

Thus OFCs function as a kind of sanctuary for such activities (Hampton 1996a:117; Castells 1996:203). And as Susan Strange writes,

It is not by chance that some of the most important tax havens and off-shore centres are situated at the cross-roads of the principal routes of the illegal narcotics trade. Panama and the Bahamas are well known for their financial clearing of the transactions in cocaine between Latin America and the United States... Hong Kong plays a similar role for the heroin coming from South-East Asia towards the West...while Switzerland, Liechtenstein and Gibraltar shelter the illegal proceeds of the heroin produced and exported by traffickers from Turkey and other Middle East countries... (Strange 1996/1999:117.)

Today the majority of OFCs are as much associated with the laundering of drug money as they are with tax evasion, an association which is not based merely on malicious rumour. Hundreds of cases of drug-related money laundering have been revealed to be connected with OFCs over the years (Blum 1984; Maingot 1988:180; 1995:4; Walter 1985:195-203). Primarily in the Caribbean (particularly in the Bahamas) OFCs are used to some extent for the distribution of illegal goods, but they have primarily been employed in the financial management of this distribution (McKee and Tisdell 1990:94 f.; Naylor 1987:299).

Officials in America have always harboured suspicions that the authorities in the Caribbean were more or less involved with organised crime. This has been the reason behind the pressure exerted by the USA on governments and commercial banks in the Bahamas and the Cayman Islands, for example, during the 1970s and at the beginning of the 1980s (Hampton 1996a:113; Roberts 1992:168.). While evidence that such involvement has been of a systematic nature has been difficult to find, there has been no shortage of isolated instances and plenty of grounds for suspicion (Blum 1984:145). In 1983, three prominent leaders of the party of government in the Bahamas, the *Progressive Liberal Party*, were charged in a Florida court with having protected drug shipments (Maingot 1988:171), and in 1985, political leaders and representatives of state authorities in a small British protectorate, the Turks and Caicos Islands, were arrested for smuggling drugs in Miami:

[t]he chief minister of the Turks and Caicos Islands [Norman Saunders]...was arrested with two senior officials [and a business associate] in Miami early in 1985 and charged with conspiracy to smuggle cocaine into the US. A scramble to confer on him retroactive diplomatic immunity failed to secure his release. The Turks and Caicos plan to introduce offshore banking foundered after the jailing of its principal advocates. (Naylor 1987:306; Thorndike 1987:259 f.)

The Turks and Caicos, neighbouring islands to the Bahamas, have been associated with drug involvement and corruption since the mid-1970s (Thorndike 1987:259 ff.). This has also been the case with other small islands and OFCs in the area. Examples include Montserrat, Anguilla, Aruba and Antigua. At the beginning of the 1990s, following investigations by Scotland Yard and an inspection carried out by the accountancy and consultancy firm *Coopers & Lybrand*, British authorities found operations on Anguilla and Montserrat to be

so permeated by corruption and crime that they felt compelled to introduce a moratorium for new banks in Anguilla and to force hundreds of Montserrat's offshore banks to close (Maingot 1994:178 f.; 1995:5; Levi et al. 1998:42). And activities in OFCs such as Aruba and Antigua have been cast in such a bad light that during the 1990s they were repeatedly said to have "... attracted more interest from international investigators than financial institutions." (Kochan 1991:77.)

Organised crime, the BCCI and difficult distinctions

During the 1980s and 1990s, cases of offshore-related economic crime pursued by Mafia-like organisations have been discovered from time to time. Examples include the Colombian Cali-Mafia and Mexican drug cartels (Levi et al. 1998). As was mentioned earlier, OFCs are also used for criminal purposes by quite different groups. Following his work mapping out OFC-related crime on American soil at the beginning of the 1980s, the American criminologist Richard Blum had the following to say:

What at first we failed to realize in our own work was that there may not be a clear distinction between the two groups—criminal and noncriminal industries defined by products or services—in terms of violation or nonviolation of law, as one might think or hope. Yet one can now readily see that havens do offer opportunities, if not inducements, for otherwise legitimate groups to seek to enhance their profits by doing much the same thing that criminal groups do: laundering funds, evading taxes, defrauding clients, investors, or colleagues, concealing activities or associates and business ties from the public and government agencies. Our data, both official and informal, suggest that corporate violations are widespread, with tax evasion the most common and U.S. Security and Exchange violations...in second place. (Blum 1984:iv.)

Nor are these different groups always so distinct from one another. This was shown very clearly in connection with the BCCI affair, uncovered at the beginning of the 1990s (Passas 1996:57; Levi et al. 1998:35). The *BCCI (Bank of Credit and Commerce International)* was at this time reckoned to be the world's largest third-world-controlled bank. Its operations covered 430 offices in 73 countries. By means of an organisation whose most important components were holding companies in Luxemburg, principal banks in Luxemburg and on the Cayman Islands, and owners in Saudi Arabia, a corporate structure was created that managed to evade the supervision and control of government authorities:

[The BCCI]... was from its earliest days made up of multiplying layers of entities, related to one another through an impenetrable series of holding companies, affiliates, subsidiaries, banks-within-banks, insider dealings and nominee relationships. By fracturing corporate structure, record keeping, regulatory review, and audits, the complex BCCI family of entities...was able to evade ordinary legal restrictions on the movement of capital and goods as a matter of daily practice and routine. (Levi et al. 1998:35.)

With the help of this structure, fictitious profits were generated, and frauds and money laundering operations were carried out, the latter being taken advantage of by, among others, "...drugs traffickers, dictators, terrorists, fraud merchants, intelligence agencies, arms dealers and the like" (Levi et al. 1998:35).

