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## Corruption and organized crime: Lessons from history\*

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**Abstract.** The intention of this paper is to serve in part as a warning to the international community concerned about corruption, to keep the focus based on the critical analysis of empirically verifiable information. In ways similar to how theorists spoke about organized crime in the 1960s and 1970s, articles today attempt to refer to corruption as if there were one agreed upon definition. However, like the concept “organized crime”, the term “corruption” involves diverse processes which have different meanings within different societies. Corruption (or a focus on corruption), may be the means toward very diverse ends and each may have a different impact on the society. While in some societies corruption may correctly be seen to be the “cause” of forms of social disorganization, in other situations corruption may be the “result” of larger changes. Understanding the processes within a specific context allows one to understand the nature of the corruption. Corruption rhetoric may too easily become a political platform for ranking and evaluating nations as to their worth based on criteria that lose meaning when applied across jurisdictions.

If money laundering was the “buzz phrase of crime”<sup>1</sup> in the mid-1990’s, corruption has become the competing phrase as we prepare to enter the next century. Nothing in this paper is intended to diminish the importance and seriousness of the issues relating to corruption but rather to encourage an informed, analytical approach to the issues. Nationally as well as internationally, most jurisdictions have serious and distinct problems relating to gaining and maintaining a “corruption” free environment. However, as presented by the media, the concept’s meaning is kept vague, and those found to be guilty of being “corrupt” bear little resemblance to each other. The public is presented with an easy to understand stereotypical picture of the manipulation of greed and stealth with little of the diversity and complexity that the concept may entail. My intention in this paper is to suggest that we must apply the lessons we have learned from the decades of rhetoric concerning “organized crime” to the concept of “corruption”.

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## **Lessons from organized crime**

Fuelled to some extent by the various debates that resulted from the 1967 US Task Force on Organized Crime<sup>2</sup> we have come to realize that organized crime rhetoric may serve public officials in ways unrelated to issues of criminal justice and control. Politicians, the media, and law enforcement take positions and win resources and/or support based not only on the size of a particular threat to the society but also on the nature of the threat. While the threat may be real, the portrayal of the threat distorts the image and uses up some of the scarce resources. Empirical and critical analyses have often been overshadowed by rhetoric. Little has been accomplished by making this criminal activity too all encompassing, too omnipotent, or too “distinct” from anything we have learned about other forms of crime and criminal operations. With organized crime we have had to “walk backwards” to appreciate that there are concrete processes and definable issues that could be studied and specifically addressed with policy and legislation. Without a clear understanding of the complexities of the processes that make up organized crime, efforts aimed at reduction/elimination will have little impact. Organized crime itself is not any one thing. From a law enforcement perspective, you have not one “concept” but several. I have argued<sup>3</sup> that organized crime ought to be responded to as a *process* rather than as some uniform criminal activity. The processes can then be dissected, understood and responded to appropriately. During the 1960’s and 1970’s we created a monolithic monstrosity out of the concept of “organized crime” which we are only now attempting to dismantle. The accusation of some critics has been that the focus on Mafialike operations diverted attention away from other organized crime

groups and away from the reasons why the criminal activity existed.<sup>4</sup>

Writers have argued that there was a *preferred* political and law enforcement view that created:

- a public image of organized crime that resulted in increasing resources to fight the threat;
- • a justification for the fact that law enforcement actions were having little impact on the criminal activity due to its size, scope, and imperviousness;
- an “alien” conspiracy notion that separated organized crime from “normal” society and therefore distanced organized crime from the corruption and collusion of public officials and law enforcement.<sup>5</sup>

What must be emphasized and reemphasised is that something considered to be of value is provided by organized criminals – either in the form of goods, services, protection, assistance through an unwieldy system, and/or job security. Therefore even though organized criminals violate moral codes, notions of democratic rule, and fair competition (in addition to violating the law) organized crime becomes an integrated part of the economic and social fabric.<sup>6</sup> Hence, there is little possibility of it being eliminated.

Robert Merton’s observation regarding the manifest and latent functions of the political machines in United States during the early 1900’s can be applied directly to our understanding of organized crime<sup>7</sup> and corruption. There are, as Merton states, a plethora of explanations as to why the phenomenon is not eliminated by law enforcement or by government (such as problems of training, resources, motivation, nature of the offences etc.) but more compelling and relevant are the basic latent functions that the activity is fulfilling. Merton discusses both the “structural context” that makes it difficult for essential needs to be addressed by strictly legitimate structures and the “subgroups” whose distinctive needs are left unsatisfied.

As a consequence: “. . .the functional deficiencies of the official structure generate an alternative (unofficial) structure to fulfil existing needs somewhat more effectively” (p. 127).

