Insurance and Crime

03.1

European Journal of Criminal Policy and Research

ISSN 0928-1371

ARCHIEF EXEMPLAAR

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Aims and scope
The European Journal on Criminal Policy and Research is a platform for discussion and information exchange on the crime problem in Europe. Every issue concentrates on one central topic in the criminal field, incorporating different angles and perspectives. The editorial policy is on an invitational basis. The journal is at the same time policy-based and scientific, it is both informative and plural in its approach. The journal is of interest to researchers, policymakers and other parties that are involved in the crime problem in Europe.

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Subscriptions
Subscription price per volume: DFL 175 / US $ 105 (postage included)
Kugler Publications, P.O. Box 11188,
1001 GD Amsterdam, The Netherlands
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For USA and Canada:
Kugler Publications, P.O. Box 1498,
New York, NY 10009-9998, USA
Fax: (212) 4770181

Single issues
Price per issue DFL 50 / US $ 27.50
For addresses, see above
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Editorial

Insurance is at the heart of modern society. François Ewald, theorizing on this statement, speaks of 'l'état providence': the welfare state that has developed on the basis of insurance techniques: the calculation of risks; spreading the risk; capitalizing harm. In tandem with insurance techniques a prevention policy is developed in terms of reducing risks of abuse and fraud. The central position of insurance makes it a matter of common interest, based on distributive justice, which aims 'to insure a degree of equality between individuals deemed constituents of a whole' (see Bacher, in this issue).

These general remarks on the importance of insurance for modern society make it understandable why insurance is of major concern to criminal justice. Insurance may be at the heart of modern society, but at the same time it is most vulnerable to abuse and fraud. Insurance contracts are sanctioned by private law, but abuse has a moral impact as well. Insurance fraud has no single victim, but the philosophy behind insurance is undermined by it in a serious way.

For this matter it can be seen as a major problem that insurance companies tend to pass the costs of insurance fraud to policyholders in the form of increased premiums. The police usually is not informed of these cases of insurance fraud. Estimates of fraudulent claims vary from five to ten percent (see Niemi in this issue). In this first issue of the third volume of the European Journal the relationship between insurance and criminal justice is approached in very diverse ways.

André Lemaître opens this issue with an article on the relation between insurance industry and prevention policy. From the first, insurance companies have been directly concerned in risk reduction and prevention (such as fire prevention). Relatively late, insurance against theft was developed. The author explains how at the end of the seventies prevention policies were initiated by the insurance companies in France and Belgium. Since 1953 the Comité Européen des Assurances is working on, among other things, harmonization of procedures for certification of equipment on a European level.

According to Rolf Arnold there are four ways to approach the relation between crime and insurance: the personal, the business segment-related, the economic and the functional approach. The functional approach - the specific economic functions of an insurance transaction for the individuals involved and the effects of crime in that context - is
central in his article. He gives an overview of the possible forms of abuse (such as overinsurance, multiple insurance, redating of an insurance contract etcetera).

Roger Litton informs about moral hazards. Insurance underwriters sometimes ascribe 'moral hazard' to their clients or prospective clients. Empirical studies suggest both a factual base for such ascription – accident-proneness – and judgement biased in terms of social class. Moral hazard is often taken as a predictor of insurance fraud. The existence of the moral hazard attribution process is little known outside the insurance world.

According to Hannu Niemi the opportunities for insurance fraud have increased for several reasons. The insurance companies have not given much attention to this situation because increased premiums didn't effect their competitive position. They do not turn to the state's institutes for law enforcement and criminal procedure except when the financial interests of the company are at stake. The author thinks that the role of the companies themselves in creating opportunities for committing crime have to be recognized. The problem has to be dealt with in cooperation with the criminal justice system.

Jon Spencer and David Ward use household content insurance as an example to show how economics contribute to the definition of crime and crime policy. The authors deal with the relation between insurance, crime, victimization and market economy. Victims of property crime are seen as potential offenders when they are being judged on their reliability and responsibility. They warn of a fracturing of the social contract between citizen and state, leading to increased feelings of insecurity and vulnerability.

Jean-Luc Bacher concludes the theme section and concentrates on the attitude of insurers towards insurance fraud. In his view the fight against fraud depends primarily on the insurers. They are hesitant in taking legal action, which has serious consequences for the concept of justice. According to the author, the state should be equipped to oblige insurance companies to counter fraud for essential coverages (health insurance or general accident insurance).

As you might have noticed, publishers and editors have chosen to give the journal a new face. It can be seen as a sign of the viability of the journal after two volumes. However, there are no changes in editorial policy. The editorial board is preparing for this volume issues on 'business crime and corruption' and 'environmental crime'. The fourth issue of this year will be called 'East meets West in crime'.
The role of the insurance industry in piloting private sector security and prevention policy

André Lemaître

It will not be a question here of recalling all the factors in the development of insurance, but rather as regards prevention policy: insurance companies have always been directly concerned in risk reduction, and the driving force behind a specific aspect, prevention design. So, if for a long time the only remedy for the ineffectiveness of the inhabitants and city officials faced with expanding fires was to ‘cut their losses’, that is to create a gap around a building on fire by demolishing other buildings, it very rapidly became apparent that city development called for other solutions. ‘In London in 1666, the flames were more active than the demolition workers’ (Delumeau, 1989, p. 536). Within five days, it destroyed more than 13,000 houses, Saint Paul’s Cathedral, just under a hundred churches, and left 20,000 people homeless. Little by little the authorities took a series of measures with the intention of preventing the development of fires: a ban on thatched roofs, construction in stone and brick, architectural standards, distancing certain hazardous trades away from the city centre, but also improvements in water supply and storage (Delumeau, 1989). In the sixteenth century water ‘syringes’ appeared, and in the seventeenth century the first fire pumps were imported from Germany and the Netherlands into France and England (Delumeau, 1989, p. 537). The creation of a fire brigade in Paris dates back to 1716.  

1 Criminology Department of the University of Liège, 7, Boulevard du Rectorat, B 31, B-4000, Liège, Belgium.  
2 Later, the Compagnie d’Assurance contre les Incendies (Fire Insurance Company), which in 1787 became the Compagnie Royale d’Assurances (Royal Insurance Company), obtained a licence and was authorized to sell fire insurance, but had to relinquish a quarter of its
emphasizes that in London, 'it was the insurance companies which, for obvious reasons, organized fire-fighting most efficiently' (p. 539). Also, parishes paid bonuses to those companies whose pumps were the quickest to arrive at the scene of the blaze.

The first fire insurance companies also dealt with rescue of people/salvaging of goods, as well as extinguishing fires, and compensating for losses caused by fire.

Paris also had its special companies which intervened in cases of fire to try to save insured buildings. It so happened at that period that when uninsured houses were on fire, you might witness on-the-spot negotiations between the fire victim and the rescuers as to whether the special fire-fighting team should intervene (for payment of a premium) or not (Gallix, 1985, p. 269). That is to say, the relationship between insurance, private sector security and prevention is nothing new.

The development of insurance against theft

Theft risk was a latecomer in the insurance world. In fact the real start of this type of insurance can be set at the end of the last century, even if pre-dated by earlier beginnings and tentative projects. Even so, one attempt deserves some attention. In 1787 a Mr. Weller of London published a summary of his research and studies in order to establish a 'General Insurance Office', the main aim of which was to insure against robbery with breaking and entering by day or by night. It would also cover robbery with violence on highways or footpaths, and robbery prejudicial to the State or to ordinary people. Moreover, this 'Office' would bear the costs of legal proceedings against the perpetrators of these robberies or acts of banditry, since, as Weller remarked, many of these escaped punishment because their victims did not have the necessary means to bring them to justice (De Warenghien, 1913, p. 241).

What is most particularly interesting for us are the reasons put forward by the Attorney General in refusing the licence requested by Weller to start his business: in the first place, the proposed company would be exposed to so many frauds and dissimulations that these would more or less equal the misdeeds which it would be set-up to fight; then, the policyholders would be less vigilant in the prevention of robberies, and

profits, specifically for the upkeep of a fire brigade in Paris (Hémard, 1924, p. 179).
in standing up to robbers, exposing and arresting them. The topicality of the argument boggles the mind.

Up to the First World War, insurance against theft was to develop rapidly and, at the same time, another type of venture was seen to be thriving, which was to be taken into account by the insurers: 'Following the sensational robberies of recent years, private police firms have been created throughout France with various designations: Vigilance and Protection, Guardian, Protector, Vigilant, etcetera. What was original about these firms was that in addition to the special surveillance which their subscribers enjoyed, they often obtained fixed-sum insurance policies against theft. This arrangement was only just beginning; sooner or later a much closer alliance was to be entered into between the insurers and the private police firms; each party would be called upon to render reciprocal services and to lend mutual support to the other' (De Warenghien, 1913, pp. 209 and 217). A prophetic remark.

For a long time, insurance against theft concerned wealthy individual clients, and commercial and industrial firms which were more directly threatened, such as banks, jewellers and furriers. 'A rather limited number of policies, a weak volume of receipts, profitable or break-even operating results, a few large claims which could plunge the sector into deficit in one fiscal year without having deep and lasting effects on the overall operating results of accident and miscellaneous risks insurance: the premiums were low, claims very rare, and clients not very motivated. Nobody - asserted the insurers - would dream of calculating the management cost of these tiny contracts. We were just delighted by the profitable results each year' (Pinguet, 1986, pp. 49-50). Basically it was the lure of gain on the part of the insurers, who would seek to increase their market potential – at any price – which would cause the engine to race. Insurance companies were to offer their customers policies covering not just one risk but several, even those relating to different branches of insurance. By the end of the 1950s, thinking in terms of the market potential to be won, insurers were to tackle prospecting the market for theft insurance (Lemaitre, 1993, p. 165 and onwards). In 1972, 26 percent of households were insured but 'the market is still far from being saturated' (CAPA, 1974).

From the 1960s and above all after 1970, first in the urban zones and then for portfolios in general, we witnessed a growth and a generalization of domestic multiple-risk policies. It was this spreading of multiple-risk policies which enabled and produced major growth in theft insurance, which suddenly emerged from a quite specific
specialized market segment to become a product for the general public. Indeed, these policies, simpler to price and to sell, became accessible to ever deeper levels of society, better informed, much more in demand and whose standard of living was then growing quite fast. This is why new classes of customers became interested in the theft risk, which until then they had not perceived as an essential insurance (Pinguet, 1986, p. 52).

As long as claims remained rare, companies continued to 'put the pressure' on market potential and settled claims generously. It was at the end of the 1970s that the situation rapidly deteriorated. In parallel with the increase in the number of policyholders insured against theft, recorded crime figures related to burglary were to reveal an explosion of the phenomenon of theft between the mid-1960s and 1980.3 The increase in the frequency and cost of burglaries resulted in insurers having difficulty in balancing the risk. 'So, to satisfy market demand, they sought a greater mutuality by striving to sell their coverage to a wider public and at higher rates' (Vimont, 1983, p. 651). But at a certain point, prospecting came up against the limitation of demographic growth and market elasticity, bringing about a decline in operating results. Moreover, the risk was then profoundly modified by the increase in false pretences and attempted insurance fraud, ceasing to be a low frequency risk and becoming a risk which had to be accepted (Vimont, 1983). It was this decline in trading results which, at the end of the 1970s, brought about a double reaction on the part of French insurers: an increase in pricing on one hand, and a hardening in the settlement of claims on the other.4 At the end of 1977, in order to face up to the onset of a marked decline in operating results and to avoid a loss of interest by the insurers in this branch, a study group was created which listed orders of priority for measures aimed at improving checking and differentiation of risks, means of getting the policyholder to share in the claim compensation, and increased influence over building construction and manufacturers of security installations and devices.

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3 This almost general trend has been synthesized by Cusson, 1990, in particular page 26 and onward.

4 In the early 1980s the specialized press over-rated theft insurance and played-down claim settlement problems: the burden of proof of forced entry, the value of the objects stolen, terms of coverage, circumstances, exclusions, etcetera.
Prevention improvement

The French example

The raising of prices and the difficulties which companies raised in settling claims did not produce any improvement in company operating results, and moreover threatened to damage the public image of the profession. The insurers were therefore led to reconsider the overall problem of theft insurance. Invariably, insurance has gone hand in hand with prevention, and in the case of theft the slogan could well become 'good protection is a precondition for insurance'.

Before 1978, the Plenary Assembly of Fire and Miscellaneous Risk Insurance Companies (APSAIRD) had been led to study the problem of fire safety with the National Centre for Prevention and Protection (CNPP) and the fire laboratory of Champs-sur-Marne. By virtue of the experience gained, it was quite natural that in 1978 the Plenary Assembly should turn to the CNPP and entrust it with the test laboratory for theft protection devices (De Catelin, 1980). The task of this laboratory, financed by the insurance companies, was to investigate all problems concerning devices designed to fight assault, intrusion and theft. Naturally, research was initially conducted on mechanical protection: doors, locks, keys, shutters, gates, wire mesh, etcetera. Then, very rapidly, the main emphasis was concentrated on the study of alarms, because 'there was a problem of raising standards in this field' due to the 'proliferation of small firms which sold alarm devices which could be called “gadgets”, using obtrusive advertising' (De Catelin, 1980, p. 462). Opened in 1978, the laboratory became operational from July 1979. In six months, eighty devices had been tested and eighteen installation companies had been accredited to install alarms in high-risk premises. Concurrently, the Plenary Assembly set up an alarm installation checking service. At the same time, and still with the help of the CNPP, the Plenary Assembly organized residential seminars for subscribers and insurance company inspectors to train them in

5 Assemblée Plénière des Sociétés d’Assurances contre l’Incendie et les Risques Divers or Plenary Assembly. This has now become the Plenary Assembly of Damage Insurance Companies (APSAD: Assemblée Plénière des Sociétés d’Assurances Dommages). Its head office is in Paris.
6 Centre National de Prévention et de Protection.
7 An identical procedure was followed in Belgium: see below.
protection against theft. Up to 1984, the rules developed by the Plenary Assembly regarding approved alarms and accredited installation companies were only directed at the most hazardous risks for the insurers. The study of other less sensitive 'normal' risks (individuals, 'ordinary' businesses, etcetera) was undertaken subsequently.