One thing that is quite remarkable in this context is that the *BCCI* had previously been convicted of money laundering and had for a considerable time been suspected of being involved in comprehensive illegal activities by leading world banks, British and American authorities, police organs and intelligence services (Levi et al. 1998:35; Ehrenfeld 1992:182). This has led many to question why measures were not taken much sooner (Passas 1996:58; Ehrenfeld 1992:177). Nicos Passas suggests the following as a possible explanation:

It must be stressed, however, that BCCI was an institution with powerful allies and friends. Despite a level of distrust and nasty rumours, by the early 1980s BCCI was doing business with powerful organizations and individuals around the world. (Passas 1996:58.)

The list of high-status persons and organisations in some way involved in these activities is very long. This was no coincidence. The *BCCI* offered these persons and organisations great opportunities, and according to leading representatives of the *BCCI*, it was also part of their strategy to generate these contacts (Ehrenfeld 1992:184).

Bankers, lawyers and accountants —the functionaries of offshore crime?

During the 1980s and 1990s, as before, the individuals convicted of offshore-related economic offences and irregularities have for the most part been representatives of organised crime or "white-collar" workers from the field of high finance. The "white-collars" referred to comprise stockbrokers, bankers and company directors who have acted illegally for personal profit, as well as groups responsible for the management of the wealth of their clients, i.e. financial advisors and lawyers managing "other people's money". Operations of this kind have a history stretching back over hundreds of years, but since the end of the 1980s, "private banking" for HNWI's has gathered momentum again after a period of stagnation (Bicker 1996:1 ff.; Hagen 1989:301).

The HNWI's in question are not only well-paid individuals working in trade and industry, such as directors, salaried employees and representatives of the professions. They also include individuals active in the sporting and entertainment sectors—sportsmen, musicians and actors. That many of these choose to place their assets in tax havens in order to avoid taxation has been well known for a long time. Such activities appear to have begun in earnest in the mid-1970s and have accelerated during the 1990s. On the part of the bankers involved, operations have become increasingly aggressive, which to some extent explains their expansion (Bicker 1996:1 ff.). At the same time, this is an area

where few have the expertise necessary to differentiate between what is legal and what is not. The line between the two is often difficult to make out, which is one of the reasons for the large number of cases relating to offshore disputes between performing artists, sportsmen and non-profit organisations that come before the courts in Sweden. And it is not at all clear that many of the clients are aware of what is happening and why. This is especially true for those clients who work in areas with no direct connection to financial activities, such as sportsmen and entertainers.

There are a great many examples of lawyers and financial advisors from banks and finance companies occasionally becoming involved in offshore-related economic crime (FATF 1997; Levi et al. 1998:43). This may involve simple money laundering (through a confidential account by means of which a client transfers money to his lawyer) or advanced securities frauds and the provision of advice on how to unlawfully avoid tax whilst keeping the risk of discovery to a minimum. Since the end of the 1990s, there have been extensive investigations of large German banks suspected of having helped HNWIs unlawfully avoid tax by means of OFCs. Criminal investigations show that the directors of the banks knew of the operations, and the top directors of such a leading institution as the *Dresdner Bank* have already been sentenced to pay millions in fines for aiding and abetting tax evasion (Björk 1999).

To the extent that offshore tax haven operations, legal or otherwise, are spreading to “the masses”, this expansion is in large part taking place through these intermediaries. They have access to the infrastructure that makes the use of OFCs possible without having to expend the time and resources that would otherwise be necessary in order to exploit the conditions offered by offshore operations. Thus they work as the service functionaries of these operations. And whilst there are cases which indicate that others besides the groups mentioned above make use of offshore operations, it is still the representatives of organised crime and “white-collars” who predominate, at least when measured in terms of the amounts of money involved.

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Why Do Respectable Businessmen Commit Economic Offences?

Tage Alalehto

Abstract

This article discusses the classic question: “Why become an economic criminal?” The explanatory powers of a number of internationally acknowledged hypotheses are tested, including those of Sutherland, Hirschi and Braithwaite. These hypothesis tests are conducted on the basis of a database containing information on 128 businessmen from three sectors: engineering, construction and music. The data were collected by means of semi-structured interviews from five regions spread across Sweden. The findings generally show poor support for each of the hypotheses, and the article ends with a proposal for a new theoretical orientation within this field of research. This theoretical reorientation is based on neo-Darwinist achievements in relation to the Machiavellian hypothesis and conceptualisations of the evolutionary function of tactical fraud.

Keywords

economic crime
hypothesis testing
differential association
differential shame
self-control
normative validity
managerial type
“detective theory”
tactical fraud

Introduction

The title is in the true sense of the word a classic question that has been touched upon by the majority of those involved in economic crime research at the international level (Braithwaite 1985; Vaughan 1992; Punch 1996; Lofquist, Cohen and Rabe 1997; Nelken 1997). Several hypotheses have been suggested. These have varied in their attempts to provide an explanation; the majority have located the cause in external environmental factors; others have sought an explanation in the internal characteristics of the agent. Still others have looked to the fundamental set of roles implied by the structure of an organisation, whilst a further group has suggested that the criminal behaviour has macro-structural causes (profit maximisation, behaviour associated with being a winner, etc.). The fundamental assumptions are different, as indeed they should be, but the hypotheses have a common, ambitious yet woefully difficult objective, that of presenting a causal answer to the question “Why become an economic criminal?”