Political machines in the United States operated between legitimate society and the less legitimate world of vice, rackets and crime and acted as a facilitator for both – with only slightly different rules for either side. As the political machines lost their positions of control in American politics and in countries that never developed a clear machine structure, corrupt officials and organized crime took over this role. In some cases the political machines or the parties in power knowingly used organized crime for their own political purposes. Political systems chose to collude with organized crime in order to stay in power, eliminate opposition, or fund raise through the involvement in illegal commodities, i.e., drugs. As Peter Lupscha states: “The use of criminal gangs by political machines to harass the opposition was a commonplace of our (US) urban history. But politics in the United States is not unique in this”<sup>8</sup> (p. 2).

He provides the following examples:

- Chiang Kai Shek and the Kuomintang used the organized crime Triads of Shanghai as enforcers to massacre party members in 1927.
- The French government used the Corsican organized crime groups of Marseilles as informal security agents against both French communists and right-wing military terrorists.
- The US military occupation forces and Army intelligence, G-2, in Japan made similar tacit agreements with Japanese organized crime, the Yakuza, and helped establish their primacy in postwar Japan.
- Organized crime triad society in China trace their beginnings to patriotic resistance to Manchus.
- Italian organized crime groups began as opposition to foreign

occupations.

- Corsican crime originated as nationalistic opposition to the French.

It is essential to appreciate the interface between the legitimate and illegitimate operations within criminal enterprises. This interface is to varying degrees facilitated by corruption. However the one important dimension in which the processes employed by different organized criminals vary is in their ability to garner support and assistance via corruption.

There is not full agreement as to how essential it is for organized crime to be able to corrupt officials – some prosecutors and investigators see the corruption as critical and others see it as exaggerated.<sup>9</sup> Whether or not corruption is essential, Peter Reuter is correct in arguing that a corrupt political authority at the local level can be a “uniquely powerful instrument for organized crime.”<sup>10</sup> The corrupt political machines that controlled cities like Chicago attest to this advantage.

The ability to corrupt enables one to buy protection from enforcement, eliminate competition and therefore amass capital. However, different organized crime operations vary in their ability to garner support and assistance via corruption. Some criminal groups lack the level of integration and sophistication – at least when they are relatively new as a criminal organization. Without corruption as an option, violence is the method of “doing business”. Acts of violence that so distress the police, politicians and the public may indicate an unsophisticated organized crime group. As the group gains greater integration the levels of violence may decrease to be replaced with less visible, but potentially more intrusive forms of corruption. With growth comes an increasing need to corrupt.

The ability to corrupt is therefore dependent on how integrated the individual or group is into the “legitimate” society. If they have secured positions of influence and power and therefore have entwined themselves

into the power structure through either the economic sphere, political alignments, or the enforcement/criminal justice field, their activities are more easily defined as legitimate. With this integration comes invisibility in that decisions taken, policies passed and agreements signed are not defined as corruption but rather as “normal” operations of business or enterprise.

Therefore, the greater the ability to corrupt, the greater the ability to remain invisible, or to be seen to be legitimate – unless the entire system is blatantly corrupt and has redefined payoffs and the like as publicly recognized business procedures. The problem arises that at the most sophisticated integrated level, the ability to corrupt enables one to control the definitions of what is or is not defined as corruption. As Stier and Richards state:

In its most advanced form organized crime is so thoroughly integrated into the economic, political, and social institutions of legitimate society that it may no longer be recognizable as a criminal enterprise. Such integration represents the most serious potential for social harm that can be caused by racketeers. However, the criminal justice system is least effective in dealing with organized crime when it reaches this level of maturity.<sup>11</sup>  
(p.65)

The organized crime activity and/or actions of corrupt officials reach deep into the particular society and broaden to become international. The “threats” posed by the final stage are not the illicit commodities themselves, or even corrupt business practices or extortion demands, but rather the reliance by legitimate business or political regime on the ability and willingness of the corrupted process to provide their services. At this point society’s institutions have themselves become corrupted.

Citing examples is difficult due to the very fact that the activity has successfully avoided being classified as “corrupt”. However, a controversial

Canadian example relates to the activities of the tobacco industry. For several years prior to 1994, the tobacco manufacturers in Canada were the corporate entities which knowingly exported to the United States close to 90% more cigarettes than the foreign market could absorb. It is estimated that from 80–95%<sup>12</sup> of all exports to the US were reentering Canada. The remaining small percentage (between 5–20%) were being consumed by Canadian tourists or non residents. This excessive exportation supplied the commodity for the criminal smuggling activity.

Just as in drug trafficking, in the cigarette smuggling industry there are suppliers, importers and a distribution network. One must ask at what point the tobacco corporations become responsible for the illegal activities that were perpetuated with their products. Canadian tobacco manufacturers exported 1.8 Billion cigarettes in April 1993 – more than four times the figure from April 1992.<sup>13</sup> During the first four months of 1993, exports had increased over 300% from the equivalent rates during the first four months of 1992.<sup>14</sup> Given that the foreign market had not increased by this margin, or likely at all during the year, the resulting excessive exported amount of tobacco could be argued to be “intended” for smuggling back into Canada for profit to the smugglers – and of course the initial sale for the tobacco company.