It was also at the start of the 1980s that the Plenary Assembly turned its attention to boundary changes of the geographic zones of the Theft Agreement, intended for subscribers in the insurance companies.\(^8\) Henceforward, there were to be five pricing areas (four plus Paris), and the more a zone was affected by crime the higher the costs of insurance.\(^9\) In ten years, between 1978 and 1988, APSAIRD provided its affiliates with an ever more important and considerable arsenal of references. More than three hundred types of service, five hundred intrusion detection devices and three hundred installation companies were tested and received the A2P insurance label. This registered trade mark (Insurance, Prevention, Protection) identifies all the products to which APSAIRD has awarded a qualification certificate (De Catelin, 1988). In fact, in 1984, the laboratory of the Plenary Assembly obtained approval from the Ministry of Industry as a certifying organization (De Catelin, 1988, p. 81; Ocqueteau, 1992, p. 120). The doctrine of the Plenary Assembly is based on the experience gained first in the prevention of major risks (furriers, jewellers), and subsequently adapted to the risks of the private individual, which represent the mass market potential.

In March 1988, because of lack of space due to the increase in the volume of its activities, the laboratories of the CNPP left Champs-sur-Marne and were transferred to Vernon, close to Normandy. Two hundred and forty hectares (593 acres) and an investment of seventy million French Francs was implemented on the initiative of the French Federation of Insurance Companies\(^10\), the Group of Mutual Insurance Companies\(^11\), and the Agricultural Mutual Insurance\(^12\) (Defrance, 1988, p. 21), which are the three main insurance groups in France.

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\(^8\) The previous one dated from 1972 and cut France into three zones; see De Catelin, 1980, p. 463.

\(^9\) In 1986 there were six zones (see L'Argus Journal, 1986). An analysis of burglaries between 1985 and 1987, related to division into zones, is detailed in Bulletin de liaison, 1989.

\(^10\) Fédération Française des Sociétés d'Assurances.

\(^11\) Groupement des Sociétés d'Assurances à Caractère Mutuel, the equivalent of a Group of Friendly Societies in Britain.

\(^12\) Mutualité Agricole.
Apart from the laboratories, Vernon is also a training school for security and a centre for the study of specific needs of firms and organizations. 'As the President of the Plenary Assembly said, it stands to reason that the insurance profession intends to make profitable the heavy investment which it has made in this instance in the field of research and experimenting regarding fire, automatic and mechanical protection devices, as well as in the field of training' (Béraud, 1988, p. 2264).

The Belgian example

In Belgium, it is mainly through the Professional Association of Insurance Firms (UPEA) that the insurers control the private sector security market. The UPEA represents almost the whole of the Belgian and foreign insurance companies operating on the Belgian market. Over and above defending the interests of the profession and exercising its representation function, UPEA is engaged in the approval and checking of fire extinction installations and anti-break-in devices; it also collects all statistical data required by the profession. It was from 1977 that the insurers embarked upon an ambitious awareness programme about theft. Although the security market had started to develop, the information campaign, aimed at a wide public, made no mention of electronic anti-theft installations. However, already at that time, far from being indifferent to these systems, the insurers had set about establishing guidelines to promote the efficiency of surveillance devices, the installation of which they were imposing to an ever greater degree, but only on certain categories of customers. It was then that they laid down the initial precise minimum technical requirements which must be met by alarms, their installation, maintenance and use. These rules for manufacturers and installers were developed with the help of specialized companies.

13 In the speech which he gave on the occasion of the opening of the new CNPP installations at Vernon, Mr. J. Lallement, President of the Plenary Assembly added: '(...) In fact, the step which leads insurance to constantly get further involved in prevention corresponds to at least three different preoccupations: the first preoccupation, to make the risk insurable in a certain number of cases. (...) The second preoccupation, to sell security rather than a guarantee of compensation. (...) A European site for fire and theft protection at Vernon in 1988.'

14 Union Professionnelle des Entreprises d'Assurances.
Concurrently, a series of rules were prepared for policyholders on whom the use of such approved equipment was imposed. At the end of the 1970s, it was not yet a matter of imposing this type of precaution on 'the average man', but of reserving the right to do so in cases of coverage of 'both very vulnerable and very desirable' property.

In its 1985 report, UPEA set the tone: 'Mid- and long-term, the future of the theft sector cannot depend on increasing prices alone, even if substantially; it will need something else and most particularly serious prevention efforts, upon which from now on the possibility of covering the most exposed risks will be made conditional.' So it was quite natural that in the same year the insurers entered a new phase in theft prevention: establishing specifications concerning mechanical protection (locks, doors, shutters, anti-break-in glazing) and safes; and the extension of the checking activities of the National Association for Fire Protection (ANPI\textsuperscript{15}) to cover electronic anti-theft equipment.

ANPI is an association founded in 1957 in Brussels, on the initiative of insurance companies, with a view to improve fire prevention in Belgium. After the dramatic fire at the Innovation department store ten years later, it became a non-profit organization in which all parties interested in problems involved in fire prevention and protection could be represented: public authorities, scientific circles, insurance companies, etcetera. It was the latter, through UPEA, which were to develop its activities by financial support. As an example, that is how in 1977 ANPI moved into buildings belonging to a cooperative property company, almost all of the members of which belong to the insurance industry. In 1982, for the first time, the activities of ANPI were extended to the approval of anti-break-in detection equipment and the accreditation of installation companies.

In 1985, concurrently with what had been done since 1979 regarding the accreditation of private companies which oversee by remote control the installations of automatic fire extinguishers protecting certain industrial firms as well as department stores, the insurers came up with the idea of extending this system to cover the activities of these companies in the field of anti-break-in surveillance. So appropriate standards were defined and these specified the actions to be taken by these control centres when an alarm warning was received.

The Law of April 10, 1990 on protection and security firms and on

\textsuperscript{15} Association Nationale pour la Protection contre l'Incendie.
Company internal security services, makes provision in Article 12 that 'systems, and alarm control centres intended to warn of or record criminal offences against people or property, and their component parts, may not be sold or in any other way be made available to users except after prior approval according to a procedure to be determined by the King.' Several royal decrees have been issued, and some concerned this procedure, in which particular provision is made for a series of tests on security and alarm systems which must guarantee a certain minimum quality, which at the present time only ANPI is capable of fulfilling. Moreover, the Commission responsible for accreditation of security firms as defined by the Law of April 10, 1990 includes one member of an accredited certifying or checking organization.

The insurers had been involved in the drafting of this Law, by which they have reaffirmed their determination to control the state of this market and to pursue their work of establishing standards for equipment and requirements for installations. If the strengthening of the position of the insurers as accrediting agents were to be enshrined in law, this would in our view go beyond the national scope and, consequently, should be considered at the European level.

The date of January 1, 1993 concerned the security industry sector as well, and we must see, for example, how the demands of the Belgian insurers will match those of their European counterparts, in realizing common standards and mutual recognition concerning tests undertaken by their laboratories.

Obviously, it is with this in view that we should understand the creation, on the initiative of the insurers, of the 'Belgian Organisation for Security Certification' (BOSEC), the establishment of which was set within the framework of the Law of July 20, 1990, which transposed to the Belgian level the European certification structure, which from January 1993 allowed free circulation of security products in Europe. 'BOSEC constitutes an administrative structure for certification of products, quality assurance systems and installation companies, which will allow existing approval organizations which so wish to position themselves at the European level. Mid-term, certifications effected by BOSEC will become the subject of reciprocal recognition with the other countries of the European Union and of the European Free Trade Association, which will consequently avoid a manufacturer having to repeat tests and introduce a request for certification in each country in which it would like to distribute its products' (Top Security, 1991).
The European level

Since 1953 there has been a European Insurance Committee (CEA\textsuperscript{16}) which unites national associations of insurance companies. It is the spokesman for the insurance industry with European institutions and governmental and private international organizations (\textit{Le marché belge de l'assurance}, 1991, pp. 52-53). The CEA is very active in drafting common rules regarding prevention. Since 1986, the prospect of the completion of the European Community internal market pushed insurers to take matters in hand. Since then, the CEA has devoted itself to harmonizing procedures for certification of equipment and accreditation of installation companies. Work is proceeding slowly, and a CEA study reveals that in the case of anti-break-in security, twelve countries have developed a comparable system of certification. If in ex-Yugoslavia the certification organization was exclusively governmental, on the other hand in Austria, Belgium, Denmark, Italy, Norway, the Netherlands, United Kingdom, Sweden and France, the organization is non-governmental, most often falling within the province of the insurance industry. In Germany and Finland we find both governmental and insurance certification organizations. In other respects, as far as test laboratories approved by insurers are concerned, these only exist in Germany, Belgium and France. This explains the sort of politico-economic difficulties facing any attempt to draw up European specifications: each national association has its problems and privileged contacts with national manufacturers, for which the consequential stakes of 1993 are tremendous (see for example Gauthier, 1988).

Conclusion

By way of conclusion, I should like to put forward two lines of thought which, it seems to me, flow directly from the theft prevention policy followed by the insurance companies. The first in terms of exclusion, the second in terms of control.

More and more the problem of theft is presented as a technical problem for which we are consequently advised to seek technical and rational solutions – such as those proposed by the insurers. The latter appear in the guise of technical advisers, neutral, experts in security, alongside
other agencies more traditionally identified in this role as the local or state police. But the most important part of the process, and one which never appears, is not only to 'sell' insurance against theft, burglary, damage, car theft, etcetera, but rather the fact of enabling the operation to be profitable.

Moreover, we should know that as soon as a risk becomes insurable it maintains a special relationship with prevention policy (Martin, 1990). Indeed, as long as a risk is perceived as a social risk, the policy of prevention may be conducted independently of the policy of compensation. In other words, the policy of prevention is not automatically linked to coverage of the damage. Therefore, prevention may be put in place, but joint and several liability will apply if, despite the efforts, the worst should happen.

'From the moment the risk becomes insurable the policy of prevention is absorbed by its logic and becomes an element of its management. The implementation of prevention will therefore have a first effect of increasing the number of excluded policyholders by allowing insurers to refuse coverage, or to translate the reality of the risks covered into the amount of the premiums' (Martin, 1990).

It is through the policy of prevention implemented by the insurance companies that a standardizing effect can thus be obtained. In case of crime, there will be a shift away from concentrating on the threat posed by the potential perpetrator, which is difficult to define, and towards the hazard posed by the potential victim who is readily at hand. Behind making the policyholders feel secure, there is the fact that all the measures taken by them 'for their own good' reduce the risk run by the insurer to have to intervene in the case of a claim. But these considerations are not to be found in the 'official' speeches of the insurers. Through the policy clauses the insurers protect themselves, 'discipline' the policyholders, and little by little lead them to be responsible for the security of their own property.

In these circumstances, the question of social control can be re-examined in a different manner, no longer simply by asking it in terms of a possible extension, but rather in terms of a redistribution of the liability for control and an adaptation of its forms (see also O'Malley, 1991). Whether we are faced with an enlargement of the control net or a narrowing of its mesh is of little importance in the end analysis. What will count is the fact that the potential victim is thereby brought onto the

17 For the notion of 'risk', see Gentile, 1965; Ewald, 1986; Lemaitre, 1993.
same level as the potential perpetrator, through the execution of the insurance policy and by the expedient of the prevention policy as is piloted by the insurance industry.

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Crime and insurance: a functional approach

Rolf Arnold

In order to establish a relationship between crime and insurance, one has to select an approach offering comparable terminologies and compatible procedures. The relations of interdependence between crime and insurance can be examined in terms of the following four approaches (Arnold, 1992).

— The personal approach is oriented towards the parties interested in the insurance. Here, central importance is attached to the sociological, psychological and economic characteristics of delinquents and victims (Eisenberg, 1985; Litton, 1987).

— The business segment-related approach describes the real effects of crime on individual classes of insurance. It may embrace an examination of legal aspects of product design and/or the economic impact of crime on a particular insurance institution (Münchener Rückversicherungs-Gesellschaft, 1988; Fijnaut and Wansink, 1989; Wittkämper, 1990).

— The economic approach describes the macro-economic effects of criminal activities on the one hand and insurance operations on the other.

— The functional approach proceeds from the individual insurance transaction, describing its specific economic functions in relation to those involved and the effects of crime in that context. In addition to economic aspects, legal elements, especially in relation to the insurance contract, and to some extent statistical and mathematical aspects, play a significant part.

The relations between crime and insurance are examined below in terms of the functional approach. The individual stages of a contractual insurance relation are associated with functions which have to be

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discharged by the policyholder and the insurance company or agent. There are two ways in which crime may be linked with these functions.

- Crime may be the object of the individual functions in the form of the origin of risk. The various functions of the contractual relation are reflected in different types of criminal acts. It is intended to consider below the question of the insurability of risks arising from criminal acts.

- The functions themselves may be the objects of criminal acts. This relates mainly to forms of insurance abuse.

**Crime as a risk**

Criminality risks are probability distributions of classes of adverse consequences arising from criminal acts. These result in violations of interest in various objects of legal protection (the person, property, assets) and are associated with economic loss (Frey, 1988; Farny, 1989). There is in existence no insurance covering all risks arising from criminal acts and granting insurance benefits for all economic losses resulting therefrom.

The insurability of risks from criminal acts has indeed been subject to repeated examination (Bremkamp, 1985). Here, the question of insurability is not a problem of principle but a matter of decision, i.e. one balances risk against the price for the assumption of risk. Nevertheless, risks from criminal acts reveal certain objective characteristics which may make it seem difficult in actuarial terms, or socially and legally unjustifiable, to employ insurance as a means of dealing with them. The criteria applied for the purposes of assessing the insurability of risks in general are fortuitousness, an unmistakable character, possibility of assessment, independence, insurable status, and legal permissibility (Karten, 1972; Berliner, 1982).

