THE CRIMINOLOGY OF CORRUPTION

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1. Introduction

Corruption is a form of crime. Most people, including scholars, would agree on that. Criminology is a scientific discipline that has crime as its object of study. However, corruption has rarely been the focus of criminological research. When corruption was researched, it was mostly in the context of broader concepts of crime, such as organized crime. This is rather strange because other concepts are perfectly suitable for a criminological analysis of corruption. As criminologists we are convinced of the added value of a criminological perspective on corruption. Taking criminology as the reference point we will address two issues in this chapter.

First, several criminological concepts, developed for the study of distinct forms of crime, will be discussed. These concepts enable a better understanding of corruption as a crime phenomenon. Concepts related to corruption are: organised crime, occupational crime, corporate crime, state crime and the more recent derivatives such as state-corporate crime. We end this analysis with the concept “victimization” and the added value of victimology for a better understanding of the crime phenomenon.

One question that connects the different concepts is the question of definition. Mainstream criminology generally works within the context of the criminal law definition. In the case of corruption the criminal law definition covers a large concept of bribery. The active corrupter gives a gift or makes the promise to give something (financial, material or a non-materiel benefit) in exchange for a legal or illegal act or omission. For corruption it is necessary that the person being corrupted – the passive “corruptee” abuses his professional power position. Notwithstanding this wide definition an important question emerges when we reflect upon the meaning behind the criminalization of corruption, being the disapproval of “the abuse of power for personal gain”: must we use the law to draw the line? (Nelken, 1994). Should the criminological study of corruption be limited to those forms of corrupt behaviour criminalized

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by law – mostly offering and accepting bribes? Or should we extend the scope of research to legal behaviour that leads to the same sort of abuse of power? We could refer to collusion, lobbying, networking and revolving doors? What about the Minister of Defence, Rumsfeld, and his business interests in the private security company *Blackwater* which operated in Iraq for the protection of American soldiers? Is this legal case of abusing power not also a case of corruption?

In the second part of this contribution, several theories on the aetiology of crime will be explored to discover their explanatory value for a better understanding of corrupt behaviour. The selection of theories is based on the assumption that corruption is mostly committed by agents operating in the context of organizations. A multi-level approach is chosen, exploring possible causal factors on the macro-level of globalisation and nation states, the meso-level of organizations and the micro-level of interactions of individuals.

2. **Fertile grounds for corruption research**

The most important concepts that have been host for corruption studies are organised crime, occupational crime and organisational crime. Organisational crime is further split up into corporate crime and state crime. Even if these domains keep their authenticity, researchers have crossed the borders of their own domain and are searching now for connections and networks between organised, corporate, state and occupational crime. This border-crossing has been introduced by among others the criminologists Kramer and Michalowski with the concepts state-corporate and state-organised crime. Today more researchers refer to the blurring of boundaries between the legal and the illegal organisation and the unreliable employee. These approaches start from the perspective of the perpetrator. We end this chapter with a reflection on the contribution of victimology to the understanding of corruption victimisation.

2.1 **Corruption and organised crime**

Without any doubt organised crime has been the most important domain in criminology for research into corruption. This is due to international initiatives of criminal policy at the end of the nineties in the fight against organised crime. Organised crime was perceived as a crime phenomenon that was increasingly threatening the legal economy but it appeared to be impossible for the police to capture the illegal networks behind organised crime. Money
laundering and corruption were considered as mechanisms used by criminal organisations to facilitate or to continue their lucrative illegal activities without being detected. In the case of money laundering this unique moment of symbiosis between organised crime and the legal market consists of contacts with among others the financial sector, the real estate sector and the art trade. In case of corruption, differences could be made between corruption on the political level, on the enforcement level or on the level of administration. These moments of contact between the underworld and the upperworld gave a clue to the police for further detection of the criminal network. This idea of the strong link between organised crime and corruption of the upperworld was later on affirmed by the Dutch Parliamentary Inquiry Committee concerning Investigation Methods, the Van Traa Commission. The commission said: there is organised crime when – among other requirements – the group is capable of covering up their crimes in a relatively effective way, particularly by demonstrating their willingness to use physical violence or to rule out persons by means of corruption (Fijnaut, e.a., 1998). Also in the legal definition of a criminal organisation the idea of corruption is accepted as one of the tools to fortify the position of an illegal organisation.

What could be called a “moral panic” at the end of the nineties concerning organised drug trafficking and human trafficking has also had its impact on research in Criminology. In the 1960’s and 1970’s criminologists created mafia-like images of criminal organisations: organised crime was an underworld totally separated from the legal world. Beare refers to the ‘alien conspiracy notion’ that separated organised crime from normal society and therefore distanced organised crime from corruption (Beare, 1997a.: 66). The urgent demand for more profound research led to a more realistic picture on organised crime in Criminology (see e.g.: Rider B., 1997; Fijnaut, e.a., 1997, 197; van de Bunt, 1993; van Duyne, 1990; Ruggiero, 1996; Kleemans, 2008). Empirically based research such as the Commission van Traa succeeded in de-mystifying the mafia-like image of organised crime in the Netherlands (Fijnaut e.a., 1995). Independent research is now deconstructing organised crime in all its complexities, with particular attention for the moments of interface between the legal and the illegal world. Talking about organised crime is not the same as talking about one concept anymore. Among other reasons, the variety of organised crime will depend on the ability to garner support and assistance via corruption. The greater the ability to corrupt the greater the ability to remain invisible (Beare, 1997a.: 68). Van de Bunt sees three further relationships of organized crime with the upperworld: a parasitical, a symbiotic and a relation of implantation. In a parasitical relationship the contacts with the legal economy are rather limited and only in the interest of the underworld. If an opportunity appears the criminal organisation will
corrupt. A symbiotic relationship is more complex and is based on mutual interests of the criminal organisation and the upperworld. Corruption becomes more important and gives mutual benefit. But since the relation between both worlds is close corruption is more complex and difficult to prove. A last kind of relationship type is implantation. The criminal organisation is partly absorbed in the upperworld and the criminal activities are totally mixed up with legal business. Corruption changes in a situation of permanent pressure (van de Bunt, 1993). Authors like van de Bunt or Beare not only created a more realistic image of organised crime and the relation to the upperworld but also reflected in a more realistic way to organised crime.

Because governments put pressure on criminologists to affirm the threat of organised crime and to subscribe their criminal policy of fighting organised crime, researchers run the risk of becoming “governmental criminologists” or criminologists who are invited to support penal policy and affirm the political agenda. Continued research on corruption is certainly necessary in relation to organised crime. But tunnel vision should be avoided. The study of organised crime has stimulated attention for corrupt practices: even if there is no consensus about the necessity of corruption for the continuity of the illegal activities, it is obvious that corruption can be at least a facilitator. On a world scale, Van Dijk found a strong correlation between the perceived level of organised crime in countries and the level of corruption in these countries as reported by Transparency International (Van Dijk, 2008). On the other hand criminologists must be aware that the connection with illegal organisations is only one specific dimension. Other dimensions of corruption committed in the sphere of the legal economy are possibly less obvious but that may, indeed, be seen to be more reason for the study of corruption as an independent crime phenomenon.

2.2 Corruption and white collar crime

A second criminological concept receptive for the study of corruption, providing the opportunity for independent corruption research, is white collar crime. Sutherland, who introduced the concept during the congress of the American Sociological Society in 1939, defined white collar crime as crime committed by a person of respectability or high social status in the course of his occupation (Sutherland, 1961: 9). His definition was not very precise but his empirical research made clear that he was referring to criminal behaviour
committed by members of the upper socio-economic class during their occupation, independent of the fact that he or the company is the beneficiary (Sutherland, 1961: 9-10).