The act of exporting excessive tobacco products outside of Canada could be interpreted as a significant facilitator of the tax avoidance, criminal violence, and wasted enforcement resources. The emphasis has not however been on attempting to hold the tobacco corporations accountable for a complicity in the growth of an organized crime enterprise around their products. Less powerful, less legitimate players in the smuggling scenario were targeted as the renegades, racketeers/or simply ordinary criminals.<sup>15</sup> In her study of tax evasion and tax avoidance, Doreen McBarnet states:



To suggest then that the key to staying on the right side of the line is “not what you do but the way that you do it”, is not to imply simply a distinction in style, a matter of cleverness or moral choice, but to underline the significance of opportunity and resources. *Manipulating the law to escape control yet remain legitimate is an option more readily available to large corporations* and “high net worth” individuals than to the mass of the population.<sup>16</sup> (p.71)

The Tobacco corporations argue that their sales for export are indisputably lawful – and likely are, as we presently accept the dynamics of the cigarette issue. By exporting to the foreign jurisdiction tobacco corporations were avoiding selling their cigarettes with tax applied, knowing that others would commit the crime of tax evasion by smuggling the same commodity back into Canada. This may be a legal evasion on the part of the corporations, however it is tax avoidance deserving of serious ethical and criminal scrutiny.<sup>17</sup>

As Edelhertz suggests, perhaps the best way to see the role of “corruption” is in relation to the ability of organized crime to exercise a wide range of power. There may be strict corruption in exchange for kick-backs or the power at the disposal of the criminal group may allow those individuals to gain control over a public process and in that way corrupt the system:

The capacity to corrupt public processes provides significant regulatory advantages in terms of protecting an organized crime enterprise or operation as it moves into a new sphere of illegal activities, and to a large extent also can be used to protect existing markets from non-organized crime competitors.<sup>18</sup>

## **International response to organized crime and corruption**

The international community through cooperative operations such as the Financial Action Task Force (FATF) has encouraged nations internationally to re-examine aspects of the organized crime regulation and control processes via the study of the individual processes essential to organized crime operations, such as money laundering. This exercise – accomplished in a manner respectful of sovereignty issues – has advanced our knowledge and served to remove some of the stereotyping and mystique from organized crime.

Aside from general guidelines, codes of conduct, model legislation and recommendations for regulatory scrutiny, international efforts against organized crime have tended to recognize that organized crime must be studied within the environments (host and home) where it is operating. This criminal activity is socially created via the creation of illegitimate markets; grows or shrinks related in part to the perceptions and reality of risk factors; and is dependent on the presence or absence of a demand. International collaborative pressure has been chosen rather than black-listing and ranking systems.

Unlike this recent collaborative approach to strengthening the international community against organized crime, not all of the current approaches to the reduction of corruption are as collegial. The increasing focus on the concept of “corruption” is more reminiscent of the 1960’s focus on organized crime. The notion appears to be that corruption is “out there” and can be eliminated by drawing up charts illustrating which countries are the most guilty. This portrayal denies the intertwining of legitimate with corrupt practices, people, and policies; denies the diverse degrees and types of corruption; and attempts to understand the “corruption” in isolation from its historical, political and

social context. Perhaps most importantly, this approach assumes common understandings about what constitutes “corrupt” actions and ignores the fact that the concept of corruption does not mean the same thing across jurisdictions.

Just as the concept “organized crime” was used as if it signified one uniform type of criminal operation, likewise the concept “corruption” is used as if its meaning and practice are shared across countries. The complexity in understanding corruption across jurisdictions is in accepting that there are different definitions, different expectations and traditions, different opportunities and options and different sanctions for violations. We forget the most basic of sociological lessons about ethnocentrism. While analyses of corruption acknowledge that there are historic reasons why a society might be more or less tolerant concerning “corrupt” behaviour, they often fail to take this awareness further to see that the concept itself is what is significantly different across jurisdictions. While some categories of behaviour may be more widely perceived to be corrupt, other forms of behaviour are more disputed. What is or is not “corrupt” is just different. Somewhat arbitrarily, we can identify from a western, capitalist perspective, at least four categories of corruption that may serve to illustrate the diversity of the concept:

1. *Bribes/kick-backs*. Payments are demanded or expected in return for being allowed to do *legitimate business*. The payment becomes the license to do business. Those who make the payments are allowed to compete or to win contracts.
2. *Election/Campaign Corruption*. Illegal payments are made at the time of elections to ensure continuing *influence*;
3. *Protection*. Officials accept payments (or privilege) from criminal

organizations in exchange for permitted them to engage in *illegitimate businesses*;

4. *Systemic top-down corruption*. A nation's wealth is systematically syphoned off or *exploited by the ruling elites*.

Clearly, these four categories or not exhaustive nor are they exclusionary. They are listed mainly to indicate that the "harm" from each is not uniform and the victims vary across the types.