The hypotheses

The classic hypothesis is that of Edwin Sutherland (1949) on differential association. Sutherland was quick to ask the question: why do certain individuals commit criminal offences whilst others refrain from doing so? He worked inductively, using extensive source material, by asking whether there was a general mechanism common to all offenders that distinguished them in principle from law-abiding individuals. He found a distinctive difference relating to group loyalty in the social process. More precisely, the hypothesis refers to a socialisation process whereby the individual becomes a criminal through his social ties (association) with people who already practise and prefer criminal behaviour over lawful behaviour. This criminal socialisation takes place in isolation (differentiated) from the individuals who prefer lawful behaviour. And it is made active in situations that require a choice to be made between criminal or lawful action, such as where “the law is pressing in one direction, and other forces are pressing in the opposite direction. In business, the ‘rules of the game’ conflict with the legal rules.” (Sutherland [1940]1969:359).

Marshall Clinard, one of Sutherland’s students, was a keen adherent of the differential association hypothesis to begin with. Clinard (1983) gradually came to assume a critical stance about the individual approach in white-collar crime research, however, advocating the idea that white-collar crime was at bottom a structural problem related to the structure of the market. White-collar crime was a result of rapid market changes within the economic system where companies sought constant profit opportunities in a climate of increasingly tough competition. Clinard championed the idea that in this atmosphere of tougher competition, different types of company executives, recruited in line

with companies' shifting market strategies, came to establish themselves. He found two principal types of management profile. One is the "financially oriented" executive, who is interested in creating financial prestige and a quick profit for the company and for himself. This type of executive is aggressive and career-conscious in that he seeks visibility in business journals and to achieve a prominent position in the community in which he works. He tends to engage in unethical and illegal business practices to a much greater extent than the other type of executive, who is "technically and professionally oriented" and who looks more to the technical than to the financial aspects of the company (Clinard 1983).

The point of departure for "detective theory" (Nettler 1978; Green 1993) is different. The assumption is that there are three different motives for businessmen to commit economic offences, such offences being the result of executives being unable to control their desire for one (or all) of the "three B's" (babes, booze and betting). This "theory" suggests that the businessmen in question have social problems which manifest themselves in marginalised behaviour, taking the form of alcohol problems, gambling problems or marital problems.

Travis Hirschi's control theory contains certain similarities with the "detective theory's" conception of unchecked desires. In contrast to the previous theories, Hirschi (1969) asks why it is that not all citizens commit criminal acts. Why is the vast majority of individuals law-abiding? Clearly, the perpetrator must possess technical competence and be in a position that provides the opportunity for economic crime, but these factors do not serve as an adequate explanation. It would be of considerably more explanatory value to ask where the normative difference lies that leads certain individuals to choose to commit offences whilst others do not. Hirschi's idea is that law-abiding individuals are characterised by high scores on four "control elements": with *attachment*, the individual behaves in a well-adjusted manner and is sensitive to others' opinions of him; with *commitment*, the individual is sensitive to the costs and benefits that may result from deviant behaviour and weighs them against the costs and benefits of conformist behaviour; with *involvement*, the individual is too busy with the duties incumbent upon life as a conforming member of society to even consider engaging in criminal behaviour; and with *belief*, the individual has a strong belief in the value of conformity and does not break laws which he basically sees as legitimate (Hirschi 1969:16 ff). The individual who does not endorse these "control elements" tends to be prone to criminal behaviour. Later, in cooperation with Michael R. Gottfredson (1990), Hirschi formulated a somewhat different version of control theory, which proceeds from the assumption that the criminal is characterised by a predisposition for short-term gain which he cannot control; this is then triggered when faced with an opportunity to commit a crime. The law-abiding individual, on the other hand, is possessed of a sufficient level of self-control to be able to suppress these urges and to refrain from committing offences when the opportunity presents itself.

There are, however, problems with both Hirschi's control theory and Gottfredson and Hirschi's theory of self-control. One prominent problem is the way these theories categorise individuals stereotypically as either criminal or law-abiding. John Braithwaite has carried out a number of studies (1989; 1992) employing a somewhat more sophisticated thesis based on Hirschi's control theory. Braithwaite's rather more reasonable contention is that we are not either law-abiding or criminal, but more or less criminal over the course of our lives. Braithwaite asks where the point is at which social control becomes too strong or too weak, tipping an individual from legal to illegal behaviour and back to legal behaviour again. What happens with regard to the acceptance of illegality in an individual who had not previously committed offences, who now begins to engage in illegal behaviour and then returns to a law-abiding behaviour pattern? (Braithwaite 1989.) Braithwaite begins with the view that those who are stigmatised, in accordance with labelling theory, tend to define themselves as criminals. The process of stigmatisation need not go this far, though, and an individual can be restored to normality via a process of reintegrative shaming, whereby he is given the opportunity to expiate his offence among those close to him. The criminalising distinction between those who pass the limits of this reintegrative shaming (and thereby become criminal) and those who are reintegrated and returned to a law-abiding life is a question of differential shame. Braithwaite's model sees the completion of the process of stigmatisation as involving higher costs than remaining part of the conformist community, and as long as the opportunity for reintegration remains, an individual will choose this option. Where this does not happen, however, the costly stigmatisation process has clearly taken root in the individual concerned. In the context of a later work, Braithwaite (1992) attempts to explain this "tipping of the scales" as being a result of the fact that the individual has been so humiliated in the conformist community that there is quite simply no way for him to return to a law-abiding life. He has, so to speak, become a criminal in a physical sense.