Already from that very beginning of what is called now organisational criminology the definition of white collar crime was a main topic of debate. The discussion consisted of the question about the function of criminal law to define white collar crime. Sutherland was convinced of the fact that the general criminal law did not cover all forms of white collar crime because most of the harmful activities by white collar criminals are settled outside the criminal court by a civil law procedure or disciplinary rules. “Given that “upper class” criminals often operate undetected, that if detected they may not be prosecuted, and that if prosecuted they may not be convicted” the amount of criminally convicted persons are far from the total population of white collar criminals. (Slapper and Tombs, 1999: 3) This far reaching statement clashed with the opinion of lawyers, for example Tappan, who saw in the extension of the definition of crime outside the criminal law an attack on the right of innocence. The debate about the delineation of white collar crime is still going on today. The republican criminologist John Braithwaite, for example, returned to the definition of Sutherland in saying that the criminal code is at the centre of delineation but that most organisational crime is redefined in a private law conflict (Braithwaite, 1984: 6). Some other criminologists rejected the criminal law definition completely because it is an institution enforced by the state and dominated by the powerful. They put forward a human rights definition with the social harm as central point of delineation (Schwendinger and Schwendinger in: Henry and Lanier, 2001: 84-85). This definition debate which had faded through the years but never finished pops up again when talking about corruption. The Global Integrity Report tells us that the majority of countries have anti-corruption law, even those countries perceived as vulnerable for corruption. But when we study the implementation of the corruption law the results are less optimistic (Global Integrity report, 2008). Even in the Netherlands and Belgium the corruptive practices that end up in criminal sentences are limited. (Huberts and Nelen, 2005: 50; Database Central Registration of Punishment, Belgium) Alternatively, the case ends up with a disciplinary sanction or dismissed for lack of evidence (Slapper and Tombs, 1999: 87). It is even worse for private corruption or corruption committed between two private individuals. This rather new crime phenomenon that is considered to have the highest incidence of all corruption phenomena is mostly settled in the private sphere or penalised by market mechanisms. For the years 2004 and 2005 not one case reached a Belgian court (De Bie B., 2009; see also: Database Central Registration of
Punishment, Belgium). The dark figure of corruption is considerable and justifies the questioning of the criminal law definition of corruption.

Even if Sutherlands work had immense importance for criminology, the content of white collar crime did not become crystal clear. Sutherland mixed up crime committed by an employee in favour of his organisation with crime committed by an employee in his own interest and against the interests of the organisation. After Sutherland, the concept fell into disuse and different sub domains were developed: the domain of occupational crime that studies crime “offenses committed by individuals for themselves in the course of their occupations and the offenses of employees against their employers” (Clinard and Quinney, 1973: 188) or crime committed by a legal organisation or a member of that organisation in the course of his occupation in favour of the organisation. The legal organisation that commits crime can be a private company (corporate crime) or a public organisation (state crime).

2.2.1 Corruption and occupational crime

The concept occupational crime is relevant when taking the point of view of passive corruption. It means that an employee, in a public or private organisation, has abused his position of power for his own gain and against the interests of the employer. Clinard and Quinney introduced occupational crime in “Criminal behaviour systems: a typology”. Friedrichs thought that the definition of Clinard and Quinney made a scientific debate impossible because the concept was still too broad. He further diversified three categories: “occupational crime” referring to illegal and unethical activities committed for individual financial gain—or to avoid financial loss—in the context of a legitimate occupation; “occupational deviance” as the deviation from occupational norms (e.g. drinking on the job; sexual harassment) and “workplace crime” for conventional forms of crime committed in the workplace (e.g. rape; assault) (Friedrichs, 2002). Other researchers who gave continuity to the work of Clinard and Quinney are, amongst others, Blount (2003) Green (1990) and Mars (2006). When talking about corruption as a kind of occupational crime some remarks are first required.

Firstly, concerning passive corruption it is certainly the case that the offender has a personal responsibility but the organisational and social context can not be denied. Frequently, it will be a hybrid mixture of on the one hand: the personal characteristics of the corruptee; the impact of organisational aspects such as organisational structure; culture; social cohesion; and
style of leadership on the corruptee (Tillman, 2009; Mars, 2006) and elements external to the organisation such as: globalisation; the legal framework; and law enforcement (Tillman, 2009; Mars, 2006; Box, 1983: 34-79) (see a detailed explanation see chapter 2 – aetiology in this contribution). Punch illustrated the complexity of occupational crime in his research on police corruption. He rejects the bad apple metaphor and focuses more on bad orchards, an institutional context where the organisation, the kind of work and the culture play a key-role. Even if corruption from a certain perspective fits to the definition of occupational crime, prudence is called for with establishing a causal link (Punch, 2000: 314-315). Gray expressed the same concern for health and safety problems in companies: while workers are often victims of health and safety problems they are too easily portrayed as offenders (Gray, 2006). Even if the initiative emanates from the civil servant, the organisational context often creates the opportunities to commit corruption.

A second remark concerning corruption as a form of occupational crime is that occupational crime is not necessarily against the interests of the employer. From the point of view of the corruptee in case of public corruption, it is often the case that the organisation, can profit from the individual actions, especially if it has already been part of a long process of blurring moral standards. In case of private corruption the interests of the organisation and the interests of the corruptee combine. Take for example the case of the Belgian soccer club SK Lierse and the Chinese gambler Ye. The bribe that was paid to some players of SK Lierse guaranteed the continuation of the club, was a benefit for some players and a guarantee of profit for the gambler. In practice it is not easy to make a clear distinction between occupational and corporate crime and a continuum of activities which favours the organisation to a certain amount more than the employee or vice versa although the later occurrence seems to be more representative.

Occupational crime as a subject of research has only been developed in criminology. It could be argued that a previously pro Marxist approach in organisational crime has deflected attention away from deviant behaviour of employees (Cools, 2009: 192). Another reason could be the fact that organisations try to hide deviant behaviour of employees in order to avoid negative publicity or in the case of a public organisation to keep their legitimacy.

2.2.2 Corruption and organisational crime
The other part of white collar crime is organisational crime or crime committed by an organisation or a member of an organisation in the interest of the organisation. A decade ago every text concerning white collar crime contained the quote: there is no criminological research on white collar crime (cf. Slapper and Tombs, 1999: 9; Pearce and Tombs, 1998: ix). Today, the domain of organisational crime is a large part of criminological research and criminal phenomena such as environmental crime, food safety scandals or financial crime no longer pass unnoticed by organisational criminologists. This is not the case for corruption. Few organisational criminologists have studied the act of corruption as an aim in itself. Some explanation for this could be advanced as follows:

First of all, corruption has always been strongly related to organised crime and studied as a facilitator of organised crime. It is only recently that criminologists have given attention to the seriousness of corruption as a crime phenomenon of the upperworld.

Secondly, and related to the first argument there was no pressure from “outside” to set up corruption research. For a long time politics was indifferent to the deviant activities of legal organisations and it was certainly not supported by the private sector that considered the research of organisational crime as a threat for the free market. It is only during the last two decades that the attention for public integrity and business ethics has started to grow, also on the political level. This is different from organised crime which has always been considered as a threat for the legal economy and has been taken seriously by the private sector as well as government.

Thirdly, corruption is an ambiguous concept. We have already mentioned that the debate about the demarcation of organisational crime is a constant theme. This is certainly the case for corruption. When leaving the safe legal framework of bribery, extortion or embezzlement and enlarging the definition of corruption to the “abuse of power for private gain” a world of insecurity and vagueness is revealed. Perception studies establish a wide range of perceptions on corruption depending upon the social position of the perceiver and the kind of corruption committed. Heidenheimer, for example, categorizes corruption according to social acceptance from white corruption over grey corruption to black corruption (Heidenheimer, 1989). The lack of clear definition of corruption may restrain criminologists from studying corruption, who have always had difficulties leaving the criminal law borders behind.

Finally, the lack of “visible” victims could be a reason for the lack of interest into corruption as a kind of organisational crime. Organisational criminologists have been traditionally

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3 In 1990 Clinard published “Corporate corruption. The abuse of power”. However the title was misleading since the book is an analysis of unethical and illegal behaviour committed by the Fortune 500.
sensitive to scandals and disasters with huge victimisation rates with serious financial, physical and emotional impact. Even if corruption produces its own human tragedy: unemployment, lack of health care, school education or famine; it is a slumbering problem that is too easily accepted as part of a culture or tradition.