### **Bribes/kick-backs**

This category includes the vast array of small to large payments that are demanded or expected in order to get permission to operate. These bribes may facilitate the acquisition of permits, licenses, or contracts. The person who is expected to pay is merely wishing to conduct some normal legitimate business or transaction of some sort – possibly wishing to have an advantage over other applicants. Forms of this sort of "corruption" in some cultures are defined quite favourably – i.e., according to Ernesto Savona, to be "sly" (*furbo*) implies that the person was able to take advantage of opportunities others might miss – as long as the corruption remains within certain limits.<sup>19</sup> He argues that criminal law and prosecutions became successful only when the corruption in Italy exceeded a physiological limit of a modern state. In Latin America, a public official has patrimonial duties to family, clan, clique, or party in addition to the duties to his office.<sup>20</sup> Therefore:

. . . police demand *mordidas* ("bites") instead of issuing tickets; vendors obtain licenses by paying "speed money" to avoid bureaucratic lags; judges encourage out-of-court "settlements" slanted to the highest bidder; the national budgets contain secret presidential slush funds; and political

parties accept substantial undisclosed donations.<sup>21</sup>

While there is the *least consensus* regarding this category of corruption, this category is gaining a large proportion of media attention. During the last few years, under the guise of public education, a number of international conferences and surveys<sup>22</sup> have publicly ranked countries based on perceptions of international respondents as to the “reputation” for this particular form of corruption in each country. For example, “Transparency International” (TI) is a private organization that is attempting to eliminate corruption in international business transactions. TI completed several surveys concerning the “perceived” extent of corruption in different countries. The much reproduced “1995 TI Corruption Index” claims to assess to what extent corruption had an impact on commercial activities in various countries.<sup>23</sup> Likewise, Leo Huberts surveyed international conference attendees on public corruption and ethics in the public service.<sup>24</sup> Huberts comments that comparative research of the sort he was doing was not popular with scholars. While he attributes this to the sensitive nature of the data, it could have to do with the nature and diversity of “corruption”.<sup>25</sup> These surveys may accurately be measuring, accurate perceptions of the most unsophisticated forms of corruption, i.e., the demands for money by low level public officials and the payoffs in exchange for contracts. Perhaps this is the full extent of what is expected and claimed by the surveys.

However, there are issues regarding this approach to corruption that must be acknowledged. First, power relations should not be ignored – either within any society or across nations. The Huberts survey indicates that there is an inverse relationship between “a country’s wealth and its public corruption and fraud”<sup>26</sup> (which again should refer to the “perception” of the amount of

corruption since the survey deals strictly with perceptions). The reality is of course that while the corruption may occur in those countries, the corrupt payments are often being made by multinational corporations from “clean” countries. Some of these conditions that are being publicized in the “worst” countries may be directly or indirectly caused by the interference and global policies of countries perceived to be relatively corruption free.

Second, the stated purpose of Transparency International is to “curb the increasingly rampant corruption stunting the development of poor countries.” Depending on the nature of the corruption, in some jurisdictions the level of corruption may result from a more prosperous era rather than the reverse. Likewise any sudden political or economic shift – such as into free-markets, democratic systems – may result in a temporary state of heightened corruption and instability. The corruption may not be to blame for this chaos, but in fact may be reflective of it. What may be stunting the development is the low salaries, environmental destruction, and the flight of capital out of these nations into the developed nations.

A third issue relates to how serious corruption, as defined by the international surveys, is regarded in the different countries. Different countries do not regard the presence of corruption to be equally serious. Two-thirds of the respondents from the lower income countries indicated that corruption and fraud were rarely isolated from other forms of public misconduct such as mismanagement, waste, power abuse. The majority of respondents stated that while corruption and fraud were serious, there were other more serious social and political problems.<sup>27</sup> The reason for this may be obvious. The focus of much of the international work against corruption is on the impact that corruption is having (or perceived to be having) on commercial/corporate life. As business becomes global in scope, companies wish to be able to operate as inexpensively and rationally as

possible throughout the world.<sup>28</sup> Systems of graft and bribes are unpredictable, unreliable and costly. This may seem relatively unimportant if your society is poor, violent, and politically unstable – in addition to having a high amount of corruption and fraud.

The test for any country is the moment when profitable international trade becomes threatened by pressure to take governmental stands against violent and corrupt regimes. For example, in 1977 the US passed their Foreign and Corrupt Practices Act (FCPA) prohibiting businesses from paying bribes or under-the-counter fees to obtain contracts. They argue that this has cost them over 100 foreign contracts worth \$ 45 billion to overseas rivals.<sup>29</sup> The message is clear – if we cannot benefit from corruption as we define it, then no one should.

There is increasing pressure on countries to replicate this law – or at the very least to end the tax advantages that certain countries<sup>30</sup> have allowed. In the past, payment to an “agent” has been tax-deductible. For example, the forthcoming Convention against Corruption, 1997, drafted by the Council of Europe<sup>31</sup> specifies that the offence of corruption should be extended to include the corruption of foreign officials and also that all financial and economic advantages to domestic enterprises having obtained businesses through corrupting public officials abroad should end.