The criterion of fortuitousness requires that the events giving rise to insurance payments, and the damaging consequences of those events, should be beyond the influence or predictive certainty of the insured. In principle, no insured has a positive interest in himself becoming a victim. Thus with most offences, and in particular those directed against the person or personal liberty, the moral hazard is very slight. However, with offences against property the level of moral hazard can be rated higher. In particular, in consequence of a specific risk being insured, the behaviour of the assured in regard to that risk may increase the likelihood of his becoming a victim (Karten, 1972; Bremkamp, 1985).
The criterion of unmistakable character stipulates that the insured event and the level of the insurance benefit must be clearly ascertainable. With all risks arising from criminal acts there is the general difficulty of proving the criminal character of an act. It therefore remains unclear whether a criminal event is also an event insured against. Moreover, in many cases of offence against the person, it is impossible to assess with certainty the level of insurance benefit.

The possibility of assessment depends on the availability of a reliable statistical basis for calculation. Here, a major problem arises from the statistical processing of developments in crime. The key aspects of this problem are the unknown percentage of undetected crimes and the difficulty of distinguishing clearly between individual categories of crime. Thus the criminal statistics do not provide an accurate basis for calculating risks from criminal acts.

The criterion of independence requires that the materialization of a particular risk must be independent of that of any other risk. A breach of this principle, for example, in the case of accumulation risks, may impair insurability. This generally poses no problem in the context of risks from criminal acts because these normally relate to individual persons or legal assets and the extent of damage is consequently limited.

The question of the ethical and legal permissibility of the insurance of risks calls for a consideration of whether any infringement of legal requirements or ethical values is involved. It is therefore necessary to consider, in relation to individual risks arising from criminal acts, whether insurance cover might not lead to an increase in the incidence of crime or provide a substitute for the suppression of crime. Neither development is intended by legislation or desired by society (Berliner, 1982).

To sum up, it may be stated that the criteria of fortuitousness, insurable status and the possibility of assessment pose particular problems in relation to risks arising from criminal acts. However, the individual classes of insurance possess sufficient risk policy instruments to resolve these problems and thus render risks from criminal acts insurable.

**Insurance relation as criminal target**

*The arrangement and conclusion of policies*

The functions entering into concluding a contract may be taken by the parties involved as occasion for insurance abuse. The functions concerned are mainly activities whose purpose is to convey information.
— The insurer or insurance agent provides the prospective insured with information on the insurance product and the risk situation of the prospective insured.

— The prospective insured provides the insurer or insurance agent with information on his risk/security situation.

Any breach of the duty to inform by one or the other side results in actual abuse, i.e. either the insured concludes an insurance contract which he would not conclude, at least on the given conditions, if he were aware of the subject-matter of the policy, or the insurer concludes an insurance contract which he would not conclude, at least on the given conditions, if the risk or risks had been correctly stated.

An essential precondition for the success of abusive acts at this stage is an advantage in terms of information on the part of one or other market participant. The insurer or insurance agent knows more about insurance products and risks in general. The insured knows more about his own risk situation. This means that the insurer can check on the objective and subjective risk characteristics of the insured only to a limited extent. It is difficult to draw lines here between legal, non-legal and criminal acts. In terms of intent it is possible to identify five different types of insurance abuse by the insured at the time of concluding the contract.

**Non-disclosure or falsification of risk data**

Fraudulent behaviour on the part of the insured in the form of non-disclosure or misrepresentation of information relevant to risks is aimed either at securing the conclusion of a contract which, given full knowledge, the insurer would not be willing to conclude at all, or at obtaining insurance cover against an unjustly low premium, i.e. one which would be distinctly higher if the true risk situation were known. Premium fraud is a practical possibility for the insured because the fixing of premium rates is dependent on objective and subjective risk characteristics of the insured himself. If the data on risks are directly supplied to the insurer by the insured, the latter can doctor the information at first hand. If a third party, e.g. a physician or the insurance agent, checks the risk situation of the insured, that third party can misrepresent his risk situation by manipulating the facts and suppressing risk data, and thus provide, for the purpose of premium calculation, risk information which has been doctored at second hand.

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These techniques are of significance mainly in the areas of insurance of persons (life assurance, health insurance, accident insurance) and certain classes of insurance against loss (e.g. motor collision damage insurance). The crucial factor is that information on risk characteristics relevant to the decision on acceptance and/or premium calculation is supplied by the customer – either alone or with the aid of third persons, e.g. doctors – and is not checkable or not actually checked by the insurer. Non-disclosure on the part of policyholders reveals widely differing degrees of wrongdoing (ranging from unintentional omission to wilful deceit). However, from a penal point of view, these actions can be seen only as preparatory acts because no damage to the insurer’s financial position, through the drawing of insurance benefits, has yet taken place. However, matters must be judged differently if such fraudulent conduct leads on to premium fraud, i.e. if there is a detrimental effect on the insurer to the extent that his premium income falls short of the level appropriate to the assumed and calculated risk.

Overinsurance

Agreement between the sum insured and the policyholder’s insured interest is an objective of the insurer which is safeguarded by the legal requirements. Incorrect information on the items or assets insured, or on the income of the policyholder, may result in the agreed sum insured clearly exceeding the insured interest. The question as to the criminal character of this act can here be given a clear answer: overinsurance as such does not lead to any pecuniary advantage or damage to another’s financial position. Only where overinsurance is combined with the intention of causing or simulating a loss with the object of gaining a pecuniary advantage can a criminal act (tort of fraud) be assumed. Overinsurance is thus merely a preparatory act.

Multiple insurance

The same assessment applies to multiple insurance. It is entirely permissible to obtain multiple cover from various insurers for the same insured interest. However, this is notifiable to each insurer, and in the event of a claim, gives rise to the proportionate granting of insurance benefits. When multiple insurance is utilized as an instrument of insurance abuse, such notification is omitted, because the insured aims

to enrich himself by claiming payments from various insurers in the event of damage or loss, this being simulated or deliberately caused.

**General fraudulent preparation**

The conclusion of an insurance contract for which the insured has correctly fulfilled his duties to inform may nevertheless contain, from the very commencement of the policy, the groundwork for insurance abuse. This is the case if the insured intends ab initio to utilize a correctly concluded contract as an instrument of insurance fraud. In this instance the insurer is deceived in terms of risk assessment, i.e. as to the moral hazard of the insured. The insurer cannot prove that the conclusion of the contract itself possesses any illegal character. Any insurance portfolio thus harbours considerable potential for criminal exploitation. As a rule, this technique is a preserve of organized or professionally conducted crime. Furthermore, it is frequently combined with the practices of overinsurance and multiple insurance as mentioned above.

**Redating of an insurance contract**

If an insurance contract is concluded with retroactive effect, knowledge on the part of the insured that a loss has already occurred results in relief of the insurer from liability for payment. If the policyholder, having no insurance cover for the loss, intends to enrich himself unlawfully by redating a contract concluded only after an event of damage or loss, this is a clear criminal act involving damage to the insurer's financial position.

For this technique of insurance abuse the assistance of the insurance agent is frequently necessary or at least helpful. Indeed, assistance by sales force staff also occurs in connection with the other forms of insurance abuse committed at the conclusion of a contract. Disorders in a contractual insurance relation due to criminal acts at the time of the conclusion of the contract are in most cases no more than preparatory measures for insurance abuse. However, redating, and also illicit agreements on lower premiums on the basis of false information concerning risk characteristics, do constitute damage to the financial position of the insurer.

**Insurance abuse during the term of the contract**

Changes in the risk situation of the insured take place during the validity of a contract. No aggravation of risk by the policyholder himself is
permissible. If the aggravation of risk occurs independently of the will of the insured, the latter is obliged to inform the insurer of the change. If he fails to fulfil that duty he breaches an obligation and, subject to certain conditions, the insurer is released from the obligation of performance. Failure to notify may at the same time constitute an act preparatory to fraud, i.e. one directed towards the payment of a lower premium. As criminal acts, deliberate aggravation of risk and failure to notify are equivalent to premium fraud in new business. These are widespread practices by which policyholders achieve illegal savings of insurance premiums. In these instances of insurance abuse, notification of the insurer is omitted, so there is no apparent cause for contract modification.

*Insurance abuse in the event of damage or loss*^{5}

The event of damage or loss constitutes that stage in the term of a contract which contains the widest range of occasions for insurance abuse. The reason for this lies in the insurance payments, on whose justification and level the parties to the insurance have to reach agreement. The occasions for insurance abuse here are as follows.

— The origin of the loss, including the following possibilities:
  - transformation of an uninsured loss into an event insured;
  - simulation of an event insured; deliberate causation of an event insured.

— The winding-up of the claim. At this stage many parties to insurances have an opportunity to abuse the settlement of claims, i.e.: by a real or fictitious increase in the extent of the loss (policyholders, insureds, experts, claims agents); by wrongful refusal of the insurance payment or by delay in making payment (insurers). The object of transforming an uninsured loss into an event insured is generally to circumvent exclusions of risk (e.g. by representing plain theft as burglary) and thus to secure compensation for a loss which has occurred but is uninsured. The degree of criminal commitment required of the offender in these cases is slight, as the offence is contingent upon actual loss and can be perpetrated by means of simple false testimony or false opinions from experts. Consequently, this type of offence is committed on a mass scale. For 'transformation', the complicity of the insurance agent is frequently necessary or at least helpful.

{5 Geerds, 1987; Ayasse, 1989.}
By contrast, the simulation of an event insured requires a fairly high level of criminal commitment. Although no insured event whatever has occurred, the policyholder or beneficiary declares the occurrence of an event in such terms that it falls within the scope of the insurance cover. In some such cases the complicity of third parties is required (e.g. that of 'damaged third parties' in the sphere of third-party liability insurance, and that of certifying doctors in the areas of life assurance, health insurance and accident insurance). In the other classes of property insurance the complicity of third parties as 'witnesses' is at least helpful. The scale of fraud extends from relatively small sums in third-party or house contents insurance up to major sums insured in life assurance and motor or transport insurance. In view of the higher level of criminal commitment required, the planned course of action, the complicity, and the procurement of fraudulent 'evidence', one would expect to find here a lower level of frequency, a highly professional approach, and individual 'losses' on a large scale. The motive for criminal activity may be present even when the contract of insurance is concluded, or it may arise during the term of the insurance through a change in economic circumstances. Deliberate causation of the event insured by the policyholder or third parties is found in practically all lines of insurance. Exceptions include those where the insured or third parties have no influence on the origin of loss (e.g. insurance against damage by natural hazards). Implementation calls for a high degree of criminal commitment. Fraudulent conduct in relation to the insurer is accompanied by the deliberate causation of the loss, which in many cases itself constitutes a criminal offence (e.g. arson, murder), but in other cases goes unpunished (e.g. suicide, self-injury, damage to the insured's own property). This technique of insurance abuse also requires planned implementation. The motivation for deliberate causation may predate the conclusion of the insurance contract, or it may arise during the contract period on the basis of changed economic circumstances or attitudes.

The predominantly nominal character of insurance payments provides the basis for fraudulent abuse of the settlement of claims in insurance against loss. By means of a real or fictitious increase in the extent of the loss, or by including losses due to other, uninsured origins of loss, the policyholder and/or damaged third parties enrich themselves in the context of third-party liability insurance and/or at the points of claim settlement (e.g. medical practices, repair shops). In addition to general enrichment, the objectives encountered here include covering agreed deductibles or recovering insurance premiums paid. This type
of insurance abuse is committed on a mass scale, requiring a relatively low level of criminal commitment and being viewed socially as a peccadillo.

These types of insurance abuse affect the insurer's loss management; if the abuse is proved, the insurer is relieved of the obligation of performance. At the same time, the area of loss management also provides openings for the fraudulent handling of claims by the insurer. This may relate, on the one hand, to criminal actions by staff who appropriate insurance payments to the detriment of the insurer and thereby enrich themselves; or on the other hand, the insurance company may itself practice wrongful claims adjustment with the aim of reducing claims expenditure. As the policyholder/insured does not possess the knowledge to estimate a suitable winding-up period for claims, or to assess refusal of performance or the limited scale of an insurance payment, there would be scope for imposing illicit delays and refusals or curtailments of performance going beyond insurers' discretionary powers. However, it is difficult to discover examples of insurance abuse by insurance companies. This is due partly to the absence of publicity; rapid adjustment of claims and the fair, prompt granting of insurance benefits are seen as criteria of an insurer's quality. Consequently, an insurer's reputation would be seriously impaired if abusive practices in the adjustment of claims were to become known.

**Termination of the policy**

The termination of an insurance contract does not result in any pecuniary advantage to either interested party. To that extent, the termination of a contract cannot be viewed as a significant incentive for the performance of abusive acts. However, the termination of a contract may be seen as an objective yielding benefits to those concerned, i.e. the avoidance of further premium payments (by the policyholder) or the avoidance of further payments of claims (by the insurer).

It is an abuse of insurance if termination of contract is effected outside the possibilities stipulated by law. The insurer, who has a special interest in the termination of policies involving a high incidence of loss, has no need to engage in any illegal course of action to that end; he is legally entitled to terminate a contract in the event of a claim. For the policyholder, by contrast, it may be expedient to bring about the termination of an existing policy by simulating or deliberately causing an insured event and thereby giving grounds for termination of contract by the insurer. It can be assumed that, in many such instances,
assistance will be provided by other insurance companies' agents who are interested in acquiring new business.

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Moral hazard and insurance fraud

Roger Litton

A concept widely known and used within the insurance industry is that of 'moral hazard' which is 'an imputed subjective characteristic of the insured that increases the probability of loss' (Mehr and Cammack, 1976, p. 23). This concept, in these terms, is virtually unknown outside insurance circles although, of course, the attribution of which it is an example is virtually universal. The concept of moral hazard is interesting not only in the context of a psychological view of the ascription process but because the underlying reasoning gives rise to consideration – as a separate matter – of the whole area of insurance fraud. Both aspects separately open up potentially fascinating areas of investigation.

This article illustrates the concept of moral hazard with two empirical studies bearing on moral hazard as perceived by insurance underwriters – accident-proneness and social class differences. The focus of the article then switches from the basis of ascription towards consideration of the existence of insurance fraud. An empirical study suggests that insurance fraud may be more prevalent than generally recognized – a view which is supported by the results of two surveys conducted by insurance organizations themselves.

Many statements are made, and views held within insurance, about both moral hazard and insurance fraud and these are usually thought to influence insurers' actions. Moral hazard is about insurers making judgements: insurance fraud is about the behaviour of policyholders. This article will have served its purpose if it exposes both subjects to a more critical debate.

