

**The relativity of wrongdoing:
Corruption, organised crime, fraud and
money laundering in perspective**



Petrus C. van Duyne
Almir Maljević
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(eds.)

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The Cross-Border Crime Colloquium is an annual event since 1999. It brings together experts on international organised (economic) crime to discuss the latest developments in empirical research, legislation and law enforcement, with a special geographical focus on Western, Central, and Eastern Europe.

The Colloquia aim at building bridges in three respects: between East and West Europe, between scholars and practitioners, and between old and young. The Cross-border Crime Colloquium, so far, has been organised fifteen times:

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The Moral Relativity Pride Parade: an introduction

Petrus C. van Duyne

Whether history is useful or not, it is full of moral winks and smiles: what once was good is bad today or the other way round and who looks back far enough will resign at the erasing power of time and memory. No ‘absolute’ value can withstand its steady grinding millstones. Of course, this is to the disgust of the ‘righteous ones’ usually suffering from a lack of relativity. There are many good reasons for such changes, in particular when new insights emerge, new values come to the fore and some old norms fade away because they are no longer ‘fun’. We know now that tobacco kills. But 50 years ago cigarettes were a welcome present or even presented as a gesture of mercy. For example, in an episode of the Western *The Good, Bad and Ugly*, Clint Eastwood (‘The Good’) let a dying soldier take a last puff from his cigar. Nowadays voices are raised to cut such episodes retrospectively out of movies as a morally reprehensible conduct. Of course, such a moral change can be justified on solid scientific grounds of physical harm by nicotine consumption.

There are many other fields in which historical moral winks abound because norms and values faded. What once in Christian societies was criminal blasphemy, punishable by pulling out or piercing the tongue with a hot pin (Lensen and Heitling, 1990; Radner, 2012), is now a matter of freedom of expression. Of course, contemporaneous sinners had little to laugh about, just as there is little to smile at the ‘punishment’ of the blasphemous Charlie-Hebdo editors, though the dauntless cartoon designers thought and (if surviving and persevering) still think differently. These themes concern norms, values and aspirations of groups or peoples which they feel they are far removed from the spiritual field of humour and relativity.

These historical retrospective winks and smiles may be taken as examples of moral relativity, not quite the favoured stand of criminal law practice and criminology in which there is little laughing anyhow. Nevertheless, it remains fascinating to look back and observe how negative evaluations of norms, attitudes, historical events and persons, sometimes change in less than a lifetime. To grasp such changes it is instructive to look at the list of

prominent terrorists/freedom fighters, turned into peace settlers, some of whom even earned the Nobel Prize: Arafat, Begin, Al Sadat, Rabin, Mandela and De Klerk. Change from moral damnation to acceptance is also prominent in sexual values and orientations: performing homosexual acts was not only looked at as repugnant, it was also punishable. Only half a century ago it was gradually decriminalised (1967 in the UK, 1971 in the Netherlands) while in the UK police reports continues to figure in personal criminal records, even up until today. At present, in most industrialised countries opponents of Gay Pride Parades are viewed as intolerant, even a bit morally suspicious.

Is embracing moral relativity, researching and questioning all morals and values, an indication of nihilism or something to be proud of? Taking stock of the history of (in)tolerance and enlightenment I think it a matter of pride. With the exception of the violation of physical integrity, personal ownership and public safety, it is not difficult to stage an imaginary 'Moral Relativity Pride Parade' analogue to the Gay Pride Parade in the canals of Amsterdam. Imagine a parade with various floats, each with themes like drugs, organised and economic crime, corruption, money laundering and related criminal law subjects: a colourful procession of libertarians waving their multi-coloured official policy and morality provoking flags while blowing kisses to the onlookers.

Like a Gay Pride Parade, such a Moral Relativity Parade will not be uncontested. Institutions which may feel threatened in their *raison d'être* – upholding traditional moral values – will frown at it or protect themselves by ignoring them. For example, Europol, the Financial Action Task Force on money laundering, the World Bank, Transparency International, United Nations (with numerous specific offices, like the one on crime) and a host of NGO's advocating the interests of various groups will certainly not be found among the fans along the canals. This may be due to a genuine belief or underlying institutional interests in terms of budget and staff which are a natural consequence of a successful institutional 'ownership' of moral issues. This may be one the reasons why one hardly finds a debate between the dissident occupants of our imaginary floats and representatives of these 'righteous' institutions. Moral ownership is at odds with open debates. This 'silence of the righteous' is regrettable: there are so many colourful shades to be observed as input for lively debates.