The corruption of governments (or within governments) is seen to operate against international efforts to create standards of uniform practice. As Nadelmann states: “Among all the obstacles to the long-term harmonization of criminal justice systems, governmental corruption represents the most resilient.”<sup>32</sup>

## **Election/campaign corruption**

Election periods are commonly exploited as moments for obtaining “influence” and “access”. Cash to run successful, expensive campaigns, or threats to reduce the field of candidates are the main forms that this form of corruption can take. While the international community may send members to monitor the election processes, many voters in India, Pakistan, Thailand, and Zambia expect to have their votes bought.<sup>33</sup> Likewise, after the elections, corruption has toppled or tainted elected presidents or prime ministers in Venezuela, Colombia, Brazil, Panama, Pakistan, Mexico, Spain, Italy, Turkey, Bangladesh and Thailand.

Debate always follows the election in the US as the costs incurred by those candidates running for major offices are tallied in the hundreds or millions of dollars – \$ 234.2 million to Clinton, Dole, Perot and several republican primary contenders in 1995–6<sup>34</sup> MacArthur argues that the fault does not lie with the lobbyists and businessmen alone. He states:

Far more typical is the strong-arm techniques of a politician or his surrogate with something to sell; occasionally it is an intangible commodity called “access”, occasionally it’s a vote on a specific bill.<sup>35</sup>

The public was entertained by stories of the renting out of White House bedrooms for sleep-overs and perhaps more serious, the links between Clinton and Indonesian campaign funds. Most serious of all is the massive mount of ongoing “access” and influence that is purchased via the political Action Committees. As MacArthur again states:

A reformer backed by three billionaires is no more “bought” – and possibly less so – than a party hack. . . whose long career has been spent gouging money from millionaires, corporate chieftains and union



bosses numbering in the hundreds.<sup>36</sup>

Cultural differences help to determine how a society will regard this type of corruption. Ernesto Savona describes a system of corruption in Italy that operates on a delicate balance. A focus on corruption allowed the country to discredit the reputations of the old and powerful political class and facilitated a shift toward a new political system. Corruption became the lever for change – however as Savona states:

. . .it cannot be said that corruption will end. The major risk is that new corrupters will enter the corruption market having learnt the lesson of the Italian case. And, by thus becoming more sophisticated, they will be able to minimize the law enforcement risk.<sup>37</sup>

In Latin America, critics point out that some of the most corrupt politicians are the ones speaking out the loudest against corruption. As the news-weekly Noticias in Argentine said: “Everyone accuses and everyone is accused. If everyone is corrupt, no one is”.<sup>38</sup> This is similar to the situation describes by Savona in Italy. He quotes the adage: “The more we are guilty the less we are perceived” – each defendant enlarges the circle by introducing others to the prosecutors.

## **Protection**

A third type of corruption is the exchange of payments for facilitating or tolerating criminal acts. Certain organized crime activities are greatly facilitated by the presence of corrupt officials. Among the most obvious are drug trafficking, all smuggling operations, illegal gambling, and international operations that involve the importing or exporting of commodities. Second only to collusion between governments and organized

crime, corrupt relations between criminals and the regulatory and enforcement agencies may be used to fuel the criminal enterprises. Control agencies may facilitate the activity while ironically most dispute settlement activities that usually fall to these agencies are carried out *inside* the criminal organizations via the use of violence, intimidation and extortion. The control forces therefore provide the important service of granting the “permission” to operate.

Analysts describe the impact of the new “democratic” freedoms within formerly communist countries or former dictatorships that have resulted in a temporary (or permanent) state of social disorganization. The result is the sense that everyone is on the take. Freedom of movement, new forms of commerce, a break down in the traditional forms of social control – coupled with the type of black-market activities that were necessary under the old regimes in order to survive, ensure rampant corruption within the new transitional systems.

Just as new government arrangements and new political alignments create new opportunities for corrupt officials, so do new regulations and new laws. A quoted figure for detected fraud against the European Union’s budget in 1996 was approximately 800 million pounds. This budget consists of VAT plus customs duties and agricultural levies paid on goods entering the Community from non-member countries. In a number of the most sophisticated transnational operations, government officials are complicit in the schemes. The regulations that determine when taxes are applicable or when previously paid taxes are reimburseable, open up a vast array of corruption opportunities. Likewise, numerous cases of corruption have been documented concerning the aid given to countries to assist in their transformation after either a political disruption or an environmental disaster.