Perhaps more reasons could be found for the neglect of corruption in organisational criminology. Nevertheless, the two next study domains in criminology: being corporate crime and state crime, will prove to be valuable for the study of corruption.

Corporate crime

When the criminal law definition of corruption is analysed, it has two main players: the active “corrupter” and the passive “corruptee”. Little attention is given to the role of corrupter in the media and research. We have to agree with Levi when he says that “crime committed by social outsiders is accepted far less gently than crime committed by the respectable company” (Levi, 2009: 51). Also in Criminology corruption committed by private companies or the active corruption side is until now a neglected crime phenomenon.

The debate on the definition of organisational crime takes on an extra difficult dimension the moment private companies become the central objects of research. Sutherland already mentioned that an organisation is able to commit white collar crime without being perceived as criminal or without being detected or prosecuted. One of the explanations for their exclusion from the definition of crime is the social network of white collar people. The social network was, according to Sutherland, referable to the culturally homogeneity of people working for the government and persons in business: both being in the upper strata of the American Society, family and friendship relations, and the mechanism of “the revolving door”. Many persons in government were previously connected with business firms as executives, attorneys, directors, or in other capacities, .... (1961: 248) Thus the initial cultural homogeneity, close personal relationships, and power relationships protect businessmen and women against critical definitions by government. This perception of the relationship between companies and the political level is something which fed the idea that companies always escape formal condemnation and that gave an impulse to the definition debate. This debate is still currently of high relevance in cases of corruption. While some activities of “abuse of power for private gain” are considered as corrupt other activities with the same risk of harm are socially accepted. We refer for instance to networking and lobbying that makes the
regulator vulnerable for what is called regulatory capture\textsuperscript{4}. Another mechanism that endangers the independent position of the regulator is “a revolving door”. A revolving door refers to the mechanism of leaving a job for the regulator in a specific domain for a job in the domain of the regulated or vice versa. In fact people who left their job come back in with other interests. The previous network and contacts will help to protect the interests of the regulated.

In comparing lobbying and corruption Campos and Giovanni have suggested that legal mechanisms such as lobbying are preferred in rich countries while companies in poor countries have to rely on corruption (Campos and Giovanni, 2006). The promotion of medicines and the subtle interaction between pharmaceutical companies and doctors is a nice illustration of the distinction between what is legal and what is corruption. While doctors get the proposition of a pharmaceutical company for the equipment of their medical cabinet or for the opportunity of participating in a conference in a nice environment they are encouraged or seduced to prescribe new medical products of that specific company to their patients (Braithwaite, 1984; Vande Walle, 2005: 232-240). Even if overmedication is a new western disease, these mechanisms continue to be tolerated.

In the near future more profound criminological research into the corruptive practices of private companies and the acceptability of the relationship between the private and the political level seems to be essential. The initial impetus for the latter has already been given with the introduction of the concept known as state-corporate crime; a concept that emphasizes the importance of both the private company and the state, emerging from the compilation of the study of corporate crime with the study of state crime.

\textit{State crime}

State crime is a relatively new study domain in Criminology. Illegal or deviant acts perpetrated by or with the complicity of state agencies were until recently more the domain of international political sciences and anthropology (Green and Ward, 2004: 431). The recent criminological attention has some specifications and related to these, some challenges for the future. With the set up of the International Criminal Court, state crime has gained academic attention, also in Criminology. In line with the competences of the ICC the attention has gone especially to genocide, war crimes and crimes against humanity, (Green and Ward, 2005; Smeulers and Haveman, 2008; Rothe and Ross, 2009; Huisman, 2009). With the exception of

\textsuperscript{4} In case of regulatory capture the regulating agencies act in favour of those who are regulated and not for the public interest. The reason for capture is the dominant position of the regulated in the regulation process. This dominant position is the result of a direct or indirect mechanism of influencing or even manipulation.
Green and Ward corruption is seldom considered as a state crime. We think it is a challenge for criminologists to further explore the relation between war crimes, genocide and crimes against humanity on the one hand and corruption on the other, as will also be discussed in section 3.

A second consideration is the over accentuation of corruption in countries in transition and third world countries. Students of state crime too easily think in term of “the other” and “the self”. Criminology of the other is a type of criminology which speaks of poor countries and countries in transition as if they are the gangsters, the rogue states, the failed states and we can present ourselves as police (Green and War, 2004). On the other hand criminology of the self considers state crime as a natural outcome of the economic, military and geopolitical rationalities of advances capitalist states (Green and Ward, 2004). This is a trap when studying corruption and when overstressing the culture of a country or population. Criminology of the other is possibly an idea which is fostered by instruments such as Transparency International or the Global Integrity index which seems to isolate the responsibility for corruption to the government of the corrupt country while in a global economy more actors are involved. In recent years, companies have gained access to the regulation process and other legal mechanisms of regulatory capturing have made corruption, in the strict juridical sense, less important. This evolution into co-regulation risks turning the attention of the criminologists away from the responsibility of western countries to poor countries.

To avoid the spurious dichotomy of the self and the other and of the relation between private companies and the state, a new approach has become essential.

State-corporate crime

A last biotope for the study of corruption is state-corporate crime. State-corporate crime provides a framework for studying forms of organisational deviance created or facilitated by the intersection of political and economic institutions (Kramer and Michalowski, 2006: 18). In the first decades of the study of corporate crime, criminologists were strongly focussed on the private legal (corporate crime) organisation as the perpetrator and the study of the role of public authorities was somewhat limited. (Kramer, Michalowski and Kauzlarich, 2002: 270). In theories explaining corporate crime, state responsibility was reduced to a lack of state regulation or a lack of enforcement (Box, 1983: 64) or, going back to Sutherland, was conceived as belonging to the same social class (1961, 248). However the statement “no corporate crime without the state” holds water. Kramer, Kauzlarich and Michalowski
reintroduced the state as participant in the commission of corporate crime, either as a facilitator or as the initiator. The introduction of the notion state came from a feeling of dissatisfaction with the underestimated responsibility of the state in committing corporate and organised crime. Their critique was based on the proposition of Quinney that the definition and control of some behaviors as criminal and the selection of others as acceptable are the consequences of socially embedded processes of naming, not qualities in resident in the behaviours so named (Kramer et al., 2002: 265-266). With the introduction of state-corporate crime; Kramer and his colleagues reintroduced the state, not in the baseline as an element of explanation, but as a responsible actor. Certain behaviour committed at the intersection of corporate and state goals are not as seen as criminal; either because they are not named as such by law, or are not treated as such by those who administer and enforce the law, regardless of the social harm this type of behaviour causes (Kramer, Michalowski e.a, 2002). Later on they did the same exercise for organised crime. State-organised crime is organised crime that is created or facilitate at the policial level. Green (2005) brought the three domains together in his study of the construction industry in Turkey and the disasters after the earth quakes. This same mechanism of the blurring of boundaries between organised, corporate and state crime is remarkable in the illegal trade in tropical timber from Liberia to western companies and the relation of this illegal trade with the provision of weapons for rebel forces (Boekhout van Solinge, 2008).