Results

On the basis of Sutherland's theory it is possible to formulate the following assumption: the criminal businessman acts criminally as a result of his primary acquaintance with criminal businessmen, and the law-abiding businessman acts according to the law as a result of his acquaintance with law-abiding businessmen. This dual process of habituation means that we can expect the criminal to have business role models that he looks up to, to be prepared to break or circumvent the law, to work in a sector which has a rule system of its own that he prefers to the legitimate rule system, and to offer or perhaps to offer to pay wages cash in hand or to fiddle the books. We can expect the opposite of the legitimate company executive: that he has legitimate business

role models that he looks up to, that he is not prepared to break or circumvent the law, that the sector he works in does not have a rule system of its own and he prefers to follow the legitimate rule system, that he does not offer to pay cash in hand and neither does he fiddle the books. The findings (see appendix B, for examples of how the data were analysed) show a reasonably encouraging outcome. Of the 55 economic offenders in the material, no less than nineteen were confirmed to possess social characteristics in line with the hypothesis; and of the 69 law-abiding businessmen, seventeen possessed the social characteristics predicted by the hypothesis. Thus in a little over 34 per cent of the cases of economic offenders and 25 per cent of the cases of law-abiding businessmen, the social characteristics of the individuals studied confirm the social background predicted by Sutherland's thesis.¹

Sutherland's thesis does not really perform as an authoritative discriminator that explains the difference between the law-abiding citizen and criminal, however. Although the database is small, Sutherland's hypothesis ought to have produced better results than those described above, since the theory claims to be able to explain individual cases. Nonetheless, it is not very surprising that the results did not prove better. Others have called attention to this issue, and one counterargument is that primary socialisation is probably not alone in guiding an individual's future behaviour. The general normative structure furnished by the generalised other (society) may be at least as important for the present and future behaviour of the individual (Green 1997). Based on this argument, it is conceivable that the phenomenon is related to the extent to which an individual is subject to external control with reference to Hirschi's (1969) conception of the individual's level of self-control. A person subject to external controls will learn fundamental and general moral rules that are in circulation within the generalised other; he suppresses his "I" and strives to achieve consensus with the other via his "me". The externally controlled individual will therefore appear normatively valid in that he has learnt to fear the moral sanctions to which he may be exposed if he breaks the law (Green 1997). This person has high self-control, unlike the criminal who has not learned to be normatively valid in that he is not afraid of any moral sanctions from the generalised other.

The question is thus one of whether company executives care about being liked by others (how sensitive they are to others); whether an individual is sensitive to others' opinion of him (whether he has self-confidence); and whether he is primarily a group-person or a "lone wolf" (whether he is dependent or autonomous). An externally controlled person will show sensibility and sensitivity to others, and will be a group-person (he will be socially dependent). The data

¹ That the proportion of confirmative cases is different between the two groups is a result of the fact that the numbers included in the study were too small to allow the difference to attain statistical significance.

show that only five (of fourteen possible non-normatively valid) cases were prepared to break or circumvent the law. This outcome must be designated as poor. Whilst it is true that five of the economic offenders are not normatively valid, the majority of them do present some form of normative validity.² The results from the group of legitimate company executives are even worse; in this group, only nine cases (of a possible 43) confirm the relationship of normative validity. This means that a large majority of the latter group is not particularly sensitive to others' opinion, nor concerned about being liked by others, and consists to a great extent of lone wolves.³

The law-abiding businessman is not particularly sensitive, and the criminal is more sensitive to others than we think. Based on Hirschi's thesis one might then ask whether the law-abiding citizen obeys the law because he is too busy conforming (with social obligations, family obligations), which is not true for the lawbreaker. Does the legitimate businessman view prevailing legislation as fundamentally legitimate? When this relationship was tested, the following results were obtained: eleven cases from the legitimate group confirm the relationship, whilst only one economic offender does so. This is a poor result, but interesting nonetheless. A certain category of law-abiding company executives really are too busily engaged in conformist commitments to be able to commit offences, at the same time as they ascribe a high level of credibility to existing legislation and the justice system.

We leave Sutherland's and Hirschi's thesis for the moment and ask ourselves, on the basis of Braithwaite's work, whether a person becomes an economic offender because he has felt insulted or even humiliated in the context of one or more business transactions, an insult that has resulted in stigmatisation (the individual in question has become known and is treated as a second-rate person, a bad or perhaps even a failed businessman, etc.). This is not the case for the law-abiding businessman, who is treated with respect and receives the approbation of his surroundings for his business abilities. But does this assumption find more support in the material than those examined earlier?⁴ The findings show that a very large majority (57) of the law-abiding businessmen feel respected and have seldom or never felt insulted, quite in line with Braithwaite's thesis.

² When the test was carried out in reverse, one economic offender presented sensitivity, loyalty and self-confidence based on the opinions of the other.

³ This was true to an even greater extent for this group. When the test was carried out in reverse, eleven legitimate company executives presented this characteristic.

⁴ It should be noted that the response rate for the questions related to the "differential shame" hypothesis involved a high level of attrition where an informant has replied "no, have not admitted to economic offences". If nothing else in the responses provided indicated a "likely economic offender", the questions which followed were not asked. In addition, there is also some level of missing data even where the informant has answered "yes, does admit to economic offences".

In addition, there were seventeen individuals who felt respected but also felt continuously insulted in the context of business transactions. In part, this contradicts Braithwaite's theorem, but it is conceivable that the level of stigmatisation experienced by these seventeen individuals has yet to reach the level where they would commit an economic offence. In the group of economic offenders, fourteen individuals reported feeling that they were not respected, that they were humiliated or ignored, etc. This may be an important factor in their economic offending. This is an interesting observation, completely in line with Braithwaite's theorem. There were slightly more economic offenders (seventeen individuals), however, who contradicted the thesis. These individuals have committed one or more economic offences, but nonetheless feel respected, have not been humiliated, and are not ignored in their capacity as businessmen. This too is an interesting observation.