Looking at the chapters in this volume dealing with various moral issues, such as corruption, organised crime, money laundering and economic crime policy, there are many colours and shades to be discerned between black and white. Some are in the middle where colours are adjacent or overlapping. For example, organised crime, policy and public administration can form

patterns of interaction where you can hardly tell the one from the other. Daily life can be so leavened with corruption that it is difficult to imagine a life without it or without criminal organisations. Indeed in many countries it is more burdensome to operate without than with corruption, given the state of the civil administration (Jager, 2003). Sometimes it seems that there is no nuance and only one shade of morality: black (= bad), as with the underground contraband markets. Still, human reality may again put the door of relativity ajar. What means morality if one lives in poverty stricken quarters with few alternatives to make a living? *Erst das Fressen, dann die Moral.* (Bertold Brecht)

Relativity is not always 'happy'. Amidst much misery only a selected few do financially better than just surviving. Their accumulation of wealth has little to do with a relativist philosophy, but with a practical (or cynical) attitude that knows only success as a criterion. One should not only think of the corruption in Italy, which has got far more international attention in the media and from researchers than Greece or Spain. Against a nationwide awareness, these manifestations of grand corruption were left alone and would have continued for ever if the bursting of the financial bubble in 2008 had not put a spoke in the wheels. Despite flagrant law breaking, few have been held accountable in court (Keršmanc and Ahtik, 2013; Levi, 2013; Dorn, 2010), while the EU has laid more emphasis on budget matters and austerity than on the (im)morality of an irresponsible elite of bankers and politicians. The EU primary demand was not: "fight corruption", but "cut your expenses". This is also a reflection of moral relativism, but with a sour cynical smile and in our Moral Relativity Parade should be placed at the very rear: in the float of Greed & Moral Indifference.¹ Small wonder that the impoverished populations of the affected countries revolted against a purely financial austerity policy put in place without addressing the moral decay of the ruling elite. It looked like a repetition of the way the EU dealt, for fifteen years, with the 'friendly statesman' and master-corrupter Berlusconi (Stille, 2007): a perfect Europe-wide manifestation of moral relativity. So be it; if we do not learn from history, it is at least entertaining. Let us have a look at the imaginary floats in this volume.

¹ See the 2014 Cross-border Crime Volume: *Corruption, greed and crime money: sleaze and shady Economy in Europe and beyond.*

The ‘state and corruption float’

How puzzling the many shades of morality concerning the corruptive state of a country can be described in the chapter on *Ukraine* by *Anna Markovska* and *Alexey Serduyk*. The basic question is: what is Ukraine? Is it a state seriously victimised by high-level criminals or a criminal state in which criminals run the country. Or is there a shade in between: a country with pervasive corruption, but as a kind of sick ‘alien body’? The picture the authors sketched is far from reassuring: the sick state of Ukraine has more than a chronic ‘moral flu’. The authors illustrate this with a telling opening story of the short military career of conscript *Mykola* who had to become tank commander. As this position was the last thing he wanted, he bribed himself out of service and out of his tank. Other examples range from institutions of higher education with a ‘hierarchical’ exam bribery system (bribes passed higher up in the line of management), to a whole town corruptly run as an organised skimming facility for the local boss. Indeed, since its independence the country has been ruled top-down as a kind of medieval state for the personal gain of ‘tsar’ (president) and boyars (oligarchs) (Jansen, 2014). The president as lord could be a convicted juvenile offender or accused of beheading a journalist, all that did not matter as long as he could hand out fiefs to his vassals/oligarchs. Elite criminals becoming office holders and office holders becoming elite criminals: in such a political landscape there is no way to discern a difference between criminals capturing the state or the other way round. What about civil society and the population in general? Civil society is not strong and needs protection against the state. This requires an independent judiciary, which is lacking in Ukraine. Meanwhile, the monitor carried out by the authors reveals a population left to its own contradictory devices. While half of the interviewed thinks corruption a ‘cancer’ and accuses the state and the corrupt criminal justice system, most condone corruption as ‘oil’ for bureaucracy and businesses or think it just an ‘old tradition’ observed earlier (Osyka, 2003). This tradition actually allows the happy young conscript *Mykola* to bribe his way out of military service. As a beneficiary of this tradition he may attribute corruption a brighter colour; perhaps with a small qualm, but certainly not conscience-stricken.

A companion on the state–corruption Relativity Float is *Anna Sergi* who waves charmingly at you with a sickening description of the permeation of the public administration in the region of Calabria, the ‘toe’ of the Italian peninsula. Though there are many shared characteristics of public administration corruption with Ukraine, this is not a repeat story in a sunny Mediterranean landscape. South Italy has established criminal families which

are different from political annex criminal business clans in Ukraine (and Russia). But that does not imply that the criminal colour palette of corruption differs very much. Both countries are characterised by a fusion of colours from upperworld and underworld, determined either by criminal oligarchs or the 'ndranghta. The upperworld is mainly the local public administration: the usual gravy train. Family relationships in addition to close friendships, financial and mutual interests weave the many ties into a ramified network. Other than in Ukraine, the police and the Prosecution Service do not (always) stand idly by: apart from the prosecution of individual offenders, a whole town council can be punished by an administrative dissolution because of suspected mafia-infiltration. However, apart from publicly demonstrating "doing something", such measures do not solve much as many town councils prove to be 'repeat-offenders'. The elite (in public administration and private sectors) is so connected to the local 'ndrangheta families and morally indifferent that criminal mismanagement soon returns followed by a new dissolution of the council.

