

Changing Practices, Markets and Relations

David Brown enters into the complex debate on "organised crime" and "corruption". He discusses the question of definition; analyses the various pre-conditions of organised crime networks; looks at the role of the media in constructing news; points out the dangers associated with the tendency in the current debate to reduce everything that happens to an effect of corruption; and finally stresses the need to change practices and relations rather than merely expose individuals.

David Brown

An increasingly volatile political debate has been building in Australia in recent years around the issue variously conceived as "organised crime" and "corruption". Previously confined to the legal sphere and treated as a discontinuous series of individual allegations to be dealt with through the courts, the debate has opened out to constitute a daily staple of contemporary Australian political life, with significant political effects.

It is a difficult and complex debate to enter, for a range of diverse issues are thrown up. The political affiliations of some of the figures who have been named have further complicated reactions. There have been some strong disagreements about the appropriate responses and considerable differences of approach and emphasis have emerged within the legal left. In this brief note I would like to make a few general comments about the way the debate has been constituted. My starting point is that the field of "organised crime" or "corruption" is diverse, discontinuous and complex, that it cannot be easily or mechanically appropriated either by progressives or conservatives and that an important area of struggle lies in the terms, categories and concepts within which the debate is constituted and structured. The note does not attempt to address specific issues or events, but rather to suggest some general themes.

The Question of Definition

Firstly, there is the issue of definition. How are we to constitute our object of inquiry? One of the leading protagonists in the debate, crusading journalist Bob

Bottom, in his recent best-seller *Without Fear or Favour*, offers the following different ways of conceiving organised crime within the space of one rather slim text: a form of unrestrained power, a cancer on Australian society, an octopus, a two-headed monster, an adversary that is outside and threatening to Australian society, nameable individuals who occupy particular positions of power within a variety of institutions (a series of "Mr Bigs") and a structure of alliances between particular institutions such as the police, politicians, judiciary and criminals, with an existence like a corporate body over and above any particular individuals.

The thread which unifies these inconsistently conceived and contradictory objects is moralism: the world is ultimately divided into "goodies" and "baddies". The struggle against "organised crime" or "corruption" is part of the wider struggle between good and evil. It may well be personally reassuring to conceive the issues in such essentialist and religious terms. But such conceptions are hardly rigorous, they do not assist us in grasping the complexity and specificity of the issues, they preclude the possibility of a structural analysis and they feed into conservative ideologies that have been historically ranged around issues such as crime, punishment, imprisonment etc.

Similarly in relation to the category "corruption", there are real dangers in treating this as a self-evident and unitary form of behaviour or relationship. "Corruption" tends to roll up a diverse range of differentiated



and specific practices, from the direct receipt of payment for services rendered to a variety of forms of what we might call "influence peddling". Some of these practices are part of the currency of politics in particular historical contexts. This is not to excuse or defend such practices, but to suggest that they should be addressed within their political and historical context in all their specificity rather than within broad moral categories.

Analyzing the Pre-Conditions

Secondly, we need to analyse the various pre-conditions, or "conditions of existence" of organised crime networks. Foremost among these are the economic conditions, namely the constitution, circulation and regulation of a market in illegal goods and services which generates profit for the suppliers. It is the very illegality of the goods and services offered which is both a major source of profit and a barrier to alternative, accountable and more social forms of regulation.

There is an irony here which must be brought home to the moral and political conservatives in the strongest possible terms: their opposition to various law reform initiatives like the legalisation or decriminalisation of current illegal goods and services in the gambling, prostitution and drug areas, is one of the major preconditions of the continuance of current patterns and networks of crime, organised or unorganised. Remove illegality through law reform and you remove much of the source of profit, monopoly and stand-over as well as opening up the field to social

Both the judiciary and the government in NSW have faced serious allegations of corruption.

and accountable forms of licensing and regulation.

Among the political preconditions of crime networks is the historical legacy, especially in NSW, of accommodations and interconnections between the financiers and organisers of these illegal markets, their employees and enforcers, sections of the police, particularly in specialist squads and in high ranking positions including past Commissioners and Asst. Commissioners, and sections and individuals in all major political parties especially the Liberal Party under Askin and, more recently, the right wing of the NSW ALP. Here again, an attempt to change the preconditions generating and sustaining organised crime must confront the issue of changing political alliances and practices. This would involve, among other things, an attempt to shift sections of the left in the ALP away from the closed, defensive, manipulative "numbers" oriented style of politics which mirrors the right wing.

And finally, one of the major social and cultural preconditions of organised crime is the historically constituted popular support for certain illegal activities such as SP gambling. Whatever position we may take as to the desirability of such popular ideological support the point is that we must take it into account in both attempting to understand and change our object of inquiry.