Braithwaite's thesis thus seems to hold true for the law-abiding businessmen, producing a better result than either of Sutherland's or Hirschi's theories, but the theorem is only partially confirmed for the economic offenders. The question is whether an even better result might be obtained if, using Clinard's thesis on managerial style, one posited a correlation between the group of economic offenders and an aggressive style of management, as against a technical and humanistic managerial style in the group of legitimate businessmen.⁵ Of the businessmen with an aggressive orientation, 23 had committed economic offences compared with seventeen who had not done so. Of the technically oriented businessmen, eighteen had committed economic offences as against 47 who had not done so. Finally, of the businessmen with a humanistic approach, eighteen had committed an economic offence compared with fourteen who had not done so.⁶

As can be seen, the findings are somewhat surprising. Despite the simple nature of Clinard's theorem, it does not in fact find very much support. The theory certainly holds water with regard to the assumption that the technically oriented company executive is in the majority of the cases a legitimate businessman. Otherwise, the findings are problematical. The fundamental assumption that the aggressively oriented company executive is the economic criminal is correct in part, but the support is weak. In fact, the number of aggressively oriented company managers not committing economic offences is almost as large, and the problems become even more tangible when the humanistically oriented category of company executives (i.e. the opposite of the aggressively

⁵ I have chosen to supplement Clinard's thesis with an additional style of management, the "humanistically oriented", i.e. the company executive is protective of his company in order to provide secure jobs for his employees and a safe income for his family.

⁶ The excess of respondents reported in the findings is a result of the fact that a number of the informants were unable to report a single style of management, but instead reported a number of styles in relation to their respondent.

oriented executives) are examined, since they show themselves to include more economic offenders than legitimate businessmen. The thesis finds somewhat better support, however, when one takes into account greed, the desire to count oneself among the successful, and willingness to embrace media exposure in relation to economic crime or economic legitimacy. When such a test is carried out, it is above all the aggressive company executives that present greed, a penchant for media exposure, etc., among both the greedy economic offenders and among the greedy non-offenders, whilst the lone successful and non-greedy businessman is technically oriented in his managerial style.

Clinard's theorem appears to capture part of the character of the economic offender as opposed to the legitimate businessman, but it is far from sufficient. Self-serving hedonism does not seem to constitute the ultimate answer. The question is whether hedonism as a socially destructive way of life could be the answer. The classical "detective theory" is based on the assumption that the criminal act is a result of social problems, i.e. it is marital difficulties and/or alcohol problems and/or problematic gambling that underlie offending. When the question is examined more closely, the hypothesis proves to be correct in principle for the group of legitimate businessmen, in the sense that they do not have any social problems (60 cases), as well as for a small number of economic offenders (thirteen cases) who do present social problems. As always, however, there are cases that deviate from the relationship. Regarding the group of legitimate businessmen, a small number (seven individuals) do have social problems, which is nonetheless a remarkably low figure compared with the numbers who do not present any social problems. The fact that the majority of economic offenders (38 individuals) do not present any social problems at all constitutes a considerably more serious problem for the credibility of the hypothesis, however. "Detective theory" is okay when it comes to characterising background factors in the group of legitimate businessmen, but as a general causal theory of economic offending, it encounters serious problems in its attempt to describe economic offenders.

One could of course retain the assumption of hedonism and base an approach on Gottfredson and Hirschi's assumption that people are guided in their behaviour by a dominant, desire-oriented principle, namely to strive for the greatest possible satisfaction at the cost of the least possible pain. This dominant behavioural principle leads to a general, instrumental approach whereby businessmen are seen as rational, calculating individuals who constantly weigh gains, risks of discovery and sanctions, associated with their legitimate or illegitimate behaviour. This instrumental principle is thereafter broken down into a distinction between high and low self-control, which distinguishes the legitimate businessman from the economic offender. In other words, the legitimate businessman is possessed of a high level of self-control, in that he can defer satisfaction to a later, more suitable moment in order to avoid excessive sanctions. The offender, on the other hand, prioritises the satisfaction of his desires

above legal and moral sanctions. If a profitable criminal opportunity turns up, he will prioritise this, even though the risk of discovery and the relevant sanctions are high in relation to the act in question.

Gottfredson and Hirschi's hypothesis can be tested from several different angles. One might assume, for example, that both the legitimate businessman and the economic offender are rational and aware of what they are doing when they choose to commit or not to commit offences, but that their evaluations of the risk of discovery and the sanctions involved are different as a result of their different levels of self-control. By contrast, one could instead make the assumption that the legitimate businessman is the rational one, choosing not to commit offences on the basis of rational calculations, unlike the offender who is too spontaneous, impulsive and present-oriented in his striving for profit as a result of some common form of greed. A third alternative would be to assume that the legitimate businessman does not commit the offence as a result of the effect of external controls, comprising either some hidden tradition ("What would happen if everyone did it?" or "If my mother were to find out what I've done, I could never look her in the face again") or self-discipline ("It wouldn't be right to do this, either for myself or for the common good of society"). This leads to a high level of self-control. The economic offender, for his part, also acts rationally but is subject to considerably less of the external control exerted by tradition, and also to less internal control since he views crimes as morally correct and politically defensible through "rationalisations" (Sykes and Matza 1957). This leads to low self-control.