With such intricate connections it is difficult to know who rules what or which office holder or politician one can trust. Instead of infiltration, assuming something penetrating from outside, the author speaks of *concurrency* as a form of government. In Reggio Calabria, the largest provincial town, corrupt administrators, politicians and 'ndrangheta members, are so intricately connected, that in combination or singly, one never knows who sits with whom at a table during business discussions. There is no divide between the criminal elite and the elite criminals. All moral colours of civil society are smeared on one palette till there is only some differentiation on the edges.

In such a situation the palette has become so messy that the idea of relativity gets buried under a brownish-grey murky layer. Naturally, to prevent this from happening, important counter forces have to be recruited. In sovereign jurisdictions such counter forces may have to be recruited from the (ruling) elite or disgruntled middleclass. This does not guarantee success when the elite and middleclass share the spoils of corruption – the elite gets the big chunks and the middle class smaller bits (Holmes, 2007; Tsyganov, 2007). However, in rare circumstances in which national sovereignty has not yet been established, such as in *Kosovo* after the withdrawal of the Serbian troops, one could work from a kind of *tabula rasa*. This is described by *Joschka Proksit* in his chapter on the international community and *Kosovo*.

Ideally, the outside forces of the NATO, the UN and the European Union could sow their 'seeds' of democracy, rule of law and transparency on the Kosovar 'empty soil'. But the Kosovo soil was neither empty nor fertile. The lawless country Serbia left behind had many local strong men

who had prestige because of their role in the resistance forces or their local connections (or both). These bosses operate economically in their own local (family) as well as transnational informal/criminal networks (Anastasijevic, 2010). They also have their political power networks with which the United Nations Interim Administration Mission in Kosovo (UNMIK) had to deal. That required on-going compromises with organised crime bosses who were deemed important for the stability of the country: ‘untouchable’ and sometimes “close partners and friends”. The successor of the UN, the European Rule of Law Mission (EULEX) did not fare much better. Fighting organised crime depends to a large extent on witnesses and eventually their protection. That proved to be difficult. In addition, *transnational* organised crime with Kosovo as transit country was not felt as victimising: it was beneficial to many local aides to guarantee additional income (and silence). But, considered being harmful to the international (western) community these crimes were prioritised by the international representatives. Therefore, crime bosses operating only locally, oppressing the common people in the village, were left alone. These political choices were not counterbalanced by the moral status of various high-placed EU and UN officials who added their own idea of relativity to the scales of morality. There were many accusations of improper conduct, corruption and fraud, hardly investigated but sufficient to undermine the trust of the population. How shall we dress up the float of the Kosovo missions, whether of the NATO, UN or EU? The international ‘goodies’ who failed to be good should certainly have a place, next to their corrupt officials from the mission’s own ranks sided by the criminal crime bosses they failed to prosecute because of their own interests.

The float of OC fighting: the Righteousness Floats?

Of course, there are also the ‘genuine righteous ones’ who abhor of such shamelessly displayed relativity. One would almost grant these moralists a parade of their own (The Righteousness Parade) if they would not reject such an idea beforehand as unacceptably frivolous. Instead, we will design a Righteousness Float from the following chapters, beginning with *Ireland* by *Colin King*.

The author presents a cunning variety of relativity in his chapter on Irish legislation as a response to a perceived threat of organised crime. The relativity does not concern the issue of ‘organised crime’ itself (an indisputable thing), but the issue of *proportionality*: the intrusiveness of introduced crime control tools balanced against values of due process and human rights. According to

the author proponents of a visible crime control policy treated the last part of this equation as something of lower priority: a *really* 'relative value'. Reacting to incidents without knowledge of the broader picture, measures have been taken to fight organised crime while reducing due process principles and increasing the powers of the prosecution and the Criminal Asset Bureau. But this increase of power was not counterbalanced by a commensurate increase of accountability. These measures concern: the use of non-jury trial; accomplice testimony and the witness protection programme; seizure of assets in the absence of criminal conviction and offences related to criminal organisations. These measures have been introduced piecemeal and *ad hoc*, responding to a momentary political and public upheaval, with "*stop-gap statutes and emergency responses . . . seldom tempered by rational debate.*" Relativity is an inherent aspect of a rational debate, putting arguments in perspective. This rational kind of relativity is clearly lacking in the Irish law making: the float's crew can wave the Irish Righteousness banner at the stem, maybe upside-down. Which party will stand mid-deck? The righteous Dutch.