The most recent and ongoing case involves an accusation that two professors

from Harvard University were exploiting, for their own gain, a governmentfunded \$ 57 million project in Russia. As the journalist stated:

The case is certain to run and run, doubtless spawning law suits as it goes. But for the Russians it is, at the very least, a reminder that all is not always as rosy as it sounds either in the cradle of democracy or in the stratosphere of its academia.<sup>39</sup>

There appears to be something corruptive about working to reduce the corruption of others! In 1996 Hong Kong's Independent Commission Against Corruption arrested an US immigration agent who had dismantled an aliensmuggling operation. The US agent had decided that these illicit profits were too tempting. He was caught conspiring with Honduran and Hong Kong officials to create for himself a similar smuggling operation.<sup>40</sup>

Environment laws are another relatively "new" opportunity area for corrupt officials. In their analysis of the tuna-dolphin controversy, Bonanno and Constance<sup>41</sup> describe the opportunities for corruption created by environmental laws in one or several jurisdictions when corporations now can efficiently operate globally – moving across the world in search of friendlier environmental laws, cheaper labour, better taxes.

The issue had to do with purse-seine tuna fishing that used mile long nets which facilitated huge catches of tuna – as well as huge catches of dolphins. The US passed regulations prohibiting this form of fishing. Among the "legitimate" evasive strategies are the schemes that have boats reflagged under foreign nations to avoid the regulations – but in addition there were "illegitimate" schemes to launder tuna via transshipments to third-party countries for import into the United States. Likewise, the US protective tariffs on garlic in California have meant that there is now an underground garlic smuggling market that launders foreign produced garlic through

various jurisdictions to allow it to be sold in the US.<sup>42</sup> These import and re-routing activities benefit greatly from corrupt officials.

Police corruption has long been a concern in Canada and elsewhere. Infrequent but highly publicized police corruption cases come to the public's attention. Both individual reasons and organizational failings combine to explain this phenomena. For example, the new proceeds-of-crime legislation that is being introduced in many jurisdictions encourage the police to engage in extensive money laundering investigations, sting operations and laundering store-front operations. Combined with the large seizures in drugs and cash, these policing operations potentially make the police services vulnerable to greater corruption.

Different cities across Canada have different reputations for corruption within their police departments. Interestingly this is also true in terms of the involvement of the RCMP within the cities. It is impossible to make empirical comparisons across jurisdictions because corruption is only "seen" when it fails. It is conceivable that the more sophisticated, more entwined corruption involving police forces, continues unidentified in diverse forces.

There is the tendency, noted in the NY Knapp Commission,<sup>43</sup> for the forces involved in these scandals to identify a corrupt officer and for the force to distance themselves from him/her. The issue becomes not an organizational failure but the problem of a weak individual who was inappropriate for police work. The rejection of this approach was confirmed by the 1994 Mollen Commission<sup>44</sup> also in NY where systemic organizational issues were noted in explaining the corruption within the NYPD.

In a classic study of police work, Peter Manning and L.J. Redlinger<sup>45</sup> refer to the "invitational edge" of corruption when the officer can sense most strongly the temptation with little interference from organizational regulation, control and supervision. While Canada has resisted the US model whereby the

police receive direct benefit from seizures, there still is enthusiasm for the big drug and proceeds seizures. An internal RCMP working paper prepared by Brian Abrams (1995) outlines a number of ways in which the police violated either the law or the public's trust.

The activities involve either deviance in the sense of violations of the law in order to make the arrests, or corruption for personal gain. Three specific corruption cases illustrate the role played by family loyalties, drug addictions, and greed. In one case an RCMP member sold police information to a Colombian cocaine trafficking group in which his brother was a member. A Montreal lawyer, involved in the operation, was murdered the day before the corrupt member fled Canada. In another case one officer who had first an alcohol abuse problem and then a prescription pharmaceutical addiction attended a 28-day treatment program after which the RCMP assigned him to the exhibit vault in a drug section! The exhibits were destroyed on paper but were stock piled in the vault. The officer began to use cocaine from the vault. He plead guilty to possessing cocaine. In a final example, greed rather than addiction or family loyalty was involved. A staff sargent from Vancouver stole money from the exhibit area of the integrated anti-proceeds of crime unit. By the time that the theft was discovered, this charismatic officer had been seconded to the UN and the discovery destroyed a very promising career. With the advantage of hindsight, each one of these cases illustrates organization weaknesses: too much emphasis on success without adequate supervision; compromises in background checks in exchange for diversity of language skills of potential undercover officers; lack of bifurcated accountability structures in highly vulnerable areas such as the exhibit areas.

## **Systemic corruption**

An almost comic sequence of scandals in Brazil began with the impeachment of President Fernando Collor de Mello in 1992 for influence peddling and graft two years after he was elected on an anti-corruption platform. Many of his congressional accusers were then charged with embezzlement linked to powerful committees on which they served. Not surprisingly, a 1993 Brazilian poll revealed diminishing support for democracy; the reason most often chosen was “corruption/weak government”.<sup>46</sup>

Perhaps the category of corruption that has gained the most publicity is this systemic category where the entire society is open to diverse forms of corruption. Most notable are the systems where the leadership is found to be draining the country of its wealth. The looting of countries is usually done over an extended period prior to the forced or voluntary exit of the leader. Only then is it evident how much wealth has been moved outside of the countries. This form of corruption is a mere combination of the previous three with the elite deeply implicated in the corruption for personal gain.