The results are neither discouraging nor completely convincing. The test of the first thesis is confirmed in only four cases (two economic offenders and two from the group of legitimate businessmen). The test of the second thesis is a little better, with the thesis finding support in seven cases (two economic offenders and five legitimate businessmen). Finally, the test of the third thesis is confirmed by the largest number of cases—eleven in all (five economic offenders and six legitimate businessmen). In all, 21 cases confirm Gottfredson and Hirschi's theory (one of the cases confirms two of the theses). One should not make too much of these findings since the theses described in part contradict one another, not least with regard to the motivational structure of the economic offender between the first and second of the theses, and between the second and the third. Gottfredson and Hirschi like to see their theory on shifting self-control as a dominant principle that distinguishes the wheat from the chaff when it comes to criminal activity. Such an ambition is not borne out by the tests conducted on this material. For a dominant explanatory principle, it receives too little confirmation in both the group of economic offenders and the group of legitimate businessmen. Thus, it appears that not even the level of self-control provides an answer to the question of what it is that differentiates economic offenders from legitimate businessmen.

Discussion

All the hypotheses examined present a varying, but on the whole rather low, level of explanatory power in relation to the question of what differentiates economic offenders from legitimate businessmen. It is true that the hypotheses have not failed completely. They have provided certain insights of which we should take note. One finding of some significance is that, for virtually all the hypotheses examined, the highest level of verification was found in the group of legitimate businessmen. The economic offenders provided lower levels of confirmation for the hypotheses, and as a group, their composition is somewhat more differentiated. For some reason, the group of legitimate businessmen is more homogeneously typical of each of the hypotheses. This may be because legitimate businessmen are easier to identify and verify for each respective hypothesis, whilst the economic offender may feel he has been a *little* humiliated, may be a *little* differentially associated, may have a *slightly* low level of self-control, etc.

Another important observation is that the level of verification varies between the hypotheses. The two hypotheses formulated on the theories of Hirschi and Green (normative validity) and Hirschi and Gottfredson (self-control) respectively led to the poorest results, with less than ten per cent of cases confirming the hypotheses. The findings were slightly better in relation to Clinard's thesis, at least in relation to the legitimate businessmen. This was not the case with regard to the economic offenders, however. The testing of Clinard's thesis produced one rather troubling finding in that businessmen with quite the opposite managerial style than that predicted by the theory were those presenting the higher levels of economic offending. "Detective theory" produced similarly poor results, successfully providing confirmation of the group of legitimate businessmen, but failing completely to provide a similar confirmation of the economic offenders. Sutherland's thesis fared better, but still far from well, in specifying the social characteristics of a fairly large proportion of the economic offenders (one-third) and of the legitimate businessmen (a quarter). Braithwaite's thesis appears to be the best, identifying a majority of the legitimate businessmen (a little over four-fifths) and a relatively large proportion of the economic offenders (a quarter), even though a disturbingly large part of this latter group presented findings quite the opposite of those predicted by the theory (almost one-third).

It is difficult to find a general confirmation of general hypotheses. This has been known for a long time, and is no new insight in relation to the study of economic offending. It has been pointed out before, and the most serious objection has been that the hypotheses are too banal, they lack a tenable explanatory principle and they also lack the subtlety needed to provide a clear answer of a general nature (Braithwaite 1985; Nelken 1997; Green 1997). It is not difficult to concur with this assessment. The difficulty lies in the fact that individual variation shifts behind the different motivations which exist to commit or to refrain from committing offences. The majority of the cases that confirm

a hypothesis will also, as a rule, confirm several other hypotheses. This is because the actions of certain individuals are conditioned by several different motives to commit or refrain from offences, whereas those of others are conditioned by a single dominant motive. Another reason is that the various hypotheses were not originally constructed to be analytically separate (in fact they are based on one another), but rather are loosely and qualitatively separable in their focus on different factors, while more or less based on the same fundamental principle. In other words, the theoretical variation is not particularly great as regards the theories' fundamental analytical basis.

As I see it, the study of economic crime is in need of theoretical reorientation with regard to the way it explains why individuals commit offences or refrain from doing so. Such a theory should be highly generalisable with precise statements that make it empirically verifiable or falsifiable. In addition, within the framework of generalisability the theory should contain a differentiating criterion to separate the two groups that are of interest. But not only that. The fact of individual variation requires that such a theory must also be able to identify those individuals who are guided by a single dominant motive, and those who are guided by several different motives in different situations (or in different phases of life). And last, but not least, such a theory should be able to arrange within its own explanatory structure those theories that are current today in relation to the study of economic offending—i.e. those of Sutherland, Braithwaite, Hirschi, et al., which in spite of everything have shown themselves to be partially correct—and should also be able to say something more than all the current hypotheses have succeeded in doing.

An alternative

It is my belief that an explanation of the origins of the distinctions demonstrated must be sought by means of a completely different theoretical perspective than that we know today. Such a new theoretical orientation ought to include the interesting observations of current neo-Darwinist research as an important cornerstone. Neo-Darwinism has a successful explanatory structure, has survived serious attempts at falsification, has followed a single fundamental principle (natural selection), and has continuously evolved in such a way that it has not only achieved success in its own area of biology, primatology, etc., but has also brought with it observations of considerable importance for the behavioural sciences—in part relating to human behaviour in general, yet also including insights on behavioural structures of interest to more limited fields of study such as economic crime (see Runciman 1998, for the principal arguments).