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Moral hazard

The insurance industry must be almost unique in requiring to be satisfied about the moral character of its customers before it will sell its product. If the insurer detects or (perhaps more sinister) suspects that the potential policyholder is not a desirable client either because he may wish to make a profit from his insurance or because he may wish to have the insurance so that he can relax his standard of care then – to the insurer – the proposer is displaying bad moral hazard. In such a case the insurer will either refuse to grant the insurance, decline to offer renewal or grant it only subject to special terms.

The judgement of moral hazard is essentially a judgement of personality made (often at a distance) by an insurer, which has potentially important consequences, usually without the opportunity of appeal or redress for the person about whom the judgement is made. Thus, whilst all people make judgements about other people, the attribution of moral hazard by an insurer is a judgement of potentially great personal consequence for the person judged.

Insurers use the concept of moral hazard when deciding on the acceptability, or otherwise, of an insurance proposition. They will use the information from the proposal form and any other information presented with the risk. They will be partly influenced by the source of the enquiry – the broker or agent who introduces it. Surveys may be conducted, either before or after acceptance, the purpose of which is to establish the physical hazard. However, the surveyor will also be charged with commenting on the moral hazard of the proposer as evidenced by such features as 'housekeeping' (the general appearance and tidiness of the premises). Increasingly, use is made of 'black lists' which can also come into their own at the time of a claim (not least by the use of informal networks amongst loss adjusters). The insurers will also have general views about the area in which the risk (or the proposer) are situated and will have underwriting guides dealing with trade or occupation.

These factors will (along with factors such as physical hazard, underwriting acceptance criteria and limits, reinsurance protection and rating), explicitly or implicitly, guide the underwriter in his assessment and acceptance of the risk, including similar assessments (although probably in less detail) at renewal time. Prejudices (or 'judgements') will also influence decisions about claim investigation – whether the claim should be paid as presented, investigated by a member of the insurer's own claims staff or sent to a loss adjuster for investigation. The claim
investigation itself will have moral hazard as one of its potential subjects.
The judgement of moral hazard is an important, if under-recognized, component of insurance decisions, although bad moral hazard will often not be the reason cited for a declination of a risk or a claim. For a risk declination an underwriter does not have to give reasons although, if pressed, physical hazard or capacity problems are more likely to be cited than moral hazard; moral hazard, being a subjective assessment, is more open to challenge. There is anecdotal evidence that, where moral hazard (which, at this stage, is probably thought to be fraud) is suspected in connection with a claim, the insurer will prefer to decline the claim for breach of a policy condition (even where the condition is usually not imposed rigorously – e.g. evidence of claims must be submitted within one month of reporting the claim) than decline it for moral hazard or fraud. An allegation of fraud quite rightly demands the highest standard of proof whereas breach of a policy condition is merely a matter of fact (see also Cannar, 1993).

To most people within the insurance industry, the concept of moral hazard is a straightforward one although it is acknowledged as being difficult to delineate precisely: 'One view about motor insurance, which seems well-founded, is that the psychology of a proposer is almost as important a factor in underwriting as the specific matters upon which a proposal seeks information (...)' (Cannar, 1985, p. 332). Despite its undoubted importance as a working concept, moral hazard is a subject which is given very limited coverage in insurance textbooks and few published sources deal with it specifically.2 Also the sources often do not spell out what constitutes moral hazard nor how it can be recognized. The remedies or suggested remedies for dealing with moral hazard when it is encountered and what does and what does not constitute moral hazard, are rarely made explicit. This is a serious omission on such an important subject, with its potentially serious consequences of a wrong judgement not only for the conduct of insurance but also – if the underwriter is wrong in the other direction – for the industry's clients.

2 See, e.g. Litton (1985) for a general review and Carter (1974) for an economic analysis of the subject.
Risks, perils and hazards

Insurers are concerned with risks, perils and hazards – terms which are often used interchangeably. The evaluation of hazards is the point at which insurers exercise discrimination.

A hazard is a condition that may create, increase or decrease the change of a loss arising from a given peril: physical hazards arise from the natural condition of property or the physical characteristics that increase or decrease the chance or extent of loss from a peril. Moral hazards are those conditions that increase or decrease the probability, frequency or severity of loss because of the attitude and character of either an insurance person or some other person.

Thus physical hazards are objective and capable of measurement, albeit imprecise measurement, within well-established parameters. An insurer will usually view a physical hazard as something that can be removed or dealt with by policy stipulations. If a physical hazard cannot be removed, the risk can still be evaluated, classified and rated. Moral hazards, however, are concerned with the character, integrity and habits of life of the individual and as such are less easily identified or measured.

Some underwriters adopt a cynical (or jaundiced) view of moral hazard and, by extension, of their policyholders: '(...) anyone concluding negotiations by purchasing the insurance should be regarded as being guilty of introducing Moral Hazard until proved innocent. Of course, no-one can ever be proved innocent. If the insurance does not result in a claim it merely indicates that the Insured's Moral Hazard was not high enough to produce a claim' (Alport, 1988, p. 93). Fortunately not all insurers hold views which are this extreme!

The term 'moral hazard' is a misnomer; it does not relate to the morals of the person categorized (although Alport uses the term at least partly in this sense) but rather to a judgement of his attitudes and character and, on occasion, to his circumstances.

Accident-proneness

It is widely held within the insurance industry that a trait of accident-proneness exists and many underwriting measures are predicated on this belief. All proposal forms ask for details of previous claims and many require details of previous incidents of the type to be covered by the proposed insurance, whether or not an insurance claim was made. Even one previous claim will be noted by the underwriter and, if it is a large claim, some underwriting action may be taken. A series of trivial
incidents will usually lead to the presumption that the proposer is accident-prone and to appropriate underwriting action (e.g. a deductible or 'excess', a premium loading or the exclusion of certain risks or perils) or even the declinature of the insurance. The underwriter will often assume first that the series of incidents is predictive of the likelihood of future incidents and, second, that the revealed accident-proneness is likely to result in the future in at least one large claim. Such a judgement of accident-proneness is an attribution of moral hazard — although in this case there is no necessary suggestion of fraud (which, however, remains one of the possible inferences) but rather a prediction of other characteristics of the proposer which increases the likelihood of claims.

The insurance industry attaches moral hazard judgements to the person but is also prepared to concede — as physical hazard — that characteristics of the risk may predispose to loss. Forrester, Chatterton and Pease (1988) report that their burglary victims had a 60 percent higher rate of multiple victimization than their neighbours and that, nationally, the probability of being burgled for a second time is three to four times as high as for the first time. Their results lend support to the existence of a trait of accident-proneness but provide no evidence as to whether the trait inheres in the person or the situation. Insurers, however, would probably not care — one explanation is as predictive of future losses as the other. If insurers find a trait of accident-proneness they will predict from it — and will probably not modify what will have become a judgement of moral hazard even if the physical hazard improves.

The 1982 British Crime Survey contained questions about types of misfortune, other than crime victimization, which can befall individuals or households which were analyzed by Gottfredson (1984) and correlated by him with risk of victimization (tables 1 and 2); they provide useful pointers for an examination of the trait of accident-proneness. The tables show a clear and consistent tendency. People (or households) who have suffered one of the specified misfortunes in the last year are most likely to have been victimized; those never suffering one of the specified misfortunes are least likely to have been victimized. (From the data Gottfredson also concludes that there is a link between personal and household victimization.) There appears to be an association between the risk of being victimized and having suffered other types of misfortune.

Farrell and Pease (forthcoming) report similar results from an analysis of the 1992 BCS data: '(...) 68%, or over two thirds of the population are not
Moral hazard and insurance fraud

Table 1: Likelihood (in percentage) of crime victimization of people belonging to households which (1) have never, (2) have, but not in the last year, or (3) have in the last year, suffered from one of four kinds of accident/misfortune

<table>
<thead>
<tr>
<th>kind of misfortune</th>
<th>never suffered</th>
<th>suffered, but not in last year</th>
<th>suffered in last year</th>
</tr>
</thead>
<tbody>
<tr>
<td>traffic accident</td>
<td>7</td>
<td>11</td>
<td>16</td>
</tr>
<tr>
<td>household fire</td>
<td>8</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>household accident</td>
<td>7</td>
<td>10</td>
<td>14</td>
</tr>
<tr>
<td>arrested</td>
<td>7</td>
<td>22</td>
<td>34</td>
</tr>
</tbody>
</table>

Source: 1982 British Crime Survey, modified from Gottfredson (1984, pp. 16-17, 36) (weighted data)

Table 2: Likelihood (in percentage) of crime victimization of households which (1) have never, (2) have, but not in the last year, or (3) have in the last year, suffered from one of four kinds of accident/misfortune

<table>
<thead>
<tr>
<th>kind of misfortune</th>
<th>never suffered</th>
<th>suffered, but not in last year</th>
<th>suffered in last year</th>
</tr>
</thead>
<tbody>
<tr>
<td>traffic accident</td>
<td>19</td>
<td>27</td>
<td>29</td>
</tr>
<tr>
<td>household fire</td>
<td>20</td>
<td>22</td>
<td>30</td>
</tr>
<tr>
<td>household accident</td>
<td>19</td>
<td>24</td>
<td>29</td>
</tr>
<tr>
<td>arrested</td>
<td>29</td>
<td>29</td>
<td>32</td>
</tr>
</tbody>
</table>

Source: 1982 British Crime Survey, modified from Gottfredson (1984, pp. 16-17, 36) (weighted data)

Table 3: Rates of multiple victimization

<table>
<thead>
<tr>
<th>offence</th>
<th>number of victimizations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
</tr>
<tr>
<td>domestic burglary with loss</td>
<td>21,073</td>
</tr>
<tr>
<td>theft from person</td>
<td>21,883</td>
</tr>
<tr>
<td>violence</td>
<td>21,834</td>
</tr>
<tr>
<td>theft of vehicle</td>
<td>15,789</td>
</tr>
<tr>
<td>theft from motor vehicle</td>
<td>15,722</td>
</tr>
<tr>
<td>criminal damage to motor vehicle</td>
<td>15,634</td>
</tr>
<tr>
<td>theft of pedal cycle</td>
<td>9,545</td>
</tr>
</tbody>
</table>

Source: 1982 and 1984 British Crime Survey

victimized at all in any given year. Those people who reported having been victimized on two or more occasions, 14% of the population, reported 71% of all the incidents reported. The skew of the distribution
is such that 3% of the population who experience five or more crimes suffered almost a quarter of all crime reported.' Table 3 shows expected rates of repeat victimization (assuming that victimization occurs randomly) and actual rates (from the British Crime Survey). For domestic burglary, for example, on a chance distribution around 8 households would have been burgled twice in the survey period; the observed number was 50. On the expected incidence, no households would have been burgled three times; the observed number was 10. The same applies to each crime listed. More households are victimized a second and third time than would be expected by chance.

Research by Forrester et al. (1988) demonstrated that, on a council estate in Lancashire, the chance of a home being burgled for a second time was four times the probability of it being burgled for the first time (or, put in different terms, nearly half of those dwellings burgled during the year had been burgled once before during that year).

This research, plus similar research by one of the authors in Canada (Farrell and Pease, forthcoming), also revealed two peaks in further burglaries. The worst danger period for a second burglary is within a month of the first. The risk of a second burglary during that month was twelve times the expected rate; indeed, half of those second burglaries occurred within seven days of the first. The second peak occurs within about four months. The authors speculate that in some instances the burglars were delaying a return visit until they were sure that the stolen items had been replaced – often by means of insurance. The same authors found a similar pattern of repeat victimization for other crimes as varied as crime against schools, racial attacks and domestic violence.

Thus, although the data are indicative only, they do appear to support the proposition that there exists a generalized attribute of accident-proneness such that the suffering of one misfortune, or one type of misfortune, may be correlated with the suffering of other misfortunes. Gottfredson suggests that the link may be mediated by environmental variables rather than by the personal attributes implied in the present analysis. In either case, if the suggested correlation does exist, the fact may be more important than its cause. It therefore appears possible that attributions of moral hazard, in relation to accident-proneness, may have at least a partial factual foundation.

Whilst outside the topic of this article, the research on repeat victimization has important and far-reaching implications for the crime prevention activities of insurers. This subject is explored in Litton (1990).
Social class

The concept of moral hazard ascription is important because it influences both thinking and behaviour within the insurance industry, although empirical evidence of such influence is generally unavailable. At least part of the basis for judgements of moral hazard lies in stereotypes of various kinds; part of the difficulty in eliciting concrete examples of moral hazard judgements in action lies in the fact that their basis is usually not made explicit and when behaviour – such as the declinature of insurance or imposition of special terms on a policy – results from such judgements the true reasons for the action are often not made clear.

Data on the views of 520 respondents about many aspects of social class were obtained by Open University students, working to standardized procedures and instructions, and collated nationally (The Open University, 1983). Each student obtained replies from four adult respondents. A forced choice of subjects was made such that two were male and two female, two middle-class and two working-class. The demographic characteristics and class breakdown of the sample are detailed in Litton (1985, pp. 331-332). The distribution of working-class respondents followed the national pattern with the majority in Class C2 and the least in Class E. For middle-class respondents, Classes A and B were over-represented and Class C1 was under-represented; the fact that 80 percent of the interviewees were Class B (and selected their own subjects) may help partially to explain the imbalance.

In the light of the importance of the concept of moral hazard and of the possible explanation of its operation provided by attribution theory, these data were reanalyzed to identify class stereotypes of criminality. Respondents were asked to indicate whether the middle class and working class are law-abiding. A seven-point scale was used, anchored at the extremes with 'extremely law-abiding' (scored as 7) and 'extremely not law-abiding' (scored 1) with a mid-point of 'neither' (scored 4). Thus the higher the score, the more law-abiding was the stereotype viewed. The samples as a whole viewed the middle class as more law-abiding than the working class (5.3 to 4.8). The difference in class stereotypes on the 'law-abiding' dimension arises from a different perception of the working class by the middle-class respondents. Both classes had

3 Although see Streufert and Streufert (1980) for a discussion of the difficulties inherent in, and the possible drawbacks of, the use of such bipolar scales.
Table 4: Views of sample by class of respondent, of the class stereotypes – dimension 'law-abiding'

<table>
<thead>
<tr>
<th>Class of Respondent</th>
<th>Stereotype Middle-Class</th>
<th>Stereotype Working-Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Middle-class</td>
<td>5.3</td>
<td>4.5</td>
</tr>
<tr>
<td>Working-class</td>
<td>5.3</td>
<td>5.2</td>
</tr>
<tr>
<td>N=268</td>
<td></td>
<td>n.s.</td>
</tr>
<tr>
<td>N=249</td>
<td></td>
<td>p&lt;0.01</td>
</tr>
</tbody>
</table>

identical perceptions of the law-abiding characteristics of the middle class (table 4).