The Irish example does not stand alone in its lack of rational, balancing relativity: organised crime as an absolute threat on one scale and the values of due process being of a lighter weight on the other scale. We find a similar imbalance in the Netherlands as elaborated in the chapter by *Petrus C. van Duyne* and *Benny van der Vorm*. What is the case? In the 1990s, there was a Europe-wide fear of organised crime (Van Duyne, 2004). It was supposed to be everywhere and 'on the march' while infiltrating the upperworld. The public administration of municipalities was also threatened because of their routine direct interactions with local (sometimes suspicious) entrepreneurs. To safeguard the public administration's integrity a law was enacted enabling city councils and other local authorities to bar applicants suspected of (organised) crime by withholding their permits or licenses required to operate in a sector of the licit local economy.

Studying the development and application of this special administrative law, the researchers raised the question: "*How genuine was this fear?*" The legislator gave the answer by its actions: where one would expect an energetic approach, the legislative process dragged on for years, while references to 'organised crime' popped up and disappeared again, depending on circumstances. In the end the phrase 'organised crime' did not figure at all in the text of the law, though it has been its initiating driver. Notwithstanding this, ten years after enactment the phantom of 'organised crime' was anew taken from the shelves, only to be shelved again later. This wavering made the objectives of the law uncertain. And what achieved the 'law in action' with its wide powers to snoop in soft data, police reports and fiscal data concerning

applicants for licenses? Did it prevent (serious or organised) criminals from participating in the local underworld economy? Yes, during the ten years of its application a number of subjects were suspected of having organised crime connection, but most of these ‘suspicious’ applicants had a record of minor or median serious offences. Naturally, there are good reasons to keep economic sectors clean by barring inapt entrepreneurs, what the law also achieved. But that was not the aim of this law. Could this silently broadened aim not be achieved by simpler legal means? Yes, but politicians wanted a stronger tool for which the ‘organised crime threat’ was opportunistically (or flexibly) abused.

This is a good indication that also the Absolute Threat erodes as time passes by. Naturally, that is wisdom by hindsight, as *Tom Vander Beken* and *Jelle Janssens* make clear in their chapter on organised crime in the Belgian debate. Even if ‘time passes by’ is a banality, its implications for the issue of organised crime are frequently overlooked. Its meaning comes to the fore when it is combined with another truism: organised crime as just a collective *product of mind*, or, in socio-psychological terms: a social and political ‘construction’. A third truism is that nothing is more changeable than a product of mind, something many people feel uncomfortable with. They prefer ideas as solid ‘things’ to the changeable and thus in our field they cling to the thing-like nature of the organised crime idea.

Following the authors’ lively narrative, this organised crime ‘thing’ became a kind of ‘Christmas tree’ adorned with all kinds of (mental) ‘baubles’: lofty political intentions and complicated concepts, all likewise products of the mind. (Another image I have is that of medieval scholastic philosophers struggling to find ‘the essence of’). The authenticity of this chapter is that the first author himself was one of the main architects of this piling-up of mind-products on and around the basic organised crime ‘thing’. He did so by hanging various ‘baubles’ in this Christmas tree: ‘threat’, ‘forward looking’, ‘vulnerability’ of economic sectors and ‘harm’. To this were added: ‘environmental scans’ and ‘scenarios’, all good ideas which were adopted by Belgium as well as the EU-Commission. However, they proved to be disconnected to other ‘baubles’ and to (organised crime) data for further use. They also proved to be difficult to operationalise, as happens often with ‘mental things’.

Meanwhile the place of the feature ‘organised’ in the EU policy thinking was eroding also: it was ‘flanked’ (or diluted) by ‘serious crime’ (whatever that is supposed to be) which also got into the mandate of Europol which was happy with its broadened circumference. That is how organisations grow, by broadening their subject definition. At the same time the concepts of ‘harm

to' and 'impact on' society of (serious) crime came more to the fore in the thinking of the authors, the EU and national law enforcement agencies.

At present, looking back after two decades, 'organised crime' starting as a clear and bright 'thing' became discoloured and put 'into perspective'. That is, it faded into the background as a kind of 'reserve-idea'. It can be used symbolically or for political reasons such as in the UN Convention on Transnational Organised Crime (Van Duyne and Nelemans, 2011), (S)OCTAs (the Serious Organised Crime Threat Assessments). Or as a socially accepted stopgap in parliamentary debates, as was the case in the parliamentary debate on the Dutch public administration integrity law discussed in the previous chapter. It is like any other folk-devil (Levi, 2008): what mind product is not relative and therefore malleable? We invent it all ourselves and allow it to fade as time goes by. It smacks like good old Schopenhauer: "*Die Welt als Wille und Vorstellung*" ('The world as will and presentation').