## **Conclusion**

While reducing corruption, however it is defined, is a valuable activity, some strategies may have less positive results. One must critically evaluate those movements that become “crusades”. The narrow international focus on business related corruption is driven too blatantly by the commercial/financial interests of the west, at the expense of the less

developed nations. There may be unanticipated consequences from the labelling of nations as being corruption and fraud prone. We speak of the self-fulfilling prophecy when initially incorrect situations are acted upon as if they were true and they become true as a consequence. Receiving a high-corruption ranking on the TI and the Huberts surveys informs the world that certain practices will be tolerated or expected within those countries. This may in fact serve to encourage and normalize the various corrupt payments.

The FATF-type evaluation procedures whereby the member states evaluate each other, is the model being used by the Council of Europe to monitor its anti-money laundering measures and a similar evaluation will be applied to the forthcoming conventions on corruption (1997). Evaluating anti-corruption legislation, policies and sanctions from *within* each country under study will place the corruption into its context and make the exercise one that is more likely to have positive results. The difficulty arises that corruption is not “alien” but very much entwined into the fabric of societies, and like a chameleon, it takes very different forms depending on its environment.

Corruption is “useful” to some governments, some law enforcement officers, some corporations, and some members of the public via their support of illicit commodities. Therefore, one does not corruption-proof a jurisdiction. Rather it is a constant struggle to gain and maintain a culture of intolerance to corruption. A change of personnel or a change of the environment (economic, political or social) may jeopardize this culture. When the international community focuses on specific aspects of corruption, those are the aspects that will be identified, and targeted as being corruption. The societally approved of, or at least socially ignored, forms of corruption will be missed in the debate.

## Notes

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3. Beare, M.E., *Criminal Conspiracies: Organized Crime in Canada*. Nelson Canada, Toronto, 1996.
4. See Albini, J.L., "Donald Cressey's Contribution to the Study of Organized Crime: An Evaluation," *Crime and Delinquency* 34, no. 3 (July), 1988; "The Mafia and the Devil: What They have in Common," *Journal of Contemporary Criminal Justice* 9, no. 3, 1993; Cressey, D., *Theft of the Nation: The Structure and Operations of Organized Crime in America*. Harper and Row Publ. NY, 1969; Rogovin, C. and F. Martens, "The Evil That Men Do," *Journal of Contemporary Criminal Justice* Feb: 62-79, 1992; Hawkins, G., "God and the Mafia," *The Public Interest* 14, Winter 24-51, 1969; Smith, D., *The Mafia Mystique* NY Basic Books, 1975.
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6. What has changed recently however is the fact that those groups who use the services of these criminal may be geographically removed from those who are the victims of these operations. When organized criminals "diversify" beyond commodities such as drugs, gambling, smuggling and pornography/prostitution into massive credit card schemes, large scale frauds, and car theft rings, "demand" countries such as Canada may suddenly find themselves "supplying" the commodities.
7. Merton, R., *On Theoretical Sociology*. Free Press, NY, 125, 1967.
8. Lupscha, P., "Organized Crime: Rational Choice Not Ethnic Group Behaviour: A Macro Perspective," *Law Enforcement Intelligence Analysis Digest*. Published by International Association of Law Enforcement Intelligence Analysts, Washington, Winter 1-8, 1988.
9. See Block. A. and W.J. Chambliss, *Organizing Crime*. NY: Elsevier, 1981; Chambliss, W.J., *On the Take: From Paltry Crooks to Presidents*. Bloomington, Indiana Univ. Press, 1978; Potter, G., *Criminal Organizations: Vice, Racketeering, and Politics in an American City*. Prospect Heights, Ill. Waveland Press, Inc., 1994; Reuter P., *Disorganized Crime: The Economics of the Invisible Hand*. Cambridge Mass: MIT Press, 1983; Edelhertz, H. and T.D. Overcast, *The Business of Organized Crime: An Assessment of Organized Crime Business-Type Activities and Their Implications for Law Enforcement*. California: Palmer Press, 1993; Haller, M.H., "Illegal Enterprise: A Theoretical and Historical Interpretation," *Criminology* Vol. 28, No. 2 207-235, 1990; Landesco, J., *Organized Crime in Chicago*. Chicago: Univ. of Chicago Press.
10. Reuter, P., "Methodological and Institutional Problems in Organized Crime Control," National Institute of Justice Symposium Proceedings (September 25-26), 181, 1987.
11. Stier, E.H. and P. Edwards, "Strategic Decision Making in Organized Crime Control: The Need for a Broadened Perspective," in *Major Issues in Organized Crime Control*. National Institute of Justice, Washington D.C.: Symposium Proceedings, 1987.
12. Estimates from law enforcement and from the Non-Smokers Rights Association.
13. Customs Intelligence reports and Statistics Canada figures released in May 1993.
14. Linquist, Avey, Macdonald, Baskerville, *Contraband Tobacco Estimates*, released March, 1993.
15. See Friedrichs, D. "White Collar Crime and the Definitional Quagmire: A Provisional Solution," *Journal of Human Justice* Vol. 3, No. 2, Spring p. 18, 1992; David Friedrichs encourages the reader to acknowledge the importance of the perception of respectability or legitimacy in discussions regarding white collar crimes or corporate crimes and in the case of cigarette smuggling we must ask whether the corporate "suppliers" would be seen as culpable if they were less powerful. See also Lernoux, P., *In Banks We Trust: Money Making, Lending, and Laundering from Boardrooms to Back Alleys*. NY Penquin Books, 1986.
16. McBarnet, D., "Legitimate Rackets: Tax Evasion, Tax Avoidance, and the Boundaries of Legality," *Journal of Human Justice* Vol. 3, No. 2 Spring 56-74 (p. 71), 1992.
17. See Sesser, S., "Opium War Redux: Pushing American Cigarettes in Asia," *The New Yorker* September 13, 78-89, 1993. This discussion reminds one of the role of the North American tobacco industry abroad. Stan Sesser documents the deliberate and aggressive foreign strategies that the United States tobacco manufacturers are using to introduce American cigarettes to all age, sex, and economic groups in Asia. Evidence presented by Sesser illustrates the North American tobacco industries' willingness to advertise to a market that can only afford to buy on the black markets and therefore encourage a global network of cigarette smuggling; employ children as the sellers and in some cases the market of the American cigarettes; and propagate a belief as expressed by Joaquin Ortega, head of the National Tobacco Administration in the Philippines that smoking only affects a person "if he's genetically disposed".
18. Edelhertz, H. and T.D. Overcast, *The Business of Organized Crime: An Assessment of Organized Crime Business-Type Activities and Their Implications for Law Enforcement*.