I am thinking primarily of the good results achieved by using the Machiavellian hypothesis among anthropoid apes. They understand how to exploit the advanced social knowledge they have of each other, and by means of their knowledge of how others behave they are able to calculate how they may

behave in the future and to organise their social relations on the basis of this knowledge (Dunbar 1997). Certain higher primates have also been found to have an ability to engage in tactical fraud as a part of their evolutionary arsenal. The individual exploits another individual by manipulating the latter's conception of the situation, for example by lying, since the liar knows that the other does not know as much and is therefore lured into believing the liar (Dunbar 1997). Support for the Machiavellian hypothesis—and in turn for tactical fraud, even if it is disputed—is evidence for “theory of mind”, i.e. that primates can think in the form of intensionality of at least the third order (I think that you suspect that I am trying to gain illicit access to the box of bananas). Humans can think up to the sixth or seventh order before losing the plot.

These observations show that the fundamental form of economic offending, fraud, is something which is found in related species, and which serves an evolutionary function that individuals are able to exploit in a competitive situation (usually in competition for food or the chance to procreate) in order to pass on their genes. Tactical fraud is an evolutionary dispositional form, which is exploited when the situation offers the individual a competitive survival advantage by acting fraudulently. It is clear that the environment has significance for the exploitation of this characteristic. It is important that the fraudster correctly “reads the situation”, so as to know when he will achieve an advantage by acting fraudulently and when no such advantage will accrue, on the basis of his social knowledge of the potential victim as well as of the fact that the fraudulent behaviour is considered criminal, or at least seriously unethical, in relation to existing norm systems. To refer exclusively to the situation/environment, however, does not provide a complete answer, as we have seen. The answer lies somewhere “in between” biological structure (genetic make-up, needs, determinants of personality, etc.) and situational factors (existing power structures, criminal opportunities, the risk of discovery, forms of sanction etc.).

In an attempt to be a little more forward-looking, it is my contention that neo-Darwinist achievements provide individual level research into economic crime with a hypothesis that has a clear origin, that includes a mechanism, and that is highly generalisable without being too general and unsophisticated in its empirical assertions. This hypothesis states that we have a drive (natural selection), a capacity (intelligence and intensionality) and a method (tactical fraud) that are shared by all individuals. But in order to be a successful fraud, it is necessary that the individual has the ability (intelligence) and courage (dependent on a successful sexual selection) to challenge the existing power structure (the lead male), because the individual finds himself in such a position that he has the capacity and the opportunity to commit fraud, at the same time as the existing power structure lacks legitimacy (among the females). The really decisive aspect of this hypothesis, however, is that of which individuals carry out the fraud and which refrain from doing so. This question rests on the individual's ability to judge the fraud situation “correctly” and on whether he

has the courage to act fraudulently. The personality or need structure of the individual in question will undoubtedly prove a decisive factor, as will his social knowledge of the potential victim's intelligence and alertness, of the existing power structure, and of course the effects of random factors on whether or not the crime is discovered.

This may seem a rather far-fetched and obscure line of reasoning in relation to the subject of this article. The evolutionary argument has been loosely taken up, however (albeit on the basis of an analytical approach different from my own), by the Italian criminologist Vincenzo Ruggiero (1996) with reference to the economist Joseph Schumpeter's idea of "creative destruction" that entrepreneurs carry out in the market. Based on Schumpeter's (1994) ideas, I interpret the capitalist market as an evolutionary process whose impetus for change is constituted by the innovative entrepreneur who creates new goods/services/methods, which then supersede older versions of the same on the market. The "natural selection" of new products and new directions in production in the marketplace is necessary to maintain and develop the system, but at the individual level, it demands a clever strategy in order to succeed. The entrepreneur, who as a rule does not own sufficient capital to begin with, is forced, motivated by his dream of creating a dynasty, to act in a tactically fraudulent fashion (e.g. by using "personal weight", "authority") in order to popularise his business idea. This is in order one day to be able to lean back as an established capitalist, slow down, become financially independent and exercise a directorship making use of respected business routines, instead of being daring and innovative in the grey area between the legal and the illegal. If he becomes too inactive, however, he risks being superseded on the market, since new entrepreneurs are emerging the whole time and start to "flirt" with the customers.

Whether or not this loose approach indicates a possible answer to the question of what distinguishes the economic offender from the law-abiding citizen remains an open question. But irrespective of the correctness of this approach, there is a great deal to suggest that the study of economic offending must look to new theoretical approaches in order to find a more tenable explanation of why individuals commit economic offences than that we know today.

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Method, Data Collection Technique and Representativeness

The article is based on an ongoing, qualitatively focused research project. The database comprises interviews with 128 businessmen, who have acted as informants describing the business activities of a close friend/colleague whom they know well from their business life and as far as possible in their private life. I have found no common terminology for this type of informant technique, but I refer to it as *intimate informant interviewing* since the informant provides information on only one person and obtains virtually a first-hand knowledge of the person about whom the informant is providing information.

Three factors should be mentioned in relation to this type of data. Firstly, the informants are answering in the capacity of informants on the business affairs of some close friend or colleague. Secondly, the data relate to individuals, describing the background and personality behind a person's business behaviour. Thirdly, to some small degree the interview questions relate to objective information about the person (education, material standard of living, family situation, etc.), but for the most part they relate to subjective data about the person's norms, attitudes, and conspicuous characteristics of the individual's manner or style of conduct.

The interview material is based on a manual containing 62 principal questions, 25 specific follow-up questions, as well as innumerable further follow-up questions that were asked at particular interviews depending on how the informant answered the questions. The questions were constructed primarily on the basis of the hypotheses that are tested in this article, i.e. ten to twelve questions per hypothesis. On average, the interviews took one and a half hours to conduct, and they were focused on three different sectors: the construction, engineering and music industries. Of the 128 interviews, 51 relate to the construction industry, 41 to engineering, and 36 to the music industry. With regard to the principal question asked by this article: "Why become an economic criminal?" I organised the interviews so as to attempt to have approximately half of the informants providing information on an economic offender as against a legitimate businessman. The objective was to obtain sufficient data to illuminate the differences between the two types of businessmen. This strategy succeeded relatively well. In total, I obtained information on 55 economic offenders (43 per cent of the sample), 69 honest businessmen (54 per cent) and 4 "don't knows" (three per

cent). The 55 economic offenders were relatively evenly distributed across the five regions where the interviews were conducted, as were the legitimate businessmen.