The perspective of poverty: all moral colours bleach

In the first section of this introduction I mentioned the 'humane' act of allowing a dying soldier a last puff of Eastwood's cigar. Irrespective of the nowadays public opinion of the health effects of tobacco consumption, the history of this consumer product remains that of moral ambiguity. In the 400 years we have come full circle: from King James I who made his palace the first 'smoke-free' working place, to his son Charles I who discovered the potential of this weed to replenish his coffers by imposing taxes, to the present smoke ban in all public and working places. Nevertheless, the authorities still value the 'tobacco vice' as a profitable taxable commodity: praise the sinners! But to add to this moral duplicity, many authorities have imposed an extra high 'deterrence' tax with the inevitable outcome of a thriving contraband market. This depends on social and economic conditions as this contraband trade is not everywhere equally intense (Van Duyne and Antonopoulos, 2009).

In economically depressed regions with low law enforcement and a smuggling tradition, the illegal cigarette trade may provide many poor citizens with a complementary income. This is described by *Srdan Vujović* in his chapter on the illegal cigarette traffic in the region of Bileća, in the Southwest of *Bosnia-Herzegovina*, a problematic weak state (Sadiković, 2010). One may call the region a somewhat 'forgotten' pocket: a small town amidst a rural province having much unemployment, with Montenegro – also known for its thriving smuggle economy – as eastern neighbour, while west of Bileća there is Croatia one of the nearby offset markets. All the conditions

are present to neutralise or bleach the blameworthy colour of this trade: financial needs and a crime that victimises nobody, except the state when the contraband is sold locally. If not, it is an illegal transit shipment that only victimises a neighbouring state. These are Montenegro or Croatia, for which nobody feels any pangs of conscience. It is not surprising that the number of participants on this market is large, leaving room for some stratification in 'middle level' bootlegging (additional household money) as well as higher level organisations which are flexible in the execution of tasks. The fulfilment of functions is variable, with the exception of two fixed functions in the hierarchy: the bosses who invest and organise and the corrupt officials essential for a smooth passage.

Looking at this crime economy in a forgotten remote corner of Europe, with a lot of low income traders, a bit of criminal organisation and a lot of corruption, one gets the feeling of the relativity concerning the pomp and rhetoric around 'organised crime'. Underlying this surface are broad social layers of misery and poverty that sustain illegal markets and put the organised crime trade into a more human perspective. That observation is strengthened by the chapter on illegal cigarette trade in the South Bronx, written by *Klaus von Lampe, Marin Kurti and Jacqueline Johnson*. Where poverty reigns, illegal markets do not shrink but obtain an adapted complexity. Impoverished street traders find themselves squeezed between providers and the police, being an easy prey to arrests and to exorbitant prices. Naturally, at this level transactions are in small quantities: no boxes but single packets or even 'loosies', driving transaction costs up, though lowering the loss in case of arrest and confiscation. As is the case with any illegal market, much of the transactions are performed in the shadow of risk: the actors have to organise their traffic avoiding being manhandled by the police. Opportunities are also meagre, the most important being the access to the small shops where the contraband can be bought under the counter, sometimes on credit. But cigarette street dealers remain exposed to arbitrary police actions. These may be justified with the argumentation that fighting the relatively 'poor underside' of a crime market is also an aspect of fighting organised crime or even terrorism. The poor buggers of the Bronx slums will think differently given their poverty determined criminal economic horizon.

The 'virtual traffic' float

While the fight against the illegal cigarettes continues on the streets of slum areas (as well as on the wholesale market), another market place has

unfolded: the on-line illegal medicine market as described by *Alexandra Hall* and *Georgios A. Antonopoulos*. That is not the criminal world of windy street corners but of the key-boards and screens from which illegal offers of (among others) medical commodities are made. How criminal is this market and is it the platform of a new transnational organised crime? That is again 'relative': the illegality ranges from offering genuine *non*-brand products under a genuine brand name, to counterfeit but real medicines with the proper ingredients, to complete fakes which may at best be neutral. There are many subtle variations between these forms of deceptive offers of medicines on the internet.

As abusing the internet for illegally selling commodities implies an upperworld undertaking, the criminal trader has to pass a small row of guardians who have the potential power of putting him out of business: the internet providers, registrars (domain names) and payment processors and gateways. But not all the guardians may be equally alert while the perpetrators are skilled in the cat and mouse play in the virtual space, flexibly spreading their businesses over numerous IP addresses. So many smart law breakers slip through using diverse deception techniques. As far as the relative seriousness and innovativeness is concerned, the authors raise the question whether we face a new (global) threat or old garments in a new 'virtual' appearance. As a matter of fact, the basis is not very new: in essence it is *intellectual property* theft with the *disappear-quickly-without-trace* as *modus operandi* and *identity theft* in which the 'disappearance act' is included. Otherwise one observes many similarities to the old swindles in which fake products are sold in look-alike wrappings by phantom firms, if real delivering takes place at all. The authors point at other usual characteristics: a few big well-organised illegal pharmacies alongside numerous small opportunistic undertakings. Of course, it is not only 'old (fake) wine in new sacks': what is really new are the added time and space dimensions, which allow an almost unlimited speed and geographical coverage. That may imply a global threat, though a very relative one: the reverse side of the internet market medal is that internet traders leave traces for law enforcement which are more difficult to delete than physical traces.