The Social Construction of News

Thirdly, we must devote some attention and analysis to the dominant forms through which debate about organised crime/corruption is constructed. These forms, predominantly the news media monopolies, are not "neutral" or "technical" agencies for the dissemination of "information". The news media produce and construct the product "news" for circulation and exchange in a commodity market. The Australian media are highly monopolised. One does not have to adopt a crude conspiratorial and reductionist approach to recognise that journalistic news production takes place within certain constraints and limitations. These constraints are not only those of monopoly ownership patterns and prerogatives, but a complex of technical and social conditions under which news production is organised: time constraints, concepts of newsworthiness, the relationship between the media and "primary definers", the processes of signification, hierarchical authority structures, etc.

The point here is that certain codes, practices and forms of representation think us as much as we think them, we think through them and thus they are an active ingredient in the debate. Such a recognition of news as socially constructed through the institutions,

instruments, practices and relations of its production, forces us to adopt a critical attitude to defensive journalistic claims to be merely "reporting the facts", "revealing the truth", etc. in terms of some general "public right to know". It should also evoke in journalists an attempt to evaluate the political effects of particular journalistic accounts and an acknowledgment of the wider context into which their work is inserted. The pre-established, although frequently unacknowledged, interpretive framework which largely structures the meaning to be given to particular journalistic accounts, should be opened up to analysis, the implicit made explicit.

Reductionism

Fourthly, we should be aware of a tendency in the current debate to reduce everything that happens to an effect of corruption. Such reductionism contains a number of dangers. Firstly, it obscures the mundane, routine exercise of economic, political and social power. Bourgeois hegemony is constructed out of the normal routine operation of an economic system predicated on the division of society into owners and non-owners: the "dull compulsion" of the economic. The basic relation of exploitation embodied in the heart of a capitalist social order wreaks its divisive and destructive effects through the normal legal operation of the commodity market; it does not depend on "corruption". Similarly, the dominant form of exercise of political power lies in the daily, routine, mundane networks of influence in the establishment boardrooms and clubs.

A related effect illustrated in the discussion of a number of alleged "fixes" involving prominent people obtaining favourable treatment through various forms of improper influence is that much of the discussion has cast these cases against a perceived norm: an ahistorical, universal "equality before the law", enjoyed by widely different class subjects. Thus, the apparently radical *expose* notion of "double standards" of justice, one standard for those with influence and one standard for everyone else, actually ends up promoting one of the most conservative elements in dominant legal ideology. The point is that there are many different standards of justice



depending on a host of factors: the nature of the charge, the class, sex, gender, national, cultural, etc. background of the defendants, the outcome of a number of pre-trial processes and negotiations, the adequacy of legal representation and so on. The numerically and legally most significant "fixes" are the routine, daily practices of police verbal, the institutionalised production of evidentiary material in the form of alleged confessions in the secret confines of police stations, structurally outside effective mechanisms of regulation and accountability.

The reduction of events to an effect of corruption and the conception of corruption as a unitary, continuous field results in an unfortunate tendency to override the complex and diverse rich local histories that have ranged around criminal justice issues such as verbal, police interrogation practices, legal aid, sentencing practices, penal reform, etc. My argument here is that there are no clear cut *a priori* positions (other than morally based ones) that can be immediately called into service in the cause of a progressive stance. It is open to participants to take quite different

positions as to what should transpire politically, "what should happen", in relation to questions such as the "authenticity" of the Age Tapes, "judicial independence", the powers of S.72, the conduct of Royal Commissions, the sentencing of drug offenders, the removal of magistrates, etc. There is not a linear, unitary logic that ties these disparate issues into clear cut political positions, other than those founded on essentialist or moralistic assumptions. It is always a question of concrete analysis and calculation.

Transforming Practices

Finally, we should remember the historical lesson: reform movements in the criminal justice arena that have pinned their hopes on exposing, prosecuting, punishing individuals, have had little success in transforming the basic pattern of relations within which individuals carry out activities. Some of these individuals may well be unpleasant, immoral, brutal, etc. and should be brought to book for particular criminal actions. But if we are serious about changing the relations within which these, or other largely interchangeable individuals operate, we must attack the broader

operate, we must attack the broader economic, political and ideological conditions that sustain and generate these relations and structures. We do not make history under the conditions of our own choosing. Progressive forces seeking to intervene in these complex and difficult debates should not abandon a commitment to historical and structural analysis and to a study of the political economy of the market in illegal goods and services. In seeking to force change in a progressive direction we should struggle to change **practices, markets and relations** rather than holding out the illusion that the question is one of individual morality or "corruption" which can be solved by a war, a crusade, against individual "criminals", whether organised or unorganised.

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