Kramer and Michalowski further differentiated the responsibility of the state between state-initiated and state-facilitated (Kramer e.a, 2002: 271), notions that fit with what are called acts of commission and acts of omission. State-initiated activities are the socially injurious activities initiated by a governmental actor. State-facilitated activities occur when government regulatory institutions fail to restrain illegal acts, “because of a collusive relationship or because they adhere to shared goals whose attainment would be hampered by aggressive regulation” (Kramer e.a., 2002: 271 – 272). The corrupt activities of a civil servant in a tolerant environment without leadership or implementation of regulation could be considered as state-facilitated.\footnote{Even if these different notions of responsibility hold water, their application in practice can be a rather complex exercise and nuances can be subtle. Take for example the weapons exported from the Belgian weapon factory Fabrique Nationale de Herstal or in short FN. Since 1997 the Walloon Region is the 100% owner of the Herstal Group which the FN factory belongs to. They provide employment for 3000 people in Belgium, Japan, Portugal and the US. In 2002 FN was front page news because the parliament of the Walloon region gave permission for the export of more than 5000 machine guns to Nepal whilst weapons export to regions in conflict is internationally forbidden. What was the Walloon region doing in this case: facilitating to protect a national traditional economy and employment or, initiating because they were 100% owners of the company in question? In other words - how do we categorize a case where the state is the company and the regulator at the same time?}

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State-corporate crime is a rather inflexible concept but it sets some reflections in motion. Firstly, it has contributed to a more complete view of the network of responsible actors involved in corporate crime. Not only is the private company important but the state, as an institution of rule making and of enforcement, also matters. Secondly, the activities of the state itself are questioned more thoroughly. When talking about corruption the discussion is often limited to the crime phenomenon, bribery. Finally, the concept of state-corporate crime highlights the debate about the criminal law definition of corruption: is the legal definition sufficient to encompass the socially injurious relations between companies? It is a debate that pops up from time to time in Criminology. It reminds us of the radical criminology of the Schwendingers who pleaded for a human rights definition of crime because “the legalistic definitions cannot be justified as long as they make the activity of criminologists subservient to the state” (Schwendinger and Schwendinger in Taylor, Walton and Young, 1975: 138). Also, Green and Ward specified the aspect of social injurious by referring to human rights violations (Green and Ward, 2004, 28). And Barak says that in a sense injurious activities of the state are more threatening than harmful activities of the private sector because the first is making the rules in the name of common interest or national welfare (Barak, 1991: 5). Even if these contributions are radical criminological points of view which stand far away from practical applicability they keep criminologists awake and remind them of the relativity of the penal code and the injurious effects of legal activities.

2.3 Corruption in victimology

Corruption has a wide variety of victimisation: the state, the competing firms, the community or even whole societies and also those people who commit corruption because of pressure or threat. Nevertheless victims are seldom the topic of concern in corruption studies. This is a rather general phenomenon in organisational criminology. Corporate crime has often been represented as victimless crime and this for many reasons (Croall, 2001: 8-9; Wells, 1994: 26). Ross said it was due to the character of the perpetrator, the criminaloid, who consciously avoids victimising in his direct neighbourhood. Others blamed it on the private character of organisational crime. It is committed in offices or by using safe telecommunication. Also the time-space distance between the offender and the victim play a role. (Vande Walle, 2005: 39-44) Going back to the case of the export of counterfeit medicines to Nigeria, between the moment of bribing the customs officer and the consumption of the pseudo-medication it is
possible that weeks or months went by. Nobody will or is capable of finding the link between
the injurious effects and the transaction between company and customs officer. The distance
between the offender and the victim reinforces the invisibility of victimisation and the
unconsciousness of the injured of being a victim. Furthermore, especially in case of
corruption, the indirect effects on employment, health care and education, avoids public
disapproval. Even if people would be conscious of their victimisation, their social position
makes it almost impossible to react. The Global Corruption Barometer of Transparency
International shows that the low income households have to pay the most bribes. This
finding is in flat contradiction to the democratic character that is often attributed to corporate crime.
Everybody can be a victim but the weakest, the poor, the uninformed people are the first
victims.
The characteristics of corruption make the victims into what Sutherland called a weak
antagonist, or a victim that is resigned because of his position and knowledge (Sutherland,
1949: 230). It is one of the tasks of Criminal Victimology to make the victims more visible in
the interest of the victims but also to get a better understanding of the mechanisms that make
people apparently resigned to their fate.

3. The aetiology of corruption

The previous section has shown that criminologists would place corruption in the scope of
types of crime that take place in an organisational context. It is therefore plausible to explore
whether theories that have been developed to understand these forms of crime are also
applicable to the aetiology of corruption. Also, the distinction between organisational and
occupational crime is parallel to the active and passive sides of corruption. In a corporate
crime context, it can be a corporate agent that is offering bribes in order to achieve a corporate
aim, for instance acquiring a contract of obtaining a governmental permit. On the passive side,
it will be a member of a private or public organization taking the bribe for his or her own
benefit, in exchange for a service or omission that will probably not be for the benefit of the
organization.
This distinction can also be relevant for the explanation of corruption. Theories on the causes
of organised and white-collar crime are often elaborations of general theories of crime. These

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6 Transparency International 2008, the Corruption perception Index
theories focus on three categories of explanatory variables: motivation, opportunity and the operationality of social control. According to Coleman (1987:409) motives are ‘a set of symbolic constructions defining certain kinds of goals and activities as appropriate and desirable and others as lacking those qualities.’ Opportunities entail ‘a potential course of action, made possible by a particular set of social conditions, which has been symbolically incorporated into an actor’ repertoire of behavioural possibilities.’ According to Shover and Bryant (1993: 144) opportunities for corporate crime are ‘objectively given situations or conditions encountered by corporate personnel that offer attractive potential for enriching corporate coffers or furthering other corporate objectives by criminal means.’ The operationality of control is the opposite of opportunity: informal and formal control provided by guardians serve as a restraint on committing crime. While a motivation is a subjective construction of psychological desires and opportunity and control are rooted in objective social conditions, these variables are inseparably interwoven in particular settings. Motivations evolve in response to a particular set of structural opportunities and have little meaning in another context. And an opportunity requires a symbolic construction making that particular behavioural option psychologically available to individual actors. And a lack of control contributes to the opportunities to commit crime. In other words, acting in an environment in which business opportunities present themselves after showing willingness to take care of the personal needs of persons of authority might influence the motivation to do so.

This example shows that these explanatory variables can be found on several aggregate levels: the level of the individual offender and his of her social interactions, the organizational level of structural and cultural characteristics of organizations and the institutional level of political economy and business regulation (Shover and Bryant, 1993; Kramer and Michalowski, 2006). Vaughan (2002) has emphasized the importance of understanding the interconnections of the micro-, meso- and macro-levels and the relationships between the environment, the organizational setting and the behaviour of individuals within for the explanation of misconduct that is committed from within an organizational context.

3.1 The institutional level

On the macro-level, many criminologists attribute a criminogenic effect to the ‘culture of competition’, a complex of values and beliefs that is particularly strong in social systems
based on industrial capitalism (Coleman, 1995:363). In this worldview, of which the foundations can be traced back to the 17th century (Coleman, 1987:416), great importance is given to achieving wealth and success, while people are seen as autonomous individuals with powers of reason and free choice and therefore responsible for their own condition. Thus, the culture of competition defines the competitive struggle for personal gain as positive, rather than negative or selfish. Competition produces maximum economic value for society as a whole. This demand for success and the pursuit of wealth is seen by some criminologists as criminogenic in itself (Punch, 1996). Others point to the fact that it is rather the flipside that brings a risk: when success is threatened and illegitimate means are perceived as the only method of still attaining wealth (Passas, 1990). According to Coleman, this “fear of falling” is the inevitable correlate of the demand for success, which together provide a set of powerful symbolic structures central to the motivation of economic behaviour (Coleman, 1995: 417). Furthermore, the principle of calculated self-interest of market exchange collides with principles of open sharing and reciprocal exchange found in societies that are not deeply influenced by industrial capitalism. It is this collision of capitalist self-interest and traditional reciprocal exchange which is often related to the observed ‘corruption eruption’ attributed the internationalization of economic markets (Beare, 1997). The question at hand is whether globalisation of business has increased the prevalence of corruption or that globalisation as has increased the visibility and sensibility of corruption.

3.1.1 Globalisation and anomie

Most authors in the field of criminology regard globalisation as a criminogenic development. According to Passas (1998), globalisation multiplies, intensifies and activates ‘criminogenic asymmetries’ that lie at the root of corporate crime. Passas defines these asymmetries as ‘structural disjunctions, mismatches and inequalities in the spheres of politics, culture, the economy and the law’. These are criminogenic in that they offer illegal opportunities, create motives to use these opportunities and make it possible for offenders to get away with it. Passas sees corruption as a conservative force that maintains or increases asymmetries (Passas, 1998: 26). It hampers social, economic and political progress and it facilitates the illegal markets that are the result of asymmetries. Corruption, on the other hand, is also a consequence of asymmetries (Passas, 1998: 27). ‘Companies operating in countries with slow and inefficient administration will be tempted to pay ‘speed money’ in order to get the job done.’ Economic asymmetries might foster attitudes justifying corruption as functional to
local economies and as way of redistributing wealth. Corrupt practices might become seen as patriotic acts, for instance in skimming off funds of international organisation intended for economic development.