Belief and pretences

In contrast to the seemingly intangible nature of the digital medicine market, the green grass of the football matches is solid and tangible and so are the medicines to boost the performance of the players. Also the risks of corruption are always looming. This tension is elaborated by *Anita Lavorgna*

and *Anna Di Ronco* in their chapter on (codes of) ethics in *Italian professional football*. Behind the actual performance on the field there is a world of endless temptations which may (criminally) influence sporting behaviour. The regular scandals surrounding football testify of the multi-faceted risks, ranging from doping to plain bribery to fixing the outcome of a match.

To counter this temptation and to provide the teams and trainers a suitable framework for proper conduct, codes of ethics are drawn up, as a kind of “*from now on you know how to behave*”. But that is not how it works. Codes of conduct must be sharp, clear, practiced and rehearsed as well as their compliance monitored. In short, they must be considered as far from relative; actually kind of absolute. However, when codes of conduct are treated as shallow routines, neglecting the requirements needed to keep them “*sharp in the mind*”, they will function as a panacea and a general excuse to have done something (“*We do have codes of conduct, don’t we?*”). While the contents may be sharp and sound, the functional erosion will make them of a relative effectiveness. The authors sigh that ethical codes of conduct may still have some positive effect – as a placebo: it is empty but works as long as people *believe*.

Belief . . . in our secular, seemingly rational world of law enforcement with risks and cost benefit assessments, there is little so enduring as *belief* in the good works that are being done. And where there is belief there is the persistent denial that all these lofty aims are as relative and changeable as the emotional history of a marriage that turned sour. This metaphor is used by the authors *Jackie Harvey* and *Simon Ashton* in their description of the *anti-money laundering policy*. In their chapter they describe the long-term interaction between two actors in the money laundering field: the regulated financial sector with their compliance officers and the supervisors or regulators.

These actors are in many ways tied to each other and as time passed by it became a sour old marriage: each knows what to expect from the other thereby maintaining a kind of minimum stale satisfaction. But within their shared extensive ‘regulatory dwelling’, which adopted the dimensions of a kind of *Downton Abbey*, they developed their own interests: a real anti-laundering household with a huge expanded staff, equipment and design, first intended to protect the financial industry, now an interest of its own sake.² Irrespective of unanswered questions of efficiency or effectiveness, each partner has his own stake in maintaining the *status quo* in their elaborate (sub)-household and formal protocols. While after 20 years success still remains elusive, their

² Verhage (2011) speaks of a AML complex and industry, though the metaphor of the old marriage in an imaginary extended mansion with the FATF as the Lord points at the internal social aspects.

(expensive) existence is intermittently justified by broadcasting new financial horror stories. This appears to be sufficient to maintain within their colourless marriage a careful balance while presenting ritually the common belief in the absolute good of financial purity they profess to serve. But do they really do so? Very little is known of the real effectiveness of the anti-money laundering policy, nor has the tired couple ever made serious attempts to know it for themselves. While a lot may be going on in the criminal financial world, the grumbling partners are mainly watching out for each other's possible regulatory mischief. This regulatory washed out marriage is symptomatic of the given that everything becomes relative as time passes by. Still, the sour couple being expert in keeping up appearances, will prevent the onlookers from observing anything of that on their float: belief in the goodness of the anti-laundering mission must not be shattered.

Severity instead of relativity

When it comes to economic crime, the author *Sabina Zgaga* makes clear that in Slovenia there is no place for moral relativity as far as it concerns the victimisation of creditors by *criminal insolvency*. That is an interesting finding given the almost global tenor that business crime is not that much 'real' crime or as 'bad' as other offences: "*Illegal but not criminal*", let alone organised (transnational) crime. This ambiguity can still be discerned in the way in which this type of crime did not get a place on the Lisbon Treaty 'serious crime list' with a 'cross-border' dimension. This is remarkable. On the one hand, insolvency fraud can be a practical instrument in organised economic cross-border crime, fraud against the EU and money laundering. On the other hand, the EU, remarkably, did not include this crime within its perimeter of harmful crimes against the interests of the EU finances. As such a special moral relativity float on economic crime would be deserved.

However, this would be at odds with the present Slovenian law and enforcement practice which displays a clearly unambiguous (repressive) attitude to criminal insolvency cases. But still, some ambiguity had to be overcome. Since the economic crisis of 2008, the number of insolvency cases increased steeply in Slovenia. But in contrast, the criminal insolvency prosecutions lagged behind due to the very narrow definition of the criminal offence after an unexplained amendment in 2008 which impeded successful prosecution. Subsequently it took three years before this strange legal hurdle was removed which was subsequently reflected in the statistics of prosecutions, convictions and punishment. It makes us aware of the fact that an unwanted moral relativity reflected in unsuited

legislation can be removed given sufficient political will, also in the field of economic crime. As the reader can learn in a later chapter on EU fraud policy, this was only a local development concerning one type of economic crime.