However, whilst the working class saw themselves as being almost as law-abiding as the middle-class (middle-class stereotype = 5.3, working-class stereotype = 5.2) the middle-class viewed the working class as being much less law-abiding than the middle class (middle-class stereotype = 5.3, working-class stereotype = 4.5).

Insurance underwriters and underwriting clerks are objectively classified as middle-class on the Registrar General's scale which was the measure used in the study. Evidence from the writer's personal experience within the insurance industry, from conversations with insurance underwriters and from the limited literature (e.g. Blunt, 1907) suggests that the views of underwriters are, at best, no more tolerant than those of the study's middle-class respondents and are probably less tolerant in that underwriters appear to view the working class as far less law-abiding than the middle class. (The dimension of law-abiding/not law-abiding is taken, for the present purposes, as a surrogate for honesty.)

Explicit reference to social class as a source of moral hazard is rare in the insurance literature. Blunt (1907) specifically refers to class but later authors tend not to make such references explicit; perhaps the social climate at the turn of the century was more permissive towards such outspokenness. However, the rating and underwriting guides in use by all insurers specifically list many occupations which are not acceptable for insurance; not all the listings derive from considerations of moral hazard but some (e.g. scrap metal dealers) certainly do. Class is not specifically mentioned in these listings, which may span both middle-class and working-class occupations, but the primary determinant of class is occupation so the two measures are, at the very least, linked. The evidence from this study suggests that insurance underwriters, if their views follow those of other members of the middle class (they may
in fact, in the writer's experience as a former underwriter, be less tolerant) will tend to view working-class policyholders as potentially less honest than their middle-class counterparts, and therefore as potentially already being morally hazardous, irrespective of other characteristics. The prime classification feature for social class revealed by the study (The Open University, 1983) was occupation which, being requested in almost every insurance proposal form, is a factor readily available to insurers. The basis for social-class judgements is thus accessible to insurers and the present study suggests that stereotyping effects do operate.

It is true that the working class accounts for proportionately more of the reported official crime statistics than does the middle class but only if motoring crime is excluded (Hall Williams, 1981). However, it is at least arguable that there is proportionately more crime being committed by the middle class than by the working class (see, e.g., Box, 1983; Braithwaite, 1984; Downes, 1983). As Box (1981) reminds us: 'the violation of laws concerning conditions of work-safety, industrial pollution, price-fixing, industrial espionage, monopolistic practices, consumer fraud, false advertising and tax avoidance' (Box, 1981, p. 86, emphasis in original) often escape the full sanction of the criminal law and are middle-class offences. It is reasonably certain that middle-class criminals are less likely to be detected, prosecuted or convicted than are their working-class counterparts (Braithwaite, 1984). Downes (1983, p. 5) supplies an example of this different emphasis: 'In 1979, 404 people were sentenced to immediate imprisonment for Social Security offences, compared with 5 for offences against Revenue law. Yet the scale of tax evasion far exceeds that of Social Security fraud – some £ 4,000m a year compared with £ 200m a year.'

The limited insurance literature on moral hazard suggests that the perceived differing criminality of social classes influences moral hazard ascriptions. The small study reported above supports the author's experience that insurance underwriters view the working class as more criminal. However, it appears that the widespread view is fallacious in that the two classes appear to be equally criminal, albeit that the type of criminality of the two classes reflects the different opportunities and environments (and, perhaps, different enforcement procedures, discoverability and abilities at concealment) and thus is reflected differently in the official statistics.

It is also interesting to speculate that the type of crime associated more with the middle class – for example, fraud – is likely to be exactly the type of crime which is of concern to an insurance underwriter (with the
current emphasis on combating insurance fraud) rather than the ‘street crime’ which may be more associated with the working class. If the middle class are, indeed, no less criminal than the working class, but merely indulge in different types of crime, then perhaps insurance underwriters should re-order their prejudices to operate against the former rather than the latter.

Some of the indicators of moral hazard typically used within the insurance industry (e.g. fraud) are probably valid whereas others may be based on similar assumptions to those which view class as an indicator of criminality. If class is not, in fact, predictive of criminality then perhaps doubt is cast on the validity of the other indicators, either explicit or implicit, of moral hazard.

One insurance writer allows his class prejudice to show: ‘Which? subscribers as a whole must represent the more worthwhile end of the private car market. They tend to be responsible members of society, a bit more pernickety perhaps than easier going neighbours, but by and large fair-minded and honest. In other words, the moral hazard aspect tends to be rather better than average in 1986 Britain. Add to that attribute a respect for law and order and for the property and well-being of others as well as for their own goods and persons, they should often answer well on the physical hazard angle also’ (Cannar, 1986, p. 18). The evidence is not adduced!

Insurance fraud

Anecdotal evidence for the deliberate inflation of insurance claims is readily available and there is some evidence to support the view that losses are invented purely to enable an insurance claim to be made (Litton, 1985; Pease and Litton, 1984). Much of the evidence is unsupported and is doubtless subject to exaggeration and bias but does provide pointers to the behaviour of at least some insurance policyholders.

Claim exaggeration and claim invention may be candidates as contributors to the rise in crime losses in recent years. Such a scenario provides an alternative, but equally plausible, way of conceptualizing a major social problem which would require less emphasis on, for example, burglary and more emphasis on insurance fraud. If insurance claim exaggeration is prevalent then, whilst the current property crime figures may be reasonably representative of at least part of the problem, there is a separate series of crimes – insurance frauds – which are at present largely wrongly defined in official figures. If claim invention is
Moral hazard and insurance fraud

Table 5: Knowledge of fraud

<table>
<thead>
<tr>
<th>group</th>
<th>losses invented</th>
<th>losses exaggerated</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>yes (%)</td>
<td>no</td>
</tr>
<tr>
<td>A</td>
<td>1 (6)</td>
<td>16</td>
</tr>
<tr>
<td>B</td>
<td>4 (29)</td>
<td>10</td>
</tr>
<tr>
<td>C</td>
<td>10 (91)</td>
<td>1</td>
</tr>
<tr>
<td>D</td>
<td>5 (42)</td>
<td>7</td>
</tr>
<tr>
<td>E</td>
<td>4 (44)</td>
<td>5</td>
</tr>
<tr>
<td>total</td>
<td></td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>36%</td>
<td>62%</td>
</tr>
</tbody>
</table>

prevalent then part of the current property crime 'epidemic' may be nonexistent, justifying concentration on insurance fraud – a significant incidence of which would mean that the current emphasis on target-hardening (i.e. the fitting of security devices) is misplaced (or less important than otherwise) given that such precautions will constitute little or no deterrent to the provision of evidence for an insurance claim. The insurance industry is aware of the potential for fraud (Litton, 1982) and one manifestation of its awareness is its apparent readiness to attribute moral hazard. Whether the industry is sufficiently aware of the actual or possible extent of insurance fraud is less certain.

A study of insurance fraud

As a starting point for the investigation of these issues a study was conducted, using questionnaires, of 69 subjects in five groups, in an endeavour to obtain an indication of how widespread insurance fraud might be. The middle class were again over-represented. Group A were mainly elderly and mainly middle-class. Group B were mainly middle-class with ages ranging from 20 to 65 years. Group C comprised police and prison officers whilst Group D were senior insurance officials (all middle-class). Group E was composed of students and parents of students. It is interesting to speculate to what extent the responses in table 5 reflect age, class and occupation differences. The study is fully reported in Litton (1985). This article concentrates on the findings related to claim exaggeration/invention where the following questions were asked:

- People have been said to invent losses (e.g. burglaries, fires, breakages, car thefts etc.) so as to improve their home (or finances)
at the expense of insurance companies. Has anyone you know done this, to your knowledge? If you would care to do so, please amplify.

— People have been said to exaggerate losses they suffer in genuine misfortune so as to recover from insurance companies more than they were entitled to. Do you know of any cases of this? If you would care to do so, please amplify.

The responses are summarized in table 5 which records only those subjects who responded to either question. (Figures for each of the five groups are recorded separately; as noted above, Group C were prison officers and police officers.) 38 percent of the subjects stated that they knew someone who had invented a loss and as many as 54 percent admitted to knowing someone who had exaggerated a loss which, even making allowances for the imprecise nature of the study and the small number of subjects, is an important indicator to the possible prevalence of insurance fraud (and certainly for a weakening of personal inhibitions, since others are 'known' to do it).

It is important also to stress what the results are not saying. They cannot be interpreted as suggesting either that 38 percent of the insurance claims are invented nor that 54 percent are exaggerated. The question merely asked whether subjects knew of any such cases with no time limitation such as 'within the past year'. They could therefore be reporting cases from several years previously. Also, it is not known how many respondents were reporting cases in which they had been involved personally as opposed to cases, known to them, involving other people. It is also worth emphasizing that middle-class respondents were over-represented.

Whilst these results are susceptible to various interpretations (see for a detailed review Litton, 1990), and with the caveat that the sample is small, they do indicate that a significant amount of insurance fraud appears, or is said to take place. They are particularly interesting for their suggestions that the invention of losses for the sole purpose of making an insurance claim may be nearly as prevalent as the exaggeration of losses and imply that both insurers and the police ought to be re-thinking their investigations strategies. Clarke (1989) supplies interesting, though anecdotal, support for these results. His interviews with insurers and loss adjusters suggesting that 50 percent of claims are exaggerated and between 1 and 5 percent are invented are supported by informal soundings by the present author amongst loss adjusters and other insurance colleagues.

In October 1992 the Chartered Institute of Loss Adjusters (CILA) surveyed its members on the subject of insurance fraud. Responses were received
Figure 1: Over the last five years has the British public become more or less honest in its insurance claims?

Source: The Chartered Institute of Loss Adjusters, 1992

Figure 2: If less honest, what percentage of domestic claims do you think are exaggerated?

Source: The Chartered Institute of Loss Adjusters, 1992
from 574 of the 2,500 members. The results are detailed in figures 1, 2 and 3. 95 percent of respondents feel that a quarter or more of all claims are now exaggerated and nearly half the respondents suggest that at least 50 percent of all domestic claims are knowingly inflated. The vast majority (70 percent) in the survey felt that the average householder added at least 25 percent to their claim. Around 10 percent of respondents thought that most domestic claims were dishonestly inflated by as much as 50 percent. Loss adjusters are independent and impartial professionals who are appointed (and paid) by insurers to 'adjust' (i.e. negotiate and recommend settlement of) larger claims (say over £ 500 or £ 1,000) and those claims where the insurer has suspicions of fraud. Whilst the survey was only qualitative, loss adjusters are in the front line of claim negotiation and are in a unique position to assess such matters. Despite this, however, respondents reported that insurance companies sometimes (50 percent) or regularly (35 percent) ignored their suspicions of fraud.

The CILA cite recent research by the Association of British Insurers (the trade association for insurance companies) showing that one in five respondents admits to knowing someone who has put in an exaggerated insurance claim while 80 percent admit that fraudulent claims are a
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serious problem. The CILA also reminds us that 20 percent of all fires are caused by arson and five thousand of those are started with the intention of enabling an insurance claim. Arson accounts for many of the biggest fires with over half the value of big fire claims coming from fires which are started deliberately. Kelly (1993) suggests that fraudulent arson may represent around 20 percent of all arson.

The general view within insurance is well summarized by Duncan (1982, p. 27): 'It is my experience that most people are honest in the submission of insurance claims for damage to their property, but they often have inflated ideas of the values.' The commonly-held insurance view – that insurers have to guard against people exaggerating their losses but that the danger of people actually inventing losses is remote – may, in the light of the above research, be inaccurate.

Wittkämper et al. (1991) report a Munich Re (a reinsurance company) view that premiums in every insurance class could be reduced by between 10 and 30 percent if insurance fraud did not exist. Their preview of other recent European research enabled them to report that:

- In Germany, many people questioned took the view that by committing insurance fraud the insured is simply trying to get a return on his premium (Wittkämper et al., 1991).
- In the same survey it was suggested that insurance fraud is committed so frequently because the risk and penalty are so low (ibid.).
- In an Austrian survey almost half saw the unlawful behaviour of the insured as acceptable or at least did so under certain conditions (Austrian Gallup Institute, 1984, pp. 194-201).
- In another German survey 29 percent of those questioned considered that submitting an excessive insurance claim is completely legitimate (Noelle-Neumann, 1985, p. 588).
- Most German insurance experts consider that a fraudulent insured sees his act as nothing more than a 'peccadillo' – only, after all, being committed against an anonymous entity (Wittkämper et al., 1991).

Conclusion

Considerations of insurance fraud lead to speculation about how insurers react to, or try to anticipate it – by judgements of moral hazard. Moral hazard is about insurers making judgements, insurance fraud is about the behaviour of policyholders. It is interesting to speculate whether, and to what extent, the two concepts overlap but, in any event, each is of interest in its own right and for the insight which an
understanding of each can give to the interaction of insurance and crime. Perhaps an apt concluding comment is one which gives an insight into the insurance mind at least as represented at the turn of the century. Can one perhaps hope that the sentiments are now somewhat dated?

'The acceptance of business known to be tainted with Moral Hazard – whether rated up or not – would lead to the encouragement of crime, and cause the Insurance Companies to become, instead of a public benefit and safeguard, a grave danger to the common weal (...) the only proper way of dealing with the matter in individual instances is to refuse protection to anyone on whom the slightest suspicion rests and in all cases take the benefit of the doubt' (Blunt, 1907, pp. 114-115).