Criminogenic asymmetries can also be found in the field of the regulation of corruption. The nature and the firmness of the regulation of corruption may differ from one country to another, ranging from total absence of binding standards, to an emphasis on self regulation and criminalization. Although most countries that abide by the Rule of Law have legally criminalized corruption and 37 – mostly developed – countries have ratified the 1999 OECD Anti-Bribery Convention, in several countries bribes paid in international business are still tax-deductable or there is a lack of legal enforcement, creating ambiguity around the illegitimacy of corruption (Transparency International, 2008). Asymmetries in the regulation of corruption might not only provide de jure opportunities but they can also contribute to the moral ambiguity of offering and accepting bribes. Lack of clarity of regulatory requirements and therefore about applicable norms and the boundaries of acceptable behaviour is often seen as a typical feature of white-collar crime (Nelken, 1994; Zimring and Johnson, 2005). ‘As in the study of white-collar crime, to study corruption is an attempt to follow a moving target: the way that certain transactions move in and out of acceptable behavior as the boundaries of what is legitimate are softened, reaffirmed or redrawn; this is the classic stuff of labeling theory.’ (Levi and Nelken, 1996). Situations in which there is a high degree in uncertainty or confusion as to what is and what is not acceptable, due to radical changes in society, were labeled by the great sociologist Durkheim as ‘anomie’. According to Durkheim and the criminologists who have elaborated upon his theory, in an anomie environment, comparatively high levels of crime might be expected. Countries which reputedly have high levels of corruption, as might be deducted from Transparency Corruption Index, might be in the process of experiencing such rapid and radical changes. ‘Likewise any sudden political or economic shift – such as into free-markets, democratic systems – may result in a contemporary state of heightened corruption and instability. The corruption may not be to blame for this chaos, but in fact may be reflective of it.’ (Beare, 1997: 163). An alternative reading of the influence of globalization on corruption is that it has increased the sensitivity for corruption. On the basis of the review of the publications and policy statements of the leading anti-corruption crusaders – namely the OECD, the IMF and the World Bank – Williams and Beare (1999) claim that the key change that has occurred over the past few years is not the growth of overall levels of corruption or the severity of its effects on domestic economic growth, but rather, the reframing of corruption as a source of economic risk and
uncertainty that must necessarily be problematized according to the objectives and interests of the global economy.

It will be discussed below how the anomie can be found on the meso- and micro-levels within organizations, contributing to causes of corruption. However, first the relations between nation states and multinational corporations will be discussed as relevant to the concept understanding of corruption.

3.1.2 Corporations and states

Nation states are responsible for exercising control of corporations by regulating business and enforcing these regulations by actively inspecting compliance and sanctioning non-compliance. Corporate crime is state-facilitated when this social control is lacking; when government regulatory agencies fail to restrain deviant business activities. This failure might be due to negligence, but it might also be an intentional strategy to attract foreign corporations. As mentioned above, corporate crime might also be initiated by the state. State-initiated corporate crime occurs when corporations, employed by the government, engage in organizational crime at the direction, or with tacit approval of the government.

Corruption can be a causal factor or a result of this nexus of state-corporate relations leading to deviant behaviour. The concept of state-corporate crime reflects the fulfilment of mutually agreed-on objectives of a public agency and a private entity achieved through cooperative illegal activity (Friedrichs 2007, 147). The study of state-corporate crime rests on the premise that on the one hand, in order to operate, the modern corporation requires a particular legal, economic and political infrastructure which is provided by governments; while on the other hand, governments in capitalist states depend on corporations to supply goods and services, provide an economic base and support government policies (Harper and Israel 1999). ‘A trawl of literature (largely non-criminological) reveals a great many cases where corporations and states have colluded in criminal enterprise for mutual benefit.’ (Green and Ward 2004, 29).

Corruption might be used as a lubricant, to create situations of dependency of governmental agencies or officials making them more willing to serve corporate interests. This might especially be the case when a large multinational corporation is dealing with a weak government of a developing country. The desire for development through foreign investment often results in developing countries ending up dependent on investment by foreign corporations. This dependence might lead a government to sacrifice the environment
and the human rights of its population to economic development. This dependence will increase in situations of armed conflict: then the revenues of foreign investment are needed to keep the war effort going. Dependency on foreign investment is also strong in countries with a large financial debt, as is the case in almost all developing countries. According to Barnhizer, ‘the debt service obligation almost compels governments to look the other way when foreign and domestic investors offer some hope of increasing economic development and hard currency earnings from foreign trade’ (Barnhizer 2001, 146-147).

Furthermore, strong dependence arises in large projects in which a government of a developing country is directly doing business with a large corporation: such as the building of a gas-pipe by the military Junta in Burma and the US-based electrical corporation Unocal (Marshman, 2003) and the Ok Tedi mining project and Australia’s largest mining corporation Broken Hill Pty in Papua New Guinea (Harper and Israel 1999). In these cases, governments might even be willing to change the law so that the operations of this specific corporation is not restricted by regulation that would be violated, while the actions of its civilians directed against the corporation might be criminalized, as happened in the Ok Tedi case (Harper and Israel 1999).

Again, bribing might further increase dependencies. However, while being used by corporations as a means to facilitate smooth business, profiting from these kickbacks might become the prime motivation for that business at the receiving end. Executives of the French oil corporation Elf are currently being prosecuted for bribing governmental officials of the African country Angola in order to obtain concessions to exploit the countries rich oil fields. Besides these bribes, via complicated schemes, French officials allegedly indirectly provided the MPLA government with arms that were to be used in its civil war with the rebels of UNITA. Apparently, these arms were not of very high standard. Sometimes the arms were just delivered solely for the commission and were directly put into a tank graveyard because the tanks could not function any more. This contributed to the fact that the war was prolonged.

The privileged positions of corporations with exclusive contracts or joint ventures with state-organs might also lead to strong personal relationships between corporate executives and politicians or public officials. These personal relationships may further facilitate corruption. Allegedly, Liberian president Charles Taylor and Gus Kouwenhoven, director of Liberia’s biggest logging companies OTC and RTC had such a relationship. ‘Taylor and Mr. Gus were close friends’, told the former management-assistant of OTC to a reporter of the Dutch newspaper Trouw, ‘They often stayed together here on the complex and played volleyball or
went fishing’. The reporter also describes how these logging companies paid large kickbacks to Taylor and his accomplices to obtain logging concessions. Often, these personal relationships go hand in hand with corruption. The desire to generate foreign exchange at an institutional level coincides with the desire of individual political and corporate elites to gain personal profit. In general, a high level of corruption may facilitate harmful business conduct, such as human rights violations and environmental pollution. The countries in which human rights abuses are frequently committed also score very high on the Corruption Perception Index of Transparency International (2008).

Corporations will be able to pay off any unfavourable governmental reaction to their harmful business activities. They may also be able to let governmental forces do the dirty work deemed necessary to protect corporate interests. For example, in Nigeria, a representative of the oil company Chevron was allegedly seen handing money to governmental soldiers, after having shot on and killed protesters who had occupied one of Chevron’s oil platforms (Green and Ward 2004, 38-39).

Not surprisingly, corporate involvement in human rights violations occurs in countries with dictatorial political systems. In such a system there is no democratic control on the deals that the regime is making with corporations and the ways in which the government facilitates corporate interest and the destination of the revenues of such cooperation.