Moral relativity may potentially be more salient in the combination of economic crime and political parties, as elaborated by *Sunčana Roksandić Vidlička* and *Aleksandar Maršavelski*. They raise the point of the criminal liability of political parties, taking the case of the *Croatian* CDU party and its defrauding and corrupt leader and former Prime Minister Ivo Sanader as an exemplar *cause célèbre*. Mr Sanader was accused of and convicted for abusing his official power as president of his party and Prime Minister to enrich his party and himself. Apart from the personal criminal liability of Sanader, there was the legal question of criminal liability of the political party itself. What to do with a party benefitting from the crimes of its leading elite? Croatia has complied with the EU requirement of legal person criminal liability (Žunić Kovačević, 2012). But political parties? The authors discuss the dilemmas in a democratic state: severely punishing a political party for economic crimes can be at odds with a free democratic order as a political party can be ‘punished out of existence’. The more severe sentence of dissolution is really controversial, in particular within a two-party system. Also a fine that will be so high that the party will be crippled in its constitutional performance or even would go bankrupt is effectively equivalent to its dissolution. Indeed, there is an uncomfortable balance in holding political parties criminally liable because of its criminal leadership: the political legal person is punished for the sins of its leader(s). Isn’t that stretching the morality too much towards the absolute?

The last float: EU-fraud and OLAF

The volume ends with a surprise: the biggest and most magnificent Moral Relativity Float is about an institution anything but known for its frivolity or relativity: the organisation against EU-fraud, the OLAF (Office de la Lutte Anti-Fraud) described by *Brendan Quirke*. The reader may think that there is no stuffer subject than the EU and its funds which are constantly threatened by irregularities and fraud. Why is this such a persisting problem? Would the correct and simple answer not be: ‘Put a strong watchdog in place and the problem would be solved’, possibly accompanied by a European public prosecutor (Ingelram, 2011). But here comes the traditional irony of the EU where simple answers are hard to find: there is a watchdog put in place, the OLAF, but not before its teeth have been removed. It cannot bite, but only bark (not too much and not too loud): that was all the Member

States allowed. So it became an administrative body with no investigative competence which has to coordinate the anti-EU fraud policies of 28 states that all have different ideas about the priority to be given to this subject. That is a huge task, even for a better equipped organisation.

According to the author, despite the generally recognised seriousness of the EU-fraud problem, the institution's position was from its inception not well thought-out. It started with a difficult birth and was burdened with the legacy of its severely criticised predecessor, UCLAF. It was intended to function as a streamlined 'communication channel' between national focal points (AFCOS) of the Member States and the European-Commission. However, that rational idea was soon undermined by OLAF itself by creating parallel communication channels with the Member States. To aggravate matters, the Commission took the problems with the new Member States, Bulgaria and Rumania, too lightly, showering hundreds of millions Euros in support over their governments, that did not have the institutional capacity to handle these large sums properly, even if there had been no dubious conduct. Also, where the OLAF officials had a recognised added value because they operated within the country directly with executives, they were withdrawn, nullifying the local efficiency they achieved.

Though the European anti-fraud flag was proudly hoisted, the public sees an untidy float bobbing up and down, with a toothless dog at the stem (even false teeth were not granted) with a motley crew of serious and not so serious fraud fighters blowing kisses to the astonished audience.

Back to where we started, our moral winks of history: looking at the content of the chapters with a Voltairian philosopher's sardonic smile and a bit of distance, may reveal a lot of happy relativism underneath the seriousness. If that is not convincing enough, then look further back into history. Not for a lesson, because there is none unless we invent it ourselves, but as a *déjà vu* and counterweight for the pomp and seriousness of the angle of 'absolutism'.



General footnote: Anticipating Brexit all numbers are in normal European writing; the comma for the decimal and the dot for the thousands.