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Insurance fraud

Hannu Niemi

This article deals with the prevalence and nature of insurance fraud, and with factors that affect the level, structure and development of insurance fraud. The spread of insurance, the increase in individual losses covered by insurance, and the relaxation of the terms of insurance policies have increased the opportunities for insurance fraud. Competition between insurance companies has impeded the prevention of insurance fraud to a large extent.

The problem of insurance fraud has increased in recent decades but the position of insurance companies, as the victims of crime, has been unaffected and remained strong. It has been possible to pass on the costs of insurance fraud to policyholders in the form of increased premiums, without this harming the competitive advantage enjoyed by individual insurance companies. The companies have even dealt with proven cases on their own and the police are not usually informed of cases of insurance fraud. The central purpose of this article is to point out that the goals of the state's criminal justice system can be achieved only if the insurance companies turn to the state's machinery for law enforcement and criminal procedure and not solely when the financial interests of the insurance company demand it. The consequences of insurance fraud create problems not only for the insurance companies, but also for their clients and society as a whole.

The data in this article are based primarily on my 1991 inventory of insurance fraud (Niemi, 1991a). The data used in the study consisted of interviews with claim adjusters working for the five largest insurance companies in Finland, and some earlier Finnish and foreign studies. In 1990 the five largest Finnish insurance companies had a total of nine full-time insurance detectives or criminal investigators in their service, all of whom were interviewed. In addition, one interview session included an insurance company lawyer who specialized in fraud. The interviews were carried out in a relatively free manner, and for this

1 National Research Institute of Legal Policy, P.O. Box 35, SF-00931 Helsinki, Finland.
reason the interviews in some cases lasted several hours. All in all, five
interviews were carried out. All of those working for the same insurance
company took part in the same joint interview.
In preparation for the interviews, four themes were worked out in
advance, together with related questions, on the basis of which the
persons interviewed recounted their own experiences and opinions. In
addition, in some interviews quite detailed data were gathered on some
typical cases that interviewees had investigated. In some respects, none
of the interviews were exactly alike. It is true that the themes which were
initially regarded as the most important were discussed in all of the
interviews, but in some interviews it was possible to deal in-depth with
certain special issues that arose, and thus an attempt was made to
augment the available data with each successive interview.
From the methodological point of view, it must be pointed out that
the interview data only provide subjective descriptions given by
representatives and employees of one of the parties involved in
insurance fraud, the victim. For now, this sufficed for the charting and
assessing of the problem under review, since no attempt was being
made to provide statistical generalizations. The non-representative
nature of the sample, in turn, is more problematic, if one concludes that
the opinions of those interviewed are representative of the views of the
insurance companies or of the entire insurance business. The interviews
did indeed give the impression that the insurance detectives looked at
the problem primarily from the point of view of the investigation of
offences and of prevention, and that they disparaged the measures
inherent in the insurance field that impeded investigation and increased
the amount of crime.

The extent of insurance fraud

At present, Finnish insurance companies pay out some 11 billion
Finnmarks (about US$ 2.2 billion) in claims each year. In the opinion
of those in the insurance field, the policyholder receives unjustified
benefit by defrauding the insurance company in five to ten percent of
the claims paid out. This estimate is based on studies carried out abroad,
primarily in Sweden (e.g. Bergdahl, 1978).
The insurance field itself estimates that over the past few years
insurance fraud has resulted in the loss of from FIM 500 to 1,000 million
(about US$ 100 to 200 million) annually to insurance companies in
Finland. This estimate by the insurance field is relatively large for
Finnish circumstances. One point of comparison is that the estimated
loss is larger than the net loss to victims of all thefts reported to the police over a one year period, and, correspondingly, four times the net loss to victims of all frauds reported to the police over the same time. Pilferage in the retail trade in Finland is estimated to amount to about the same as the loss from insurance fraud.

A Swedish study of the prevalence and causes of insurance fraud (Eriksson and Tham, 1982) estimated that some ten percent of insurance claims are partly or totally false. On the other hand, the researchers do not believe that some ten percent of the claims paid out would be based on fraud. This is primarily due to the fact that most frauds involve an exaggeration of the lost property or its value, and the sum involved in such frauds is negligible (Eriksson and Tham, 1982, pp. 141-148).

According to the same Swedish study, a survey revealed that three percent of the victims of burglary in Sweden, and four percent nationwide of those who had suffered any kind of loss covered by insurance, reported that they had defrauded an insurance company at least once (Eriksson and Tham, 1982, pp. 142-143). The sums that had been obtained through such fraud were quite small, almost invariably under SEK 1,000 (about US$ 150). An analysis of the claims filed with insurance companies also revealed somewhat more serious cases.

A Danish survey carried out in 1985 (Tranberg and Dyring, 1985; Anderson, 1985, pp. 4-5) suggested that ten percent of those who had filed a claim said that they had submitted a fraudulent claim at least once. This survey estimated that the average fraudulent claim was DKR 2,000 (about US$ 300).

According to an English survey, 38 percent of the respondents stated that they knew of a case in which a fraudulent claim had been filed with an insurance company. Over half (54 percent) of the respondents admitted, in turn, that they knew of claims to an insurance company where the size of the loss had been inflated (Litton, 1987, pp. 222-223; Litton, 1990, pp. 140-149). However, such self-report studies are quite unreliable, due for example to the non-response rate and the unwillingness to admit cases because of the sensitive nature of the matter. Consequently, researchers have generally combined several sources of data when assessing the prevalence of insurance fraud and the resulting losses. It should also be emphasized that this prevalence and the size of the resulting losses may vary considerably from one category of insurance to the next. For example the claim to be paid out for one factory that had been deliberately set on fire may easily be even larger than thousands of fraudulent claims based on travel insurance.

The increase in the number of suspect claims investigated by insurance
detectives, when combined with other factors, suggests that over the past few years there has been a steady increase in not only the number of fraudulent cases but also in the sums involved. However, it has not been asserted that the number of fraudulent claims has increased more rapidly than the number of total claims or more rapidly than the total amount paid out on all policies.

More detailed data provided by two insurance companies suggest that the insurance companies report to the police only one out of every ten suspect cases investigated by the insurance detectives. (Not all of the suspect cases necessarily involve an offence, however.) Even so, a considerable amount of hidden crime is presumably involved. Almost without exception, those cases that the insurance companies turn over to the police are the ones where it has been possible to gather sufficient evidence to convict the policyholder in court.

It is not possible to see directly from the police and court statistics how many insurance fraud cases are reported each year. This is due to the fact that insurance fraud has not been categorized in criminal law as a separate offence of fraud in Finland. Using the data that emerged from the interviews, it can be roughly estimated that some 100 to 200 cases are turned over to the police for investigation each year, which is less than two percent of all frauds recorded by the police. A 1988 study of loss and damages caused by crime was based on an analysis of a large sample of offences reported to the police. This study included some 800 reports of fraud. Of these, insurance companies had reported or requested investigation in six cases (less than one percent of the reported frauds). These reports or requests for investigation concerned five accident policies and one traffic insurance policy.

If the property is insured for fire, arson is a separate criminal offence in Finland (preparation of insurance fraud). On average, 20 perpetrators are charged with this offence each year. According to one study (Hautasaari, 1991) some one third of such charges between 1985 and 1988 were for the deliberate burning of vehicles that were insured against fire, and the remainder for the burning of other property insured against fire. In none of the cases involving insured vehicles was the value of the vehicle more than FIM 35,000 (US$ 7,000). The average value of the other property was FIM 350,000 (US$ 70,000).

Without questioning the assessments of the insurance field of the loss caused by insurance fraud, it can at least be noted that, on the basis of the above figures, the net loss resulting from insurance frauds reported to the police does not exceed ten million marks (two million US$) per year.
The nature of insurance fraud

Most cases that are passed on to the insurance detectives for investigation involve fire insurance or car insurance, although fraudulent claims are made against all types of insurance. Professional and so-called habitual offenders cause the insurance companies the greatest financial loss, even though the proportion of such cases is small. The most common means of committing fraud is by exaggerating the amount or value of the property that has been damaged. As a rule, the persons who exaggerate their losses are those who are simply taking advantage of an opportunity that has arisen – persons who have suffered an actual loss. Such forms of fraud are common in connection with all-risk insurance policies (for example home-owner’s insurance, vehicle insurance and travel insurance).

Some of those who take advantage of an opportunity, in other words, those who had incurred an actual loss, try to repeat their success by filing further fraudulent claims. In doing so, they must usually invent the losses or deliberately cause such losses, since actual losses do not occur often enough. In addition, some individuals who commit ordinary offences may turn to insurance fraud in order to finance their other criminal activities. The setting on fire or deliberate damaging of cars is one of the most common forms of insurance fraud. Generally, the gain that is sought through such fraud is not very large, and for this reason such offences are commonly repeated. In time, it is easy to identify those who continually file claims. For this reason, the risk of apprehension is apparently highest among recidivists and habitual offenders.

One characteristic of professional and planned crime is an attempt to ‘score big’, to set up one large loss and file a claim for it. This is planned before the insurance policy is taken out and quite possibly the offence is planned a long time in advance. The most common offence of this type is arson. Frequently, the value of the property is artificially inflated by putting it on the market. Often, offenders who have set up different companies are guilty not only of insurance fraud, but also of other kinds of monetary offences directed against banks and financial institutions.

It would appear that the nature and development of insurance frauds are much the same in Finland as in the other Nordic countries. Also, it can be generally assumed that insurance fraud has developed along much the same lines throughout Western Europe, although it is possible that the pace of the development has varied from one country to another. The development of the insurance markets and the nature of the opportunities for crime are major determinants of the amount and
structure of insurance fraud. In this respect, it is of course possible that there are natural differences due to, for example, national differences in location and the structure of industries. In Finland and Sweden, large losses can be caused, for example, by deliberately setting lumber mills on fire. On the other hand, the remote location of Finland may deter the international operators that insurance fraud may have in, for example, Central Europe. One new feature of this type of crime in Finland is the flow of smuggled vehicles (possibly in part from Sweden) to the Russian Federation. The disappearance of vehicles and their parts reported stolen in Finland, are also assumed to be connected with insurance fraud.

Increase in the opportunity for crime

The considerable increase in the opportunity for fraud should be seen as one of the most important factors explaining the growth in the amount of insurance fraud. The increase in opportunity, in turn, is due above all to the general development of the insurance field. In addition, the contents and terms of the insurance policies are directly linked to crime. A third factor is linked to the growth in the size of the losses.

There has been an enormous expansion in the insurance market over the past few decades. This is due to the fact that there has been a rapid increase in property ownership (domestic goods, cars, consumer goods) and in activities that represent financial value (foreign travel, business and transport services), all of which people want to have insured. There has been a corresponding increase in crime directed at these goods and activities. Along with changes in society, the insurance field has expanded its activity to new areas. An example of the most recent conquests in Finland is credit insurance. The scope of insurance has expanded to the extent that even minor damage is covered by insurance. As a consequence, there has been a growth in the number of insurance claims – and in the number of fraudulent claims. The development has been much the same in all industrialized and welfare states (Clarke, 1990b, pp. 65-72).

The variety in, and development of, the insurance market in itself results in new opportunities for crime. New forms of activity in society require insurance cover, and this again offers scope for new opportunities for fraud. In such a constantly changing market, the control exercised by the insurance companies themselves always lags somewhat behind developments.
The expansion in the scope of insurance has also resulted in an increase in the number of policyholders, in other words in the number of individuals with the potential to engage in insurance fraud. The attitude of policyholders regarding the purpose of insurance appears to have changed along with this development. It is possible that the insurance companies have come to be regarded as alien, large and impersonal entities; cheating such entities has not come to be regarded as blameworthy as, for example, stealing from another person. The policyholders may have become more suspicious as a result of their contractual dealings with an anonymous partner, and they may fear that such a partner will unilaterally seek to minimize claims even when real incidents occur that are covered by insurance. The temptation to commit fraud may also grow along with increasing experience of the haphazard nature of the control and settlement of claims, and with the greater certainty that the fraud will succeed. This easily leads to exaggerated claims.

As insurance fraud becomes more common and more generally accepted, recognition of the purpose of insurance and of the limits of norms becomes more ambiguous. It is possible that policyholders will begin to think that they have the 'right' to recover the insurance premiums that they have paid, by exaggerating the size of the loss. The sense of security insurance in itself brings is no longer sufficient value for the premiums that have been paid. Along with the centralization of the insurance field, the fiduciary nature of contractual relationships has lessened. The cooperative ideal that the possible disastrous effect of losses on any one individual should be offset by spreading the burden among larger groups has disappeared. Studies carried out in the Nordic countries have shown that insurance fraud is relatively common. With the public's general sense of justice such fraud is regarded as somewhat acceptable. However, insurance fraud continues to be regarded as a more serious offence than, for example, tax fraud.

The public considers that at times insurance companies contribute to insurance fraud by for example haggling over payment of full claims on dubious grounds (Eriksson and Tham, 1982, pp. 92-94; Norges Forsikringsforbund, 1988). Insurance companies were also regarded as being so wealthy that, from the public's point of view, a minor fraud was of no significance. Exaggerating claims could be considered acceptable for example on the grounds that the insurance companies have been collecting premiums from the public for years, and this has been regarded as wasted money, with nothing to show in exchange. However, the public does not regard the deliberate causing of a loss as acceptable
Insurance fraud


The growth in the volume of the insurance business, the laxity of the terms of insurance coverage, and the haphazard nature of control have also created an enticing basis for the growth of professional and so-called habitual crime. This is certainly the factor that the insurance business fears the most, since the accompanying risks are unknown. Factors lying behind this development include the growth and expansion of the insurance field and the competition in the market. According to those interviewed (Niemi, 1991a), the possibility of fraudulent activity has been overlooked in the marketing of insurance, and as a result quite sizeable insurance policies may have been granted without, for example, checking to see whether the object being insured actually exists. The insurance companies have tried everything at their disposal in an effort to avoid the reputation of being a stingy and suspicious contracting partner, and this has been reflected in the laxity of control.