The preceding section might create the impression that developing countries are particularly prone to corruption. However, the public governance structures of developed industrial societies might also create vulnerabilities for corruption. An example closer to home (at least the home of one of the authors) is the so-called ‘Poldermodel’ that is seen as typical for public governance in The Netherlands, and especially in Dutch governmental policies regarding business. It has an historical meaning and refers to the crucial cooperation of the inhabitants of the Netherlands (’the low countries’) to “impolder” land and maintain dikes in order to keep the water out, otherwise all would drown. This must have shaped Dutch civil society. Issues are resolved by negotiation and settlement rather than by conflict. In the 1990’s this Dutch form of public governance was labelled the ‘Poldermodel’ (Delsen 2000). It represented the organized cooperation between the Dutch government, employers and trade unions, aimed at reaching agreements rather than conflict (Léonard 2005). The model gained official status by the 1992 report of the Dutch Social Economic Council ‘Convergentie en Overlegeconomie’ (The Economy of Convergence and Consultation) (SER 1992).

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For years this model of public governance was praised, even by the former president of the United States, Bill Clinton. According to Dutch criminologists, this famous *poldermodel* also has its less desirable side-effects (Van de Bunt and Huisman, 2007). The result is that Dutch governmental bodies are dependent in many ways on the commitment of corporations to realise their goals. A criminogenic side-effect is an obscure web of shared interests and secret understandings that can be characterized as “collusion”. The small number of cases of corruption by public authorities in the Netherlands (Huberts and Nelen, 2005) may well be related to widespread collusion: it is not even necessary to bribe enforcers and other public authorities in the Netherlands because they are already perfectly willing to keep in mind the interests and views of corporations. The concept was also used as an explanation for the malpractices in the construction industry that led to a parliamentary inquiry (Van den Heuvel 2003). When a whistle-blower reported on the large scale price-fixing of which public authorities were the main victims, it was hastily assumed this was due to bribing practices. However, although some examples of business trips to exotic locations and attending brothels did occur, these could not explain the widespread nature of overpricing governmental contracts. This was better explained by the close relations between local officials and construction companies that led to collusion (Van den Heuvel, 2003).

### 3.2 The organizational level

It was discussed above that the strong emphasis placed on the goal of “success” that is typical for the culture of competition found in capitalist societies has spread by the processes of globalisation to the world economy; and that situations of anomie that can occur in societies and that anomic situations are also fuelled by globalisation. This culture of competition and situations of anomie are often related to high levels of white-collar crimes, such as corruption. A macro approach, however, cannot fully explain why some corporations or corporate agents are willing to bribe foreign officials to get certain contracts or domestic officials to get certain permits or to escape sanctioning, while others do not. The macro perspective does not explain differences in compliance between organizations and their agents that are subjected to the same macro-variables. Therefore, it is necessary to look at organizational characteristics that might also influence the behaviour of organizational members. ‘Corporate crime is *organizational* crime, and explaining it requires an *organizational* level of analysis.’ (Kramer 1982).
3.2.1 Strain

On the meso-level of organisations, the culture competition can be related to organizational crime as a result of the strain that is felt between being able to achieve goals and having the means to do so. The strain-theory was originally formulated by Merton as a general theory of crime. In his analysis of the American society in the nineteen thirties, Merton argued that the goal of economic success was valid for all members of society – the ‘American Dream’ – while the cultural prescribed means for achieving these goals are not evenly distributed among all members and social groups in society. This could bring groups with less access to legitimate means for acquiring wealth to search for alternative, possibly illegitimate means, dubbed by Merton as ‘innovation’. Cloward and Ohlin added to this that also the availability of illegitimate means may not be evenly distributed among society. Adolescents growing up in neighbourhoods with extensive informal economies might have easier access to illegitimate business opportunities than youngsters growing up in neighbourhoods without these criminogenic opportunity structures. While having been developed for the explanation of crime in the lower classes of society, the strain theory proved very popular in the explanation of white-collar crime, especially combined with the notion of anomie (Passas, 1990; Cohen, 1995). Several studies have focused on the relevance of strain-situations that can exist within organizations for understanding white-collar crime.

Especially when opportunities for making profit are threatened and the continuation of a corporation is at stake, corporate agents might transfer to illegitimate means to make profit, such as offering bribes to get the necessary contracts. In their classical and extensive study on corporate crime in American businesses, Clinard and Yeager found that ‘...firms in depressed industries as well as relatively poorly performing firms in all industries tend to violate the law to greater degrees (1980:129). However, the application of the strain theory is not restricted to marginal corporations. First, since all types of organizations are goal-seeking entities, innovative means to achieve goals –besides profit – can be used when conventional means are blocked. Corruption as an innovative means to reach organizational goals – which can be closely connected to personal goals – can therefore also be found in non-profit organizations, such as political parties and NGO’s. Second, it is rather the level of ambition with which goals are set and the perception that goal attainment is threatened that creates a feeling of strain than that it is an objectively desperate situation. Even in quite profitable and economically healthy firms, strain can be a motive for rule-breaking when ambitions are set so high that they can only be met by using innovative ways. By consolidating the notions of
reference groups and relative deprivation, the strain theory could predict rule breaking in any organization, at every level. In his study on retired managers of large corporations, Clinard (1983) found that especially middle-managers experienced strain. Top management sets the goals and the responsibility for achieving these goals is then passed in the organizational hierarchy to middle managers. Ambitions at the top may create so much internal pressure that the perceived only possible reaction of those in the middle is to break ethical and legal rules.

Although lower ranking personnel may be forced to do the dirty work, such as the actual bribing, they may not be without personal benefit for finding innovative courses of action. Indeed, the attainment of personal goals of success might be connected to and depending on the prosperity of the organisation, may take the form of career advancement, having stock and receiving personal bonuses. The alignment of personal interests and organizational goals is not limited to corporations but can be seen in political organizations as well.

The breach of legal norms can at the same time constitute behaviour which conforms to the standards and expectations prevalent in the organization. ‘Such standards may emerge out of efforts to deal with problematic situations and structurally generated strains.’ (Passas, 1990:165). This means that informal standard operating procedures come into being that are clearly not in accordance with the law, but that are viewed and rationalized as acceptable and non-criminal, for instance because there are no real victims. This was exactly the landmark-rationalisation given by a respondent in Geis’ case-study of price-fixing in the heavy electrical equipment industry in the nineteen fifties: ‘Illegal? May be, but not criminal.’ (Geis, 2006).

The same rationalization could apply to corrupt standard procedures, as one of the authors was told in an interview with an executive of the former Dutch aviation industry Fokker: ‘What do you think? If we do not first offer a Fokker Friendship to the president, we won’t be able to do business in Africa’ (Huisman, 1995). Other rationalization in situations in which corruption is endemic is that one is merely conforming to expectations and that everybody is doing it. Indeed, in systemic corrupt societies, “clientelism” and patronage are the norm and not taking part might be seen as deviant behaviour.

These rationalizations lead to a myth of normality surrounding nothing less than deviant behaviour which has become deeply entrenched in the organizational culture and which is passed on to new organizational members. Although Shover and Hochstetler (2002) warn us of a ‘monolithic bias’ of using organizational culture as an explanation for organizational crime and stress that culture is no ‘straightjacket for action’, they do point at
the evidence that the stance towards ethical conduct and compliance with law taken by
organizational leadership may be a critical determent of organizational culture.
The choice for innovative strategies for goal attainment is even easier when the lines between
legitimate and illegitimate behaviour are blurred due to regulatory obscurity, as might be the
case in the regulation of corruption. The above analysis shows that the relation between strain
and anomie is double-sided and mutually reinforcing: in anomic situations it is easier to defer
to illegitimate means to achieve otherwise strained goals and strain can contribute to the
blurring of norms of acceptable behaviour, creating deviant subcultures. When it is not clear
which rules are applicable, or when such behaviour is condoned in the specific subculture,
offering or taking bribes will come to be seen as an acceptable way of achieving
organizational or personal goals. And by so doing, this informal norm will become more
deeply rooted.