References

- Anastasijevic, D., A map of organized crime in the western Balkan. In: W. Benedek, C. Daase, V. Dimitrijević and P.C. van Duyne (eds.), *Transnational terrorism, organised crime and peace building: human security in the western Balkan*. Palgrave Macmillan, Basingstoke, 2010
- Dorn, N., Ponzi finance and state capture: the crisis of financial market regulations. In: P.C. van Duyne *et al.* (eds.), *Cross-border crime inroads on integrity in Europe*. Nijmegen, Wolf Legal Publishers, 2010
- Duyne, P.C. van, The creation of a threat image: Media, policy making and organised crime. In: P. C. van Duyne, M. Jager, K. von Lampe and J.L. Newell (eds.), *Threats and phantoms of organised crime, corruption and terrorism*. Nijmegen, Wolf Legal Publishers, 2004
- Duyne, P.C. van and G.A. Antonopoulos (eds.), *The criminal smoke of tobacco policy making*. Nijmegen, Wolf Legal Publishers, 2009
- Duyne, P.C. van and M.D.H. Nelemans, Transnational organised crime: thinking in and out of Plato's cave. In: F. Allum and S. Gilmour (eds.), *Handbook of transnational crime*, Routledge, 2011
- Holmes, L., The corruption-organised crime nexus in Central and Eastern Europe. In: L. Holmes (ed.), *Terrorism, organised crime and corruption. Networks and linkages*. Cheltenham, Edward Elgar, 2007
- Inghelram, J.F.H., *Legal and Institutional Aspects of the European Anti-fraud Office (OLAF) : an Analysis with a Look Forward to a European Public Prosecutor's Office*. Groningen : Europa Law Pub., 2011
- Jager, M., The market and criminal law: the case of corruption. In: P.C. van Duyne, K. Von Lampe and J. Newell (eds.), *Criminal finances and organising crime in Europe*. Nijmegen, Wolf Legal Productions, 2003
- Jansen, M., *Grensland. Een geschiedenis van Oekraïne*. Amsterdam, Uitgeverij G.A. van Oorschot, 2014
- Keršmanc, C. and M. Ahtik, Learning the ABCs of deceptive practices in banking. In: P.C. van Duyne *et al.* (eds.), *Human dimensions in organised crime, money laundering and corruption*. Nijmegen, Wolf Legal Publishers, 2013
- Lensen, L. and W.H. Heitling, *Tussen schandpaal en schavot : boeven, booswichten, martelaren en hun rechters*. Zutphen: Terra, 1986
- Levi, M., 'Suite Revenge? The Shaping of Folk Devils and Moral Panics about White-Collar Crimes', *British Journal of Criminology*, 2009, 49 (1): 48-67.
- Levi, M., Financial crimes and the global financial crisis. In: P.C. van Duyne *et al.* (eds.), *Human dimensions in organised crime, money laundering and corruption*. Nijmegen, Wolf Legal Publishers, 2013

- Osyka, I., Anti-corruption policies in Ukraine. In: P.C. van Duyne, K. Von Lampe and J. Newell (eds.), *Criminal finances and organising crime in Europe*. Nijmegen, Wolf Legal Productions, 2003
- Sadiković, L., Bosnia and Herzegovina in the Western Balkans' system of security. In: W. Benedek, C. Daase, V. Dimitrijević and P.C. van Duyne (eds.), *Transnational terrorism, organised crime and peace building: human security in the western Balkan*. Palgrave Macmillan, Basingstoke, 2010
- Radner, E., *A brutal unity: the spiritual politics of the Christian church*. Waco, Tex : Baylor University Press. 2012
- Stille, A. *The sack of Rome*. London, Penguin Books, 2007
- Tsyganov, Y., The state, business and corruption in Russia. In: L. Holmes (ed.), *Terrorism, organised crime and corruption. Networks and linkages*. Cheltenham, Edward Elgar, 2007
- Verhage, A., *The anti laundering complex and the compliance industry*. Abingdon, Routledge, 2011
- Žunić Kovačević, N., Croatia. In: K.B. Brown (ed.), *A Comparative Look at Regulation of Corporate Tax Avoidance*. Springer, Dordrecht, 2012

When we look back at the past decades of crime and criminal policy development, a substantial part of which – 15 years – is covered by the Cross-border Crime Colloquium Volumes, one cannot avoid a feeling of relativity: within a lifetime some moral and criminal issues have changed from ‘threat’ to ‘acceptable’ or the other way round, or are only nominally maintained but their urgency has become diluted or ‘bleached’. One may call this relativity the ‘wink of history’. Naturally much depends on the subject at stake: moral relativity does not always express itself unambiguously as there are so many shades between black and white. The criminological issues of this volume which covers a range of criminal manifestations, from corruption, organised crime in post conflict regions, cigarette smuggling, money laundering, fraud and their supervisory bodies, can be represented as a kind of ‘relativity parade’, analogous to the Gay Pride Parade. In this volume it is called the ‘Moral Relativity Pride Parade’ and it is this lens through which we address this diversity of subjects.

Depicting the elaborated themes as a parade of Moral Relativity Floats with a challenging crew of participants, does not hide the fact that there is also much policy making moral duplicity presented with no tinge of ‘relativity’ but dressed in the cloths of moral rectitude. For example: tough-on-(organised) crime legislation neglecting basic principles of criminal law safeguards; crying wolf against certain forms of organised crime when the real issue is poverty; supervisory structures which look more like a bad marriage relationship between supervisors and the supervised actors than addressing the (money laundering) problem in the real life; or prioritising a concern like EU fraud while installing an European agency as a toothless watchdog.

This fourteenth volume of the Cross-border Crime Colloquium, an institution which stimulates a critical discourse on crime and crime-control in Europe and beyond, contains the peer-reviewed critical and innovative contributions of 23 international experts. The chapters are based on empirical data or critical theorising and highlight new aspects of these fields.

