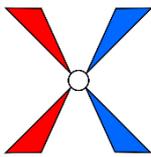


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bncdoc.id	CHL
bncdoc.author	Box, Steven
bncdoc.year	1992
bncdoc.title	Power, crime, and mystification.
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<p><765/c></p>  <p>Key: Footprint ConEn1 Footprint ConEn2 Footprint ConEn3</p>	<p>1980 felt that the problem of social security fraud was large enough to justify introducing 1,000 new inspectors; yet it is hard to see how this problem exceeds that of the health, safety, and welfare of the workforce for whom there are only 900 inspectors. What it does reflect is the willingness of the British government to increase the chances of criminalizing poor, oppressed, and sometimes inadequate individuals whilst leaving the rich corporate executive free to operate within and outside the law. (iii) The resources these agencies have available to pursue corporate crime through the courts are inadequate in comparison with those available to large national and transnational corporations. Braithwaite (1979b: 130) believes that, 'government lawyers, who must in many ways be all-rounders, cannot compete with the corporation lawyer who spends his whole life finding out all there is to know about a narrowly delimited area of 'legal loop-holes'. This belief is firmly backed up by the experience of the West German government when in 1965 it attempted to bring criminal charges against nine Chemie Grunenthal executives who were indicted for causing bodily harm and involuntary manslaughter in connection with the drug thalidomide. Corporate lawyers managed to delay the case coming to court for two years and then they prolonged the proceedings for a further two years. When Grunenthal finally decided to make civil compensation to the satisfaction of suffering parents and children, the federal government's prosecution lost the bit between its teeth and permitted the hearing to be suspended indefinitely. So none of the executives was ever convicted. Another example comes from Britain. The Bingham Report (1978) on oil sanctions-busting during the decade following Southern Rhodesia's unilateral declaration of independence contained a twelve-page (unpublished to the public) appendix, entitled Evidence of Criminal Offences. This listed the names of oil company directors who may have committed offences. It also contained the view that an oil company in Mozambique might be vulnerable to prosecution - this company, despite its name, is London-registered, with British directors, and was directly covered by sanctions legislation. However, despite this evidence, prosecution would have been political suicide since the defendants might have argued that civil servants and certain government ministers knew of the oil sanctions-busting arrangements and therefore the company considered their actions, although technically illegal, were informally condoned by governmental officials. That the Director of Public Prosecutions did not press for prosecution suggests that this line of defence might have been effective, or might have resulted in the prosecution net catching even larger, embarrassed fish. The police were also involved in capturing the oil-sanctions busters but Martin Bailey (1978), writing in The Times, reported that 'Scotland Yard's investigation into (this) major case of corporate law-breaking</p> <p>was surprisingly modest. James Smith, a chief superintendent, had the assistance of only one other detective'. (iv) These regulatory agencies are increasingly faced with transnational adversaries who are capable of shifting their main base of operation - or if that is too drastic, their illegal activities at least - to other countries where laws</p>
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against such behaviour do not exist, or if they do, where enforcement is even more lax. The exportation of **corporate crime** is certainly big business (Braithwaite 1981a; Chetley 1979; Muller 1974) not only for the **corporations** concerned but also for local political and governmental leaders. This simple manoeuvre puts these **corporations** beyond the regulatory influence of agencies whose powers are purely national. Furthermore, one country's legal system often constitutes an impediment to another country's attempts to gather information necessary to pursue **a domestic case** against a transnational **corporation**. Thus Switzerland's Privacy Laws provide a naturally safe haven for transnational **corporations** who want to keep their financial dealings closed (Klass 1975). Establishing guilt in a **corruption** case, for example, particularly before the US Corrupt Practices Act, 1977, would be extremely difficult if not impossible. As Jacoby, Nehemlis, and Ells convincingly argue: 'In order to obtain judicially admissible evidence, US investigators would have to obtain proof that (i) a payment was intended for a foreign official, (ii) it was made with a **corrupt** intent, and (iii) it was made for a prohibited purpose. Collecting such evidence would necessitate the co-operation of foreign governments. Whether (they) would allow US investigators to implicate one of their own nationals under US law is doubtful ... Moreover, a US citizen accused of foreign bribery would be denied due process of law under the US constitution unless he could produce foreign witnesses and documents in his own defence. These essential components of a fair defence would not be available to a defendant, as they are beyond the compulsory judicial process of US federal courts.' (Jacoby, Nehemlis, and Ells 1977: 218) Corporate executives contemplating the possibility of being required to commit corporate crimes know that they face a regulatory agency which for the most part will be unable to detect what is going on, and in the minority of cases when it does, it will have no heart and few resources to pursue the matter into the criminal courts. This enforcement structure does little to deter corporate crime. The (lack of) severe punishment Deterrence theorists (Zimring and Hawkins 1973: 174) point out that formal sanctions, particularly if they are not severe, will only deter if there are negative social sanctions to reinforce them. Assuming this