3.2.2 Loosely coupled structures

Besides organizational goals and the pressure put on their attainment, another organizational
feature that has been related to rule-breaking within the organization is the organizational
structure. While the long hierarchical lines of a classic bureaucratic organization might lead to
a diffusion of information and internal control which might facilitate the occurrence of
misconduct, deviant behaviour has recently been related to the contemporary trend of ‘loose-
coupling’ in organizations. Loose coupling is the answer to increasing uncertainty in the
environment of organizations, partly due to the internationalization of markets, and creates the
capacity to respond to changes in the environment – threats or opportunities – with greater
flexibility. Loose coupling is a form of decentralization in which sub-units are partly
detached from the parent organization and receive a greater amount of autonomy. Although a
loosely coupled structure allows an organization to better adapt to change, it also has some
dysfunctions which may become an impetus to disreputable and illegal behaviour (Tombs,
1995; Keane, 1995). A highly divisional, loosely coupled system may lack internal control.
Because of the autonomy of sub-units illegal behaviour may not come to the attention of the
parent’s management. While this behaviour may be an unwanted side-effect, de-coupling may
also be a deliberate strategy to isolate subunits that run a higher risk of being accused of
disreputable or illegal behaviour, for example because it is operating in a corruption ridden
market or country (Gobert and Punch, 2003). Uhlenbruck et.al. (2006) show that corporations
that enter foreign markets in corrupt environments adapt to the risk of corruption by using equity modes of entry such as short term contracting and joint ventures.

A step further in detaching from liability and reputation risks is outsourcing questionable activities. This can often be observed as a corporation’s reaction to a scandal concerning one of its subsidiaries. For example, when the large multinational fruit corporation Chiquita had to agree to a plea bargain after being accused of providing pay-off money to the AUC in Colombia – a paramilitary group that is on the US terrorist organizations list – it officially left Colombia. Instead, a new company and independent company was formed for the export of bananas, Banamex, which has as sole client Chiquita and used all the infrastructure formally owned by Chiquita (Windsor, 2008).

### 3.3 The interactional level

Although the discussed theories follow the common assumption in organizational sciences that organizations could be studied as actors, this anthropomorphic approach seems to forget that in the end it is people who are offering or accepting bribes. Most authors in the field of white-collar crime stress that white-collar offenders are ‘normal’ people, meaning that their personality traits, demographic and socio-characteristics are more similar to law-abiding middle-class citizens than offenders of regular, street crime. ‘...it is generally agreed that personal psychology plays no significant role in the genesis of white-collar crime and that the white-collar criminals are indeed psychological normal’ (Coleman, 1995). The scarce literature on the profile of white-collar offenders confirms this view (Weisburd and Waring, 2001).

#### 3.3.1 Socialization of deviance

White-collar criminologists emphasize the conditioning effect of the organization on the individual’s behaviour. Individuals who do not have a deviant self-image, become offenders through the pressures of the “normalization” of deviance as discussed above. Organizational sociologists refer to the numbing effects of modern bureaucracies upon the moral sensibilities of their employees. Drucker labelled this as the ‘Organization man’, who is under pressure to conform to the image that individuality and personal ethical standards must be scarified for the sake of career. Processes of socialization can create a kind of ‘moral numbness’, in which unethical or illegal activities appear to be a normal part of daily routine.
According to Cohen (1995), organizational members who are subjected to the contradictions between behavioural norms in society and the norms being transferred in the organizational subculture, might suffer from psychological anomie. However, one might say that the processes of the socialization of deviance offer a way out from this state of alienation. Passas (1990: 166) even states that: ‘In anomic situations, offenders are in a better position to neutralise and rationalize their acts, and at the same time preserve their self-esteem.’ Organizational subcultures provide their member with appropriate justifications. According to Coleman, police subcultures, for instance, often distinguish between ‘clean’ and ‘dirty’ pay-off money and hold that there is nothing unethical about accepting the former.

So, at the interactional level we can see that white-collar deviancy, such as corruption, is normal learned behaviour. We should thank Sutherland not only for introducing the concept of white-collar crime, but also for developing a theory for understanding social learning of deviancy. According to his differential association theory, criminal behaviour is learned like any other behaviour and the criminal must learn both the techniques of crime and motivations favourable to criminal behaviour. Through differential association, techniques, rationalisations and attitudes are passed on. ‘The hypothesis of differential association is that criminal behaviour is learned in association with those that define such behaviour favourably and in isolation from those who define it unfavourably, and that a person in an appropriate situation engages in such behaviour if, and only if, the weight of the favourable definitions exceeds the weight of unfavourable definitions.’ (Sutherland, 1949, 234).

3.3.2 Neutralization techniques

While there are several forms of corruption, and it could be assumed that their techniques are not hard to grasp, it might be more interesting to look at the neutralization of corruption. As white-collar offenders are generally strongly committed to the central normative structure, every offender has to cross a moral threshold to be able to violate laws or ethical norms. To maintain an identity of being a respectable citizen, a white-collar offender has to adjust the ‘normative lens’ through which society would view his behaviour. In their classic study, Sykes and Matza (1957) showed that delinquents adjust this normative lens by using techniques of neutralization that deny the seriousness of the offence and the blameworthiness of the offender. As Coleman (1987, 1995) pointed out so clearly, neutralisation techniques are not only post hoc rationalizations of white collar crime, but can also precede rule breaking and thereby morally facilitate non-compliance. ‘A rationalization is not an after-the-fact excuse
that someone invents to justify his or her behaviour but an integral part of the actor’s motivation for the act.’ (Coleman 1987, 411). This would lead to the assumption that having neutralisation techniques at one’s disposal is a crucial condition for getting involved in corruption and being capable of offering or accepting a bribe. Besides the obvious opportunities and limited control mechanisms, these neutralisation techniques could be an important object of study when doing research on corruption.

In a study on which accounts convicted white collar offenders used to justify or excuse their behaviour, Benson (1985 and 1998) identified three general patterns in accounting strategies: accounts oriented toward the offence, accounts toward the offender and accounts toward the denouncer. Accounts that focus on the offence either emphasize the normality and general acceptability of the behaviour (‘business as usual’) or portray the offence as an aberration, not representative of typical behaviour patterns. When the perpetrator himself is the subject of the account, he will try to show that no matter how the offence is eventually characterized, it is not indicative of his true character. Perpetrators must show that they are ordinary, understandable individuals and separate themselves from their offence and emphasize its unique character. Accounts that aim at the denouncer condemn the condemners. For example, the offender might claim prosecutors are motivated by personal interest rather than a desire to defend social or legal values and that they were singled out for political reasons that had nothing to do with the harmfulness of their behaviour.

Coleman (1987, 1995) constructed a typology of the techniques of neutralization used by white-collar criminals. One of the most common techniques is the denial of harm. According to Coleman, the convicted white collar offender frequently claims that their actions did not harm anyone, and that they therefore did not do anything wrong. This technique is rather obvious in neutralizing corruption. Although the relationship of the stakeholders in a corruption scheme is often portrayed as a triangular affair – the one that is bribing, the one that is being bribed and the victim – the victim is often more difficult to detect. Of course, as discussed in section 2.3, victimization can always be constructed: competitors that did not get the contract, refugees that receive less aid because of the amount of kickbacks taken by local officials, and the integrity of the political system in general. However, for both sides who benefit from corruption it will often be easy to maintain that no harm has been done.

A second neutralisation technique used by white collar offenders is to claim that the laws they are violating are unnecessary or even unjust. Offenders using this rationalization find support in the influential neo-liberal Chicago school of economics which argues that market systems can only operate at a maximum efficiency when there no artificial barriers
such as government regulation (Friedman 1962, Posner 1976). ‘The state has no role except to get out of the way’ (Snider 2000, 182). In the light of corruption this argument is interesting, because it is due to the pressure of international business that international organization such as the World Bank, the IMF, the OECD and the European Union is forcing nation states to prohibit and prevent corruption, trying to create a ‘level-playing-field’ for multinational corporations. Corporations wish to be able to operate as inexpensively and rationally as possible throughout the world. Systems of graft and bribes are unpredictable, unreliable and costly (Beare, 1997). Nevertheless, those who are struck by these regulations might say that they only promote international business at the expense of the local economy.

A third neutralisation is that the violation of regulation is necessary to achieve vital economic goals or just to survive. Both on the active and the passive side of corruption this neutralization can be identified. Those who offer bribes will stress that this – however undesirable – is necessary to be able to conduct business. Those who receive the bribes may say that the regular salary is not sufficient to survive and that the extra income is necessary to take care for the family.