The following can be said on the representativeness of the sample. The database of this article constitutes a small sample, and hence there is a considerable risk that such a small material will prove to be unrepresentative of the population as a whole. It is quite simply not possible to attain statistically significant results, and it would be wrong to conduct hypothesis tests without bearing this in mind. But I would nonetheless like to suggest that the reader should not simply reject the hypothesis tests and the discussion contained in this article out of hand. The reason is that the database is still sufficiently representative to be taken seriously. Firstly, the data were collected in five different regions of Sweden (two metropolitan areas, a medium-sized town, a small town and a rural area) spread across the north, south, east and west of the country. Secondly, the database includes three completely different business sectors (the construction industry, engineering, and the music industry), whose operations (market structure, product base, labour- versus capital-intensiveness, etc.) are very different from one another. Thirdly, the only component common to these sectors is that I have interviewed businessmen with regard to how their friend/colleague behaves as a businessman, despite the differences in market conditions between the sectors. Fourth, the sample of businessmen was drawn completely at random, once consideration had been given to the fact that the company size in a certain region was to be fairly represented in the interview material. Fifth, the data were collected using a uniform collection technique (semi-structured interviews). I would contend that the article's database is reasonably representative, since the data are random and not limited to a particular geographical or operational environment.

It might nonetheless appear a little risky to test the tenability of general hypotheses on the basis of material as small as this. I would ask the reader to consider the fact that each of the hypotheses (all of which are intended to constitute explanations at the individual level) points to a number of different social mechanisms as decisive for whether an individual will become an offender or not. This means that the social mechanism(s) should apply equally to the study of *one* individual as to the study of *one million* individuals. In this case, the size of the sample is of no importance, since the hypotheses are intended to explain which of the factors present in the social processes of the individual push the individual to develop and maintain a criminal or law-abiding pattern of behaviour.

Analysing the Data and the Presentation of a Rule-list

The data were analysed by using the computer program HyperRESEARCH version 1.65. The advantage of using this program lies in its qualities as a time- and energy-saving aid, which increases the validity of the analysis of raw data as compared with an analysis carried out manually. HyperRESEARCH has been further described by its originators Hesse-Biber and Dupuis (1995). In this article, I have categorised the raw data in the form of codes. That is, I have coded rows of text where the respondent describes his attitude toward something as a specific attitude or normative value. The analysis of the codes was carried out through a test procedure via the formulation of rule-lists, where covariations of codes were compiled by using two different commands. One of these was the “AND” command: for example, “no has not confessed to economic offence AND calculating AND yes cares what people think”. The AND command means that the individual case must contain all three codes, “no has not confessed to economic offence” *and* “calculating” *and* “yes cares what people think”, for the program to identify the case as confirming the rule. If a specific case contains only one or two of the three codes, it is not regarded as confirming the rule. Alternatively, the “OR” command was used: for example, “no has not confessed to economic offence OR calculating OR yes cares what people think”. In this case, an individual case does not need to contain more than one of the three codes included in order for the program to identify the case as confirming the rule. Either a value is registered or it is not. If no value is registered, the case constitutes non-support of the rule. It is generally more difficult for a specific case to confirm a rule containing AND commands, than it is to confirm a rule containing OR commands. On the other hand, the cases confirming rules containing AND commands constitute stronger support for the actual existence of a correlation in the test.

The following example is provided to enable the reader to understand how the material was analysed:

Rule-list relating to Sutherland's hypothesis on differential association

- Rule 1: (yes has confessed to economic offence OR probably economic offender) AND (is prepared to break the law OR may circumvent the law OR circumvents the law) AND (yes plays by his own rules OR yes plays by his own rules to some extent) AND (yes fiddles the books OR may offer to pay cash in hand OR offers to pay cash in hand) AND (yes has family role model OR yes has business role model)
- Rule 2: no has not confessed to economic offence AND (is not prepared to break the law OR does not circumvent the law) AND (follows the law for the most part OR no does not play by his own rules) AND (no does not fiddle the books OR does not offer to pay cash in hand) AND (yes has family role model OR yes has business role model)

The strategy underlying this rule-list is based on the dichotomising question in the article, namely whether the person has committed (rule 1) or not committed (rule 2) economic offences, these two states being represented by the first codes included in each of the rules. The remaining codes constitute an operationalisation of the assumption of social learning, that a person who confesses to economic offending (or who according to the description of the informant engages in acts clearly constitutive of economic criminality) is prepared to break or circumvent the law if there are good business reasons for doing so (to a greater or lesser degree); that he plays by his own rules (to a greater or lesser degree) when the need arises; that he fiddles the books, having learned this as a means of dealing with finances, and that he offers to pay wages cash in hand in order to avoid taxes and get the work done (to a greater or lesser degree); and the important element, that he learned to conduct business through a family role model (father, brother, cousin etc.) or through a business acquaintance. Rule 2 constitutes the operationalised assumption of obedience to the law; the person is not prepared to break or circumvent the law; he follows the law irrespective of the situation; he does not fiddle the books or offer to pay wages cash in hand, because his role models are legitimate business models. For more information about the testing techniques, see Alalehto 1999 (Appendix C).

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