The formulation of the contents of insurance policies defines the limits of acts that constitute fraud. In this sense, the granting of new policies and the changes in the terms of insurance increase the number of criminal acts. For example, within the framework of the Insurance Contracts Act it is possible to use the terms of insurance in order to define what constitutes an incident for which compensation shall be paid through the insurance. If the insurance company eliminates a high-risk object or something else from the scope of insurance, it simultaneously decreases the possibility of insurance fraud. The terms of insurance have largely been relaxed, and particularly comprehensive insurance policies that cover almost all unforeseeable events provide considerable opportunities for fraud. Loose and liberal terms of insurance also result in policyholders taking less care of their property, and paying less attention to its protection. This makes it easier to commit crimes against such property, and increases the amount of damage. As a consequence, there has been a growth in the number of insurance claims – and in the number of fraudulent claims.

A Swedish study of insurance fraud (Eriksson and Tham, 1982) found that the number of residential burglaries reported to the police increased along with the increase in losses covered under policies protecting residences and summer cabins. Similarly, the trend in the number of thefts of car parts or car equipment followed the increase in the number of claims filed on the basis of car insurance policies. Since
it is known that much of the increase in the number of burglaries and thefts of car parts can be explained by the increase in the amount of the property involved, the researchers recommend that more attention be paid to preventing the original losses rather than to preventing insurance fraud. If the number of losses can be reduced, then the amount of fraud will automatically decrease.

For example, the requirement, in the conditions of insurance, that the locks on cars be of a higher standard prior to insurance cover being granted, would cut down on losses and, consequently, reduce fraud. The car industry already has the technical expertise required to make such improvements in the level of security, but it has been suggested that car manufacturers and insurance companies have only a limited interest in such improvements, since they benefit financially from car thefts (Ahlström and Ahlberg, 1994, p. 11).

The measures taken to prevent insurance fraud, and the extent, strength and targeting of these measures depends on how serious a problem insurance fraud is in the eyes of insurance companies. These assessments, in turn, depend on what data are available on the amount and nature of such fraud, and on the losses incurred by such fraud. Criminality and the data available on criminality can vary from time to time, and this influences assessments and predictions of the development of crime. In Finland, the insurance field is convinced that insurance fraud has increased, as have the resulting losses. In general, insurance fraud is regarded as a problem that must be dealt with in a variety of ways.

The insurance company as a victim of crime

Insurance companies have not sought to publicize their victimization. Presumably, this is largely due to the fact that they have a strong motivation and abundant means both to cope with the offences and to deal with their victimization themselves. With the exception of statutory insurance, it is the insurance company itself that determines the scope of insurance activity (the types of insurance policies offered) and the scope of individual policies. Through the various terms of insurance, the insurance company also regulates the occasions on which the policyholder is entitled to receive compensation for an incident covered by insurance. Before granting the policy, the insurance company can examine that which is to be insured and the data on the customer, and in this way can prevent probable cases of fraud.
The insurance company has a strong position when compared to that of the victims of many other offences. Insurance companies have ample opportunity to avoid being defrauded. The Insurance Contracts Act and the terms of insurance offer the insurance companies unlimited possibilities for preventing fraud. In addition being a specialized organization is one of the more important elements of the powerful position of insurance companies as victims (Niemi, 1991b).

Even so, by its actions, the insurance field itself has been more successful in creating opportunities for crime than in its attempts at effective crime prevention. The scope of insurance coverage has been extended and the terms have been eased. At the same time, however, this has increased the opportunity for offences. The complicity of the victim may be very intensive (for example, marketing that emphasizes good relations with customers and flexible services in the payment of claims), if the victim believes that this will result in an increase in profits that will outweigh the accompanying loss. In addition, in the insurance company’s own bookkeeping, only items which cannot be passed on to the policyholder as increased premiums without a loss in the company’s competitive advantage, may be assessed as expenses.

In addition to such a cost-benefit analysis, the willingness of the victim to prevent crime is also doubtless affected by the victim’s assessment of the real threat of fraud in the future. Professional and deliberate frauds result in particularly extensive financial loss and the assumed increase in such crime, specifically professional crime, has resulted in insurance companies becoming increasingly concerned about fraud and more determined in their attempts to improve their system of control.

**The strategic choices of control**

When viewed in retrospect, the reactions of the insurance field in Finland as well as in most other countries have strengthened over the past decades. So far, the attitude towards fraud has varied from complete indifference on the part of some insurance companies to the development and maintenance of a well-organized system of control in

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2 The present assessment is based in part on the corresponding assessments carried out by Michael Clarke in England, of the possibilities open to the insurance field as regards controlling the problem of insurance fraud (see Clarke 1989, 1990a and 1990b) as well as Swedish studies on the prevalence and causes of insurance fraud (Eriksson and Tham, 1982; Tham, 1984). The results of these assessments go along much the same lines as that of my earlier study in Finland (Niemi, 1991a).
cooperation with the police and other authorities. Michael Clarke's studies suggest that companies in the United States and France are the most advanced when it comes to organizing the prevention of insurance fraud (Clarke, 1990a, p. 21).

The other extreme in the viewpoint of insurance companies is reflected in the attitude that the amount of insurance fraud is being exaggerated and the belief that such fraud consists primarily of petty exaggeration of losses. Such an attitude is not conducive towards encouraging the investment of resources in fraud prevention. The suspicion may arise that the prevention of insurance fraud hinders the sale and marketing of the services of insurance companies.

When the increase in the amount of crime exceeds the insurance company's level of tolerance, attention is devoted to the stepping-up of crime prevention. This is what usually happens when there is the fear that professional fraud, that results in large losses, will increase so that the proportion of claims paid out on fraudulent grounds will become quite large. The problem can no longer be solved by paying out even on suspect claims, and passing on the cost to the policyholders by raising the premiums. The first stage in a tightening of control is generally a refusal to pay out on claims and a refusal to grant insurance cover to those who have engaged in fraud. In addition, the more serious cases may be turned over to the police for investigation. In this, one could speak generally about a reaction caused by the abuse of a fiduciary relationship. During recent years, the preventive and control measures undertaken by the insurance field in Finland have primarily tended to remain at this stage.

After the increase in large-scale losses caused by fires during the early 1970s, and the increase in the dubious claims connected with these fires, fraudulent claims against insurance companies started to be regarded as a special problem. As a consequence of this development, the two largest insurance companies in Finland decided to employ a special insurance detective to investigate dubious cases. At present, Finnish insurance companies employ a total of sixteen insurance detectives. The simultaneous development in Sweden paralleled this (Eriksson and Tham, 1982, pp. 121-123), with the difference that in Sweden, both insurance companies and cooperative bodies in the insurance fields have directed considerably more resources to this operation. At present in Sweden, one organization (Larmtjänst, 'Alarm Service') serves various companies including all the insurance companies, and it employs a total of about one hundred persons, in other words six times the number of insurance detectives in
Finland. Even Norway's detectives number half as many again as those in Finland.

If it is believed that the amount of fraud is increasing and that the problem is becoming a permanent one, the insurance field will also consider other measures. The threshold for the tightening of measures may be high, since fraud prevention and the investigation of suspect cases requires the establishment of an expensive and complex system of control.

There is the further complication that also so-called innocent clients will unavoidably be subjected to supervision and other measures, which could be uncomfortable for them. Increasing the amount of bureaucracy and control could result in policyholders deserting to competing companies. The competition between insurance companies makes it more difficult to reach agreement on how to prevent fraud.

The quick and uncomplicated payment on claims is one of the factors in this competition. As such, the creation of a system of control is neither applauded by the field in general, nor by the personnel of individual insurance companies.

The most recent strategy selected in Finland consists of measures directed at identifying groups of clients who cause major losses. The purpose is to deter risk-prone groups from applying for insurance, or at least to control the risks associated with such clients. This strategy has been selected in order to cause innocent clients as little inconvenience as possible. The competition between insurance companies and the attempts to increase market share, however, easily leads not only to such suspect clients, but also other clients taking out insurance with a competing company. With large companies which are geographically dispersed and where different branches have considerable autonomy, it may even happen that problem clients come in through the back-door, with policies issued by a branch office. This goes to show that it may not be possible to reach agreement on the measures needed to prevent fraud (even within a company).

**The system of control of insurance companies and its significance**

The system of control created by insurance companies reflects their efforts to deal with criminality on their own. A very guarded attitude is taken towards turning to outside help, primarily the police. The system of control is designed to root out and investigate claims that seem to be dubious or fraudulent. Preventive action is becoming increasingly important.
The companies' internal system of control of insurance fraud consists, in the broad sense, of the sales organization, the organization for the settlement and inspection of claims, and the investigation organization, which has at its disposal, when necessary, legal, technical and other expertise. The significance of the claim settlers in controlling fraud and in sifting out dubious cases should not be underestimated, since they are the first to deal with all claims. Each day, tens of millions of marks are paid out in compensation.

A service orientation is at odds with suspicions that policyholders are guilty of fraud. The problems raised by the need to adopt this favourable attitude towards customers are acknowledged by the companies, which seek to improve their internal training so that claims from fraudulent customers can be separated from the rest. However, the volume of claims that must be settled each day is so large that many fraudulent claims remain undetected. On the other hand, this randomness of the risk of detection does not apply to the more serious frauds which involve large amounts of money. The detectives focus on the investigation of such claims.

The job of the insurance inspectors is to inspect the existence and the value of insured objects, both when an insurance contract is to be signed and when an incident occurs. The sales organization can assist in fraud prevention by carrying out risk assessments for risk management purposes.

The insurance detectives have the responsibility for investigating questionable claims as well as any types of crime directed against the company, and in addition, prevention of risks. These functions are carried out together with other company personnel through training, and by creating and maintaining contacts with various authorities (for example, the police and the fire service) as well as other parties (such as detectives working for other companies, and travel agencies). In practice, because of lack of resources, the work of the detectives is focused on the investigation of dubious cases.

Apparently none of the companies has established any specific monetary goals for the work of insurance detectives. Even so, up to now this activity has been very profitable even if it is measured by the profit accruing from those cases where investigation has shown that the claims were unjustified. From the point of view of costs and benefits, it has been claimed that the work of the detectives would still be very profitable even if the resources were doubled or tripled. Even in the mid-1980s, it was estimated in Sweden that each detective saved some one million crowns (about US$ 200,000) for the company each year. The
value of the preventive work presumably cannot be measured at all. The
companies seek to investigate all cases to some extent regardless of the
financial interests involved, because this tends to increase and maintain
respect for the law.
The focal point of the work of insurance companies in crime prevention
has been on increasing the risk of apprehension of those who commit
fraud. Only recently have the insurance companies, and the entire
insurance business, begun to pay more attention to the possibilities
of preventing fraud by reducing opportunities for fraudulent activity.
However, there has been little practical action. From the point of
view of preventive action taken by the victim, it is important to note
that the Insurance Contracts Act and the terms of insurance provide
the insurer with a number of possibilities for influencing the risk of
victimization.
It is possible to take the possibility of fraud into consideration in the
development of insurance products by ensuring that high-risk products
are not placed on the market or that they are withdrawn from the
market. It has also been possible to decrease fraudulent claims by
changing the terms of insurance. As has already been noted, in practice
this has resulted in more, not fewer, opportunities for fraud.
Also in the sale and marketing of insurance products, little attention has
been paid to the prevention of fraud. Sales have not been evaluated by
scrutinizing the bottom line (the net profits); instead, the goal has
simply been an increase in sales volume. An attempt has been made to
change the situation by training sales personnel but such training on a
more active basis has only recently been introduced. Many of those who
were interviewed believed that the top management of the insurance
companies have gradually begun to realize the effect of fraud on net
profits, and this has led to practical action in some sectors.
When granting an insurance policy, the insurer has the right to examine
the object that is to be insured as well as the conditions in which, for
example, the object is kept. In addition, the insurance company has the
opportunity and the means to investigate the risks that may be
connected with a specific individual or company as a policyholder. This
supervision and checking can be continued as long as the insurance
contract is in force. Such preventive measures can be called risk
management. Supervision and checks are also carried out after a
questionable incident requiring investigation has occurred. This may,
on the general level, prevent fraud and repeated fraud.
Checking the object to be insured in order to prevent policies being
taken out on non-existent property, assessing the true value of the
property, ensuring that the property continues to be protected, and so on, has been done for a long time. The effectiveness of such checks has varied from time to time. The enormous growth in the number of insurance policies has meant, among other things, that the checking of all objects that are covered by insurance is now an impossibility. This means that some criteria must be used to select which objects should be checked. Abnormally high value of the property, and difficulties in assessing its value, are examples of such criteria.

In practice, it is only recently that attention has been devoted to investigating the characteristics of potential policyholders. Apparently the most important reason for this new development is the observation that banks, other financial institutions and also insurance companies have suffered increasing credit losses. The insurance companies have assumed that it is important to determine who the high-risk clients are, not only from the point of view of who might default on insurance premiums or on any loans granted, but also from the point of view of who has a greater probability of being the victim of incidents covered by the policy in question. From this, it is not a long jump to the conclusion that the proportion of policyholders who potentially will engage in fraud is higher than average among those who default for example on premiums.

Regarding insurance fraud, knowledge of norms is not on a very high level, when compared with the situation in respect of certain other types of offences. One possibility being considered to increase awareness in the insurance field is to inform people about the criminal nature of certain types of fraud, and the consequences of such crime. However, little reliance is being placed on the effectiveness of general information, or even information directed at specific clients. This is merely regarded as one method among many in emphasizing the importance of preventing fraud.

One effective way of getting the message across is to provide information on the risk of apprehension. The view has even been taken that one of the main functions of insurance detectives is to increase the risk of apprehension, and to distribute information on this increased risk. It is possible to increase the level of control considerably beyond the present level, increase its effectiveness, provide uniformity on a geographical basis, and so on. At least in the opinion of the insurance detectives who are responsible for control, it is also possible to increase cooperation with the police and the authorities. It has not been possible to centralize the control of fraud despite apparent attempts to do so, by for example establishing a central register. This attempt has run up against statutory
barriers, regarding data protection for instance. All the measures described have been designed to influence the individual policyholder by controlling him or his activities both before and after the policy is granted. It is here that the insurance companies have sought to find the reason for fraud and the perceived increase in fraud, and the challenge has been met primarily by increasing the amount of control. The public statements of the insurance field continue to reflect in part the view that insurance fraud is a criminal sport or public amusement. At times, the attitude has been quite moralizing. Also this phenomenon appears to be quite common around the world (Litton, 1990, pp. 94-128; Tham, 1984).