A fourth technique of neutralization involves transfer of responsibility from the offender to a larger group. This will be especially useable when corruption is endemic. Both those who are offering and who are accepting bribes might claim that ‘everybody’s doing it’. The accompanying rationalization is that it is unfair to condemn one violator unless all other violators are condemned as well.

The fifth neutralization method is that a person is not responsible for his behaviour – which therefore cannot be qualified as criminal – when merely conforming to expectations of others. This refers to the escape of middle-management to situations of strain: through processes of socialization, using bribes might be seen as an acceptable way of meeting the targets set by higher management. And again: when clientelism and patronage are endemic, paying or taking bribed is expected.

Finally, many occupational crimes are justified on the grounds that the offender deserves the money. This rationalization clearly only applies to the receiving end of corruption, but it might be a dominant neutralization for the more daily forms of kickbacks that are attached to a certain position in public office. A good example is the saying used by members of the All Peoples Congress administration of Sierra Leone, as recorded by Thompson and Potter (1997: 150), “Da sae wey den tie cow, nar dey e go eat grass” meaning literally that “A cow will graze on land allotted to it for that purpose”.

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4. Conclusion

This chapter started with the observation that corruption has little been the topic of criminological research. Nevertheless, corruption is a form of crime. But as the several domains of study in which corruption is of interest show, corruption is also both a causal factor and a side-effect of other forms of crime. It is a causal factor in relation to organised crime: covering illegal activities is a condition for successful organised crime. And it is a side-effect of forms of organizational and especially state-corporate crime aimed at e.g. fraud, illegal arms trafficking or environmental pollution, but also lead to corruption.

Even if these criminological domains are fertile ground for corruption research it is until now a rather limited list. Most of the time corruption is not studied as such but comes into the picture as a facilitator for organised crime or a crime phenomenon typical for third world countries. One of the explanations for this scarce attention is the lack of public indignation. Levi gives the example of the corruption practices of the International Olympic Committee (Levi, 2009: 58). The media who gave some publicity to the case had to take care of not being blamed for publicity-seeking incompetence. And Box said with reference to his research of police corruption: “Corruption penetrates the public consciousness rarely, like a missed heart-beat in an otherwise perfectly functioning body” (Box, 1983: 93).

Because of the evolution of the discipline itself but also because of the social context we predict in the near future an increase in criminological corruption research. First of all, the move to transnational crime research that discloses the sometimes deviant connection between the western market and local and national governments of third world countries or countries in transition shows the urgency of corruption research. Secondly, the anti-corruption measures that have been taken at the international and state level and the positive pressure that goes out from non-governmental organisations such as Transparency International have a stimulating effect. Thirdly, actors in the private sector also start to take initiatives that disturb a fair competition. In the Ethical Corporation magazine corruption is perceived as “the” corporate crime of the century. The criminal investigations on the corrupt practices of Siemens, Statoil and BAE Systems do not pass unnoticed. The resistance with which organisational

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8 Roner L., Upping the ante on FCPA enforcement, Ethical Corporation, anti-corruption special report, April 2008
criminologists are confronted when doing research concerning injurious corporate crime is apparently disappearing.

Finally, the authors would like to warn against too narrow a perspective on deviant relations between public authorities and the private sector. It is not only corruption that makes the position of private companies more comfortable. The relation between the political level and the private sector has been changing from a state-regulated market into a policy of co-regulation and deregulation. The authors wonder in how far corruption is still a necessity for the protection of companies’ interests and if the danger is not moving to legal relations between the public authorities and the private sector; in particular, lobbying, networking and the risk of the revolving doors. The European commission has recently tried to regulate the market of lobbyists who work at the European level in Brussels but had to reduce its plans from an obligatory system of transparency about who is working for which firm and what’s the price into a voluntary system of openness to the public.9

This chapter has raised the question whether the definition of corruption should go beyond legal boundaries and include other socially injurious forms of entanglement of interests. A problem of doing so is the inevitable net-widening and inflation of the term, further blurring the boundaries between corrupt and non-corr upt acts. The flaw of not doing so is that the scope of the criminology of corruption will be limited to the usual suspects: the more visible and blunt forms of bribing. Or, as Mc Barnett has put it so eloquently: “is corruption a crime for the crooks” or are some activities “whiter than white collar crime?” (Mc Barnett, 1991: 3). In the case of the latter, Passas (1998) qualifies corruption as ‘crime without law violation.’

The application of criminological theories results in a plausible hypothesis on causations of corruption. This hypothesis illustrates the interconnections of elements of motivation, opportunity and control at the individual, organizational and environmental levels. This dynamic and mutually reinforcing relationship can have a spiraling down effect, amplifying deviance and increasing the likelihood of corruption (Den Nieuwenboer and Kaptein, 2008).

However, there are two flaws. First, the many forms of corruption might challenge the assumption used in this chapter that it is often committed in a white-collar crime context, and second, this assumption and also the hypothesis based on it need to be empirically tested, therefore. However, there is hardly any criminological research available that explicitly

focuse on corruption. The research done is mainly comprised of case-studies. Shover and Hochstetler point at the shortcomings of explaining organizational crime on the basis of case-studies: ‘The findings of case-studies can be used to generate hypothesis or to cast doubt on theory-based hypothesis, but they are poorly suited for theory testing; it is virtually impossible to demonstrate co-variation, to control for the influence of extraneous variables or to refute rival explanations.’ (Shover and Hochstetler, 2004: 8) Furthermore, usually the more serious cases concerning high-profile individuals or organizations in which they occurred are singled out, in the process becoming landmark-narratives of scholarship on corruption. As Shover and Hochstetler remark, findings gained from the most egregious incidents and offenders may have limited application to the more typical corruption, if such a thing exists. For instance, besides the obvious example of mafia-ridden countries like Italy, the Dutch perception of corruption was for a long time shaped by the exceptional case of the bribing of Prince Bernhard, the husband of Queen Juliana of The Netherlands who was the at that time reigning monarch, by the American arms manufacturer Lockheed, in the process of the procurement of new fighter jets for the Dutch Air Force in the1970’s. Probably the same could be said about the more recent Agusta-scandal in which two Belgian ministers and the Belgian secretary-general of NATO were found guilty of being bribed in the acquisition of attack-helicopters.

Seeing corruption as forms of organized, occupational or organizational crime would also suggest that the strategies that have been developed and derived from causations for combating these forms of crime, would also apply to fighting corruption. It is noticeable that international and non-governmental organizations involved in the fight against corruption, often stress the importance of criminalization and the application of criminal law enforcement. However, it is questionable if the plea serves as a moral message or as an assumption of the instrumentality of criminal law. Looking at the responses to organized and organizational crime, it is generally assumed that the deterrent effect of criminal law – or any legal sanctions for that matter – is rather limited. While in theory, total control would deter organizational crime; in practice the deterrence strategy suffers from too many flaws to be effective. On the basis of a meta-analysis of studies of the effectiveness of deterrence of corporate crime, Simpson (2006) concludes: ‘The evidence is far from conclusive regarding whether corporate violators should be criminally prosecuted or whether other justice systems (civil or administrative) produce higher levels of corporate compliance or if sanctions should be directed toward the company, responsible managers, or both (...) ‘Get tough on corporate
crime’ recommendations have relatively little empirical merit at this point of time, especially without consideration and research on how legal sanctions operate in conjunction with other social control mechanisms. And also the recent studies and policy document on combating organized crime show a realistic view on the limitations of the effectiveness of the application criminal law: ‘You can put them in jail, but you cannot put them out of business’ (Huisman and Nelen, 2007). Because of this limitations, contemporary criminal policy is more focused on taking away the opportunities for committing criminal offences. Crucial in such situational crime prevention is blocking the access of offenders to potential target or victims. However, with many white-collar crimes, specialized access to corruptees is connected to occupational roles and blocking this might not be feasible in the organizational or business setting (Benson and Madensen, 2007).

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