- California: Palmer Press, 1993; Haller, M.H., 129, 1990.
19. Savona, E.U., *Beyond Criminal Law in Devising Anticorruption Policies: Lessons from the Italian Experience*. Research Group on Transnational Crime, School of Law, University of Trento, Italy. 31, 1995.
  20. Leiken, R.S., "Controlling the Global Corruption Epidemic," *Foreign Policy* Winter 55–73, 1996–7.
  21. Ibid 65. In the same vein, writers studying Chinese organized crime speak of the importance of "Guanxi" as being the ties that bind family, community or clan and within Russian criminal operations they speak of the importance of "nomenclatura" i.e. common names.
  22. For example, a series of conferences were convened by the Hong Kong Independent Commission Against Corruption (1983 in Wash. DC., 1985 NY City, 1987 Hong Kong, 1989 Sydney Australia, 1992 Amsterdam, the Netherlands, 1993 Cancun Mexico, 1995 Beijing, China); Transparency International survey of how international business perceived the levels of corruption in 41 countries (1995); survey undertaken by Huberts (1996) of attendees at corruption conferences and members of the research Committee on Political Finance and Political Corruption of the International Political Science Association.
  23. See *Economist*. 1996. "Companies and their Consciences", July 20th, p. 15 and *Criminal Justice International*. 1996. "1995 TI Corruption Index," Vol. 12, No. 4, July–August.
  24. Huberts, L.W.J.C., "Expert Views on Public Corruption around the Globe," PSPA Publications, Department of Political Science and Public Administration, Vrije Universiteit Amsterdam Boelelaan, The Netherlands, 1996. Note: In the various write-up of these survey results, the authors forget that they are not dealing with hard comparative measurements of corruption but rather with the perception of individuals regarding corruption levels.
  25. Huberts defines corruption as being the "behaviour of public functionaries when they act (or do not act) as a result of the personal rewards offered to them by interested outside private actors". He differentiates this from public fraud where the actor is involved in crime for private gain without the involvement of outside influences.
  26. Huberts, 33. 1996.
  27. Huberts, 17. 1996.
  28. Robert Galvin chairman of Motorola Inc. predicts that world populations will be the market for many corporations. The US population is approximately 300 million (5% of the world total), Motorola does close to 70% of its business outside of the US market. Motorola is attempting to change this to 95% – the same proportion as the rest-of-world and US population split. (*Financial Post*, May 18, p. 22, 1996). See also *The Wall Street Journal*. "Larcenous Legacy: A New Latin America Faces a Devil of Old: Rampant Corruption," July 1, p. A1/A6, 1996.
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  30. These countries as of 1997 included Austria, Australia, Belgium, Canada, Denmark, France, Germany, Greece, the Netherlands, Ireland, Luxembourg, New Zealand, Norway, Spain and Switzerland. See Klotz, J.M., "Bribery of Foreign Officials – A Call for Change in the Law of Canada," *The Canadian Bar Review* December 467–491, 1994.
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  34. MacArthur, J.R., "The Real Corrupters of the US Electoral System," in *Globe and Mail* March 21, A17, 1997.
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  42. Conversations with Willard Myers, Director of the Center for the Study of Asian Organized Crime.
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