On the other hand, insurance companies may not have recognized or wanted to admit the fact that, behind the increase in the amount of insurance fraud and the growing seriousness of the problem, lies primarily the growth in the opportunities for crime. There has not always been a willingness to undertake these preventive measures. From the financial point of view, it may be that often, a reduction in the opportunity for crime would not be in the interests of insurance companies.

At the most, an attempt has been made to prevent the possibility of fraud by examining the objects being insured at the time the policy is taken out. An attempt has also been made to define acceptable criteria for granting policies to corporate clients. Even here, the measures are related more to controlling the policyholders than reducing the opportunity for crime. Indeed, insurance companies have not always wanted to cancel their contractual relationship with policyholders who have engaged in fraud. As long as the insurance company knows the client’s record and his or her possible inclination to engage in fraud, the company believes that it can ‘manage’ the control of such a contractual relationship (Tham, 1984). In addition, such corporate clients bring with them the premiums accruing from a considerable amount of so-called obligatory social insurance based on legislation.

The investigation of insurance fraud

The investigation itself is very much like criminal investigation by the police. Indeed, the detectives often emphasize that police training and years of experience are a distinct advantage in investigations, for example when questioning. The fact that the insurance companies have their own detectives is beneficial in the sense that this significantly shortens the interval between the offence being committed and the
beginning of the investigation. It is possible to initiate investigations without delay when a claim is presented to the company. The insurance companies also have the opportunity to carry out investigations that would be beyond the resources of the police. For example, when investigating suspicious fires, the detectives are able not only to carry out a technical investigation of the reasons for the fire, but they can also investigate possible motives for arson by looking at circumstances connected with how and when the property was acquired, and who owned it. In some of the more difficult cases and in cases with international connections, it is also possible to turn to foreign detective agencies in order to have the case solved. On the basis of their relationship with their customers, and of the Insurance Contracts Act and the terms of the insurance, the companies are able to obtain a lot of information on those who may be guilty of fraud. This is made easier by the fact that it is possible for the insurance company to investigate suspect cases so that the decision can be made on the basis of civil law, and not criminal law.

The forms of cooperation with the police vary from case to case. The minimum requirement is that the police investigation be carried out so that the interests of the insurance company are taken into consideration, and so that the alleged fraud is indeed investigated. At the other end of the scale of cooperation are the cases where detailed agreement is reached on work assignments and on the division of labour. The insurance detectives supply the police with information as needed in order to guide the police investigation so that the possibility of insurance fraud can be taken into consideration.

In these cases, the professionalism of insurance detectives is often clearly higher than that of the police. For the police, the investigation of insurance fraud may be new and unfamiliar, so they generally accept the offer of the detectives to provide their expertise. On the other hand, the police clearly give insurance fraud a lower priority than they do to many offences that they consider more serious.

It is also probable that, since the insurance detectives are former policemen, they are regarded by the police as trustworthy allies. The resources of the police are insufficient for the detailed and expensive investigations that insurance fraud requires. In respect of professional crime, cooperation with the Central Criminal Investigation Police is productive, since often the same people who are suspected of insurance fraud have a history of economic crime. In some cases, the police simply record what the detectives have uncovered. The interviews frequently showed that the police are not sufficiently capable of discerning the
special features of the cases under scrutiny, something that is necessary in order to appreciate the possibility of insurance fraud as a motive for the offence. The police seek to investigate what they consider the primary case, for example how a fire was started. It is more difficult to solve cases involving arson and to apprehend the offender, since because of the sheer number of cases, the will and resources of the police are not enough to check all the details. This is one reason why the insurance companies seek to investigate cases independently. The police investigations alone are not very productive. The criminal investigation of insurance fraud is, to a large extent, guided by the insurance companies even when the case has been passed over to the police, or the insurance company has requested that the police investigate a case of suspected fraud. Generally, the insurance companies do not turn to the police until the evidence has already been gathered. In such a situation, features of the criminal process that would otherwise be important to the victim (such as information on the processing of the case, possibilities of presenting the victim's views and concerns, and the possibility of using legal counsel) are of less significance, since the entire process is already guided by the victim (insurance company).

Avoiding financial loss

After a fraud has been detected and the case has been solved through criminal investigation, the insurer has different alternatives in closing the case. It is rare for the insurer to forgive fraud or seek an informal settlement with the policyholder. Generally, the insurance company uses the legal remedies allowed by the Insurance Contracts Act or the terms of insurance, or in straightforward cases turns to the criminal justice system. In the interests of the company, it is most important to reach a result where the threat of financial loss to the insurance company connected with the incident can be averted, or the person attempting the fraud is required to pay back all or part of a claim which may have been paid. In addition, it is important for the insurance company to prevent possible future risks posed by a client who has committed fraud. Of the alternative decisions, many are controlled to a large extent by the insurance company. In respect of the potential loss suffered by the insurance company, it should be noted that generally, ambiguities or fraud have already been suspected before payment is made on a claim. In such cases, the insurance company has not up to that time suffered a financial loss.
which might have to be proved in court. Equally, in such cases there is
no need to force the offender to pay back the claim. Tactically, it would
be wise to shift the burden of response to the policyholder. Customers
who engage in fraud would rarely increase their risk of apprehension by
trying to take the insurance company to court.
If, following the investigation, there are grounds to suspect that a
customer has presented a fraudulent claim, the following are the normal
alternatives (in addition to termination of all insurance held by the
policyholder):
1 the claim is settled in accordance with the current value of the true
loss, or with a deduction for example on the basis of a contractual
penalty clause to be found in the insurance contract;
2 settlement of the claim is terminated, in which case no payment is
made;
3 not only is the claim refused or the settlement of the claim terminated,
but also, if there is sufficient evidence that the policyholder is guilty
of fraud, the police are asked to investigate the case and determine
whether someone has committed an offence; and
4 one of the preceding three alternatives is used selectively in cases
where the police have previously investigated the case on the basis
of a report from some other source, in which case fraud, as an
offence subject to public prosecution, may lead to prosecution and
criminal proceedings regardless of the decisions of the insurance
company.
In cases where the evidence is insufficient to justify refusal of the claim
in full and where the policyholder continues to demand payment even
though there are strong suspicions of fraud, the insurance companies
normally try to ensure that the policyholder obtains as little benefit as
possible. This is done by negotiating with the policyholder over the size
of the payment and by using the remedies provided by the Insurance
Contracts Act and the terms of insurance.
Refusal to pay the claim either in full or in part, or seeking to force the
policyholder to pay back the claim, are generally sufficient from the
point of view of the insurance company in the settlement of the case. In
such cases the guiding principle is the belief that the insurance company
can, if necessary, produce sufficient evidence under civil law to justify
their refusal to pay or their decision to pay less than what is demanded.
Termination of the settlement of the case corresponds to the insurer's
refusal to pay, as in practice it means that nothing will be paid to the
policyholder. In addition, it is known to be unlikely that the policyholder
would contest such a decision and seek to demand payment in court or
through the system of consumer protection. In cases where the settlement of the claim is terminated, the insurance company can invoke breach of contract for example on the grounds that the policyholder had not fulfilled his or her obligation to provide information as required by the Insurance Companies Act or the terms of insurance. According to the persons interviewed, refusals to pay are often the most common way of closing a case.

Defining insurance fraud as an offence is not necessarily in the primary interest of the insurance company, which is seeking to make a profit. In some cases, one consequence of turning a case over to become an 'official' case in the criminal process is that, because of problems with evidence, the insurance company is ordered to pay. For this reason, frauds are rarely turned over to the criminal justice system. From this point of view, it would be of great interest to find out what criteria the insurance companies use when deciding exactly which cases should be submitted to the police.

Difficulties in gathering evidence are the most important factor influencing the decision not to turn a case over to the police. In the opinion of the persons interviewed, the evidence both on the chain of events and the other factors, as well as on the intent of the person suspected of the fraud, must be very clear before the police are asked to investigate the case. Even the time required to gather evidence places restrictions on decision-making, since according to the Insurance Contracts Act and the terms of insurance, the claim should, as a rule, be settled within one month.

Problems arise in connection with those cases which come to the police from sources other than the insurance company. Such cases often involve incidents covered by fire insurance. It may be possible, when investigating the fire, to show that the fire had been started deliberately, but it may not be possible to show who lit the fire, or who had instigated the arson. In such cases, the insurance company would consider the alternatives noted above, but the possibility that the suspect will not be convicted restricts the scope that the company has in making its decision.

Many of the detectives who were interviewed thought it was important that as many frauds as possible are turned over to the police for investigation and prosecution. This was regarded as important for preventive reasons. Informing people of the risk of apprehension strengthens general respect for the law. The persons interviewed were almost without exception of the opinion that nothing prevents the insurance company from requesting a police investigation whenever a
crime is obviously involved, and the evidence of this can be obtained.
It is only in exceptional cases that other factors should be allowed to
influence the decision on turning the case over to the police; such
factors would include the nature of the relationship with the policy-
holder, the degree to which the policyholder assisted in the investigation
of the offence, and his or her personal circumstances. An example of
such an exceptional case is that the policyholder himself or herself had
given notice of the offence before the insurance company found out
about it.
To summarize, it can be noted that it is difficult to combine the direct
goals of the insurance companies (primarily averting financial loss in the
individual cases being investigated, but also maintaining a good image
as a customer-friendly company) with the indirect goals (prevention of
fraud). Up to now, it would appear that an attempt to strengthen general
respect for the law by 'publicly' increasing the risk of apprehension has
more drawbacks than benefits from the point of view of the company,
and it is for this reason that the insurance companies seldom turn to the
police for help.

A problem – but whose problem?
The formulation of the contents of insurance defines the limits of acts
that are deemed to constitute fraud. In this sense, the granting of new
policies and the relaxing of the terms of insurance increase the
opportunities for committing insurance fraud. It may be a surprise to
note that, as a result of insurance cover, not only the burglar but also the
insured victim of a burglary and the insurance company, in paying out
the claim, may benefit from the offence. The home-owner receives the
claim in accordance with the cover that he had regarded in advance as
sufficient, and is thus able to replace what had been an old television set
with a new one, and buy a newer video recorder. Insurance companies,
in turn, get new clients when residential burglaries and the fear of such
burglaries increase. In this case, also shops that sell television sets and
video recorders are satisfied, since demand increases. From the purely
financial point of view, preventing crimes in advance through new and
more effective protective measures is not necessary or even desirable for
such parties. On the other hand, a decrease in residential burglaries
would mean a decrease in losses and, through this, a decrease in
insurance fraud.
The policy of insurance companies is guided solely or at least primarily
by economic reality. In the mathematics of insurance, the attempts to
prevent and control crime and insurance fraud are not due to any
considerations of the public interest. Crime will be prevented when, and
in such a way that, this is profitable from the point of view of the general
financial well-being of the insurance company.
The bill for insurance fraud, for the carelessness that is encouraged by
laxer terms, and for the increased claims paid out on fraudulent
grounds, is paid by the other policyholders with whom the insurance
company has a contractual relationship, as long as the premiums do
not become excessive and - above all - do not become higher than those
demanded by competing insurance companies. In this sense, insurance
fraud is not a problem for the insurance companies alone, but also for
their clients.
The investigation of offences and the maintenance of the criminal
justice system are state functions in Finland as well as in other
developed welfare states. One of the goals of making insurance fraud a
criminal offence is the maintenance of general respect for the law. The
credibility of the system of punishment suffers if part of it is not applied
at all or is applied only at random. The insurance field has wanted to
solve insurance frauds independently, and has regarded such frauds as
its 'private' business; in this, it has succeeded quite well. A similar
tendency in Finland towards 'privatization' over the last few years has
become apparent in connection with suspected abuse connected with
the granting of credit by bank managers. Furthermore, there have been
questions in public about why insurance companies have rarely reported
matters related to suspected money-laundering.
In respect of insurance fraud, the norms are not well-known, when
compared with the situation in respect of certain other types of offences.
Also in fact, the distinction between fraudulent activity and exaggeration
of the loss may remain ambiguous. In cases where the public is not well
aware of the norms applying to certain behaviour (such as insurance
fraud), one option in maintaining respect for the law is to make
insurance fraud a criminal offence.
We can ask whether it is justified from the point of view of criminal
policy for society to assume a greater burden in the prevention and
control of crime which, to a significant extent, is made possible by the
actions of the victim himself. The insurance companies are able to
use criminal investigation as a tool even in order to refuse to pay
claims under civil law. Non-payment of a claim is generally regarded
as a sufficient measure in response to a fraudulent client. The insurance
field fears that a noticeable increase in control and the turning of frauds
over to the criminal justice system would detract from the reputation
of insurance companies as client-friendly. At first, the fact that Finnish insurance companies had begun to employ detectives was even kept a secret. The insurance business has itself responded to the problem by hiring its own detectives to investigate its cases. This hiring of detectives may, however, have an effect opposite to that intended, in that it may increase the work-load of the police. Along with the development of the system of control in insurance companies, more and more attention can be focused on suspicious cases. In the Finnish case, however, this has not happened, because the insurance companies have seen to it that cases are not turned over to the police solely because they are suspect; on the contrary, the insurance companies have sought to gather as much evidence as possible before reporting the matter to the police.

In any case, the action taken by the insurance companies provides an example of the privatization of criminal investigation. This in principle can ease the work of the police, and release police resources for other criminal investigation. By initiating the work of the insurance detectives there has also been a reallocation of the costs of crime in one respect, with the victim assuming a greater share. Whether or not this greater share outweighs the increase in the expenses that society's system of control must bear as a result of the increase in opportunities for crime, is a more difficult question. In some instances, the possibility has also been raised that the insurance company would pay outright sums of money to the police, and purchase their investigatory capacity.

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Economics, crime and the market: the role of household content insurance

Jon Spencer and David Ward

In this article we propose to consider the core role of economics in the processes of victimization. The operation of the market for household content insurance will be used as an example to assist in the consideration of the main issues. Our argument is that economics contributes to the dominant ideological framework within which crime is defined, detected and acted upon. This requires us to explore a number of important matters. Firstly, how the fear of crime can bolster the perceived need for the goods and services of the insurance and security industries. Secondly, how victims of property crime can be defined as potential offenders. Thirