

Review of *Dirty Business, Exploring Corporate Misconduct: Analysis and Cases* by Maurice Punch

by: Osvaldo Croci

Maurice Punch, a former professor at The Netherlands School of Business at Nijenrode University, tackles in *Dirty Business* a relatively neglected area of research. While most criminologists have traditionally examined street crime, Punch attempts to unravel the reasons behind business deviance. He does so, moreover, by means of an interdisciplinary and multilevel approach. The book is divided in three parts. Part One reviews the literature on corporate deviance and presents some case studies. Part Two is entirely devoted to case studies. Part Three combines the insights of the literature with those drawn from the case studies to offer some conclusions.

Besides the fact that this is essentially an area "unresearchable by conventional, and ethical means" (p. 44), academics have not given much attention to corporate deviance because of the assumption, so long-held and widespread as to have practically become a kind of self-evident truth, that managers are neutral technocrats working in an environment characterised by legality and respectability. The corollary of this belief has been to regard cases of corporate deviance as exceptional events. The tendency, moreover, has been to think that when managers break the law, they do it for the 'good' of the company. They are, therefore, a special kind of criminal: honest people turned crooks for a commendable cause. Punch moves beyond this traditional view. Adopting what could be called a "structuration" approach, he argues that "managers are shaped by their complex environment but they are also busily reconstructing it" (p. 5). After all, the traditional view of business crime as a rare and temporary aberration is precisely an instance of the capacity of business to manage its own image and therefore successfully structure the environment in which it operates.

Punch combines three different levels of analysis: the individual, the organisational and the systemic. This means that he examines individual misbehaviour in the milieu in which it occurs, namely business organisations operating within the context of advanced capitalist society. The culture and structure of an organisation, and the larger political and economic framework in which that organisation functions, can either favour, by providing opportunities, or hinder, through regulation and controls, individual propensities to engage in criminal behaviour. The Maxwell case, for instance, shows that "a 'bent' businessman can get away with a great deal as long as no one inside the organisation dares to challenge his power and no agency outside the organisation can get a grip on this illegality" (p. 8). In the BCCI case, dishonest principals were aided by the blind loyalty of their employees (a by-product of the Islamic bond that tied them together), and the absence of "effective global regulation of financial services" (p. 15).

Punch's review of the existing literature on business deviance is exhaustive but unsystematic. He moves from the presentation of taxonomies to that of hypotheses and from one level of analysis to another without any evident organising principle. As a result, although he has to be commended for bringing together a body of literature that is still impressionistic and scattered across various disciplines, he has missed an excellent opportunity to begin laying the ground for more systematic and cumulative research in this difficult but extremely important area. Moreover, rather than bringing in case studies to test hypotheses from the literature, he uses them mainly to develop additional insights. Since these follow each of the ten case studies, the reader is left with the impression of dealing with ten totally different cases of deviance. This is regrettable, and also a bit surprising, since Punch himself laments that "the case method, widely used in business studies, purveys an ahistorical, atheoretical style of treating business practice" (p. 42). Space does not permit a discussion, or even a simple listing, of the many issues raised in this volume. A couple of points, however, deserve some attention because, had they been treated more clearly and systematically, they would have greatly added to the significance and value of this study.

The first concerns a theoretical ambiguity. At different points in the text, Punch seems to locate the major reason for business deviance squarely at the level of the organisation. As he puts it: "The organisation is the villain; our inability to control it is the essential message of this book" (p. 214). It is

when individuals are placed "in a social and moral context where deviance may be embedded in the daily practices and understood meanings or routine organisational reality" (p. 46) that misconduct occurs. Deviant behaviours, moreover, "are not produced by dramatic or aberrant actions of a few isolated individuals, but instead are an integral part of the organisation" (p. 57). There is, in other words, "an intricate pattern of ordinary, undramatic, low level deviance in organisations in general and in business organisations in particular" (p. 217). Punch even goes as far as affirming that "the corporation, and the business environment, are potentially criminogenic" (p. 2) and that "business is criminogenic" (p. 213).

One might be tempted to conclude then that all business organisations are criminal. What might differentiate them is, at best, simply their degree of criminality. Punch, however, then goes on to affirm that there is "no question of a blanket assertion that most companies are routinely criminal." Rather, organisational deviance and corporate misconduct "are responses to internal and external pressures that foster deviance from the trivial to the blatantly criminal" (p. 214). This seems to suggest that "internal pressures" engender criminal activity only when they interact with "external pressures." Hence, it is not the organisation per se that is criminal, but particular organisations operating in specific external environments. These ambiguities unfortunately are not clarified. Punch, in fact goes on to list a number of variables (both internal and external) that might help explaining why business organisations turn to deviance (pp. 220-247). These are: the competitiveness of markets; the size and complexity of organisations that, by requiring fragmentation of information and segmentation of responsibility, allow the abdication of a degree of personal responsibility; the emphasis put by business organisations on goal attainment, namely profit; the opportunity structures/reward nexus which exists especially at the higher echelons of the organisation; and the tendency for business companies to become total institutions with their own corporate culture. The problem here is that all these variables might be relevant. Indeed, sometimes even their opposite might be. Punch, in fact, notes that empirical research has also shown that there is no significant correlation between market conditions and deviant behaviour and that small size and close, if not familial, relations can also contribute to deviance. To complicate matters even further, Punch also re-introduces socio-psychological variables that suggest the relocation of the cause of deviance at the individual level of analysis. He states, for instance, that "the organisation is for white-collar criminals what the gun and the knife is for the common criminal: a tool to obtain money from victims" (p. 214). Briefly, the reader is provided with a long shopping list of variables that have in some cases led to deviance, but no clear indication of which variables, or combination thereof, are more likely to cause deviance. The volume, in other words, does not offer a theory of business deviance but only a preliminary, albeit very useful, list of variables and hypotheses that look relevant in the development of one, at least if one assumes that such a feat is indeed possible.

A terminological ambiguity should also be noted. Punch uses the terms crime, deviance, misbehavior and misconduct as being synonymous. Yet, it would appear, that these terms should be kept distinct. An individual who engages in criminal activity, for instance, cannot be said to be acting in a deviant manner if his/her behavior is consistent with what is considered to be normal within his/her organization.

The second point concerns what I regard as a missed opportunity. Punch affirms that "the types of, and opportunities for, business deviance will alter with social, economic, and technological changes," and that "societal attitudes to business deviance will be dependent on complex negotiations of rules between business, government and other vested interests, making the process essentially 'political'" (p. 45). It would then appear that the political-economic conjuncture of this fin de siècle is particularly conducive to business deviance. As the culture of business becomes more pervasive, to the point that its dominant influence resembles that of the Church in bygone centuries, and as its power increases thanks to advances in technology, influence and control of the media, and the retreating role of governments willing to embrace the rhetoric of deregulation, the potential for abuse of that power also increases. The cult of competition, moreover, provides both motivation and rationalisation for rule breaking. Furthermore, it would appear that in the age of "casino capitalism" (to use the term coined by Susan Strange) there is an incentive for professional criminals to take control of business

organisations operating in a political economic environment that offers opportunities to get rich big, fast and with relative impunity. In the case of the Saving and Loans scandal, for instance, criminal behaviour was clearly "premeditated, highly organised and continuous" (p. 21). More recently, in the Bre-X's case, what was claimed to be the world's biggest gold field turned out to be a scam after an independent study found that estimates for the Busang deposit in Borneo were based on tampering and falsification on a scale without precedent in the history of mining. Punch is well aware that the current culture of regarding government as the enemy of business and civil society in general, and the concurrent policies of deregulation provide new and ample opportunities for business deviance. The worst cases he expects to occur in the new and unregulated markets of eastern Europe and the Far East (p. 268-269). Having formulated these hypotheses, however, he does not proceed to test them through a comparison of available aggregate data on business deviance during the last four decades and by macro-regions. Even if these data would only include the scandals that have come to the surface (and, therefore, would probably measure only the tip of the iceberg), they would have provided at least a suggestive comparison.

In the concluding chapter, Punch also offers some observations on what can be done to deal with business crime. His assessment is rather sombre. Self-regulation seems to be effective only when the victims are other businesses. Government regulation requires a political will that is absent, and likely to remain so, as long as business retains its pervasive political influence. Regulatory agencies, moreover, are often "captured" by business interests. Criminal law is not a very effective instrument for dealing with organisational deviance, both because it is "shaped on individual behaviour and guilt" (p. 253), and because "a great deal of regulation is implemented through civil and administrative laws" (p. 254). In the civil arena, moreover, corporations easily escape sanctions thanks to their power and influence. Punch melancholically concludes that in order to tackle business misconduct successfully "we require honest politicians, unambivalent laws, well-resourced regulatory agencies, business leaders of integrity, ethical codes, and crusading media" (p. 267). Ironically, however, the current push for deregulation might contain at least part of a solution. Since regulation also serves the crucial function of coordinating the economic system in its entirety, it can be expected that when "business deviance begins to hurt badly business' own long-term interests for relatively healthy, predictable, and trustworthy economic relations, then that is the time when control of business deviance is really taken seriously" (p. 40). At that point, moreover, it will be business itself that will clamour for re-regulation and additional controls as a necessity.

In conclusion this is a very useful volume for anybody working in the field of organisational deviance. Besides bringing together the existing literature it also provides new insights and new evidence. It does not, however, significantly advance the building of a theory of business crime. One must also mention that the book is plagued by a series of repetitions. The reiteration of some concepts and hypotheses in different parts of the book has the effect of muddling the main theoretical argument. The book would have benefited from a re-writing: it would have made it both shorter and clear, and thus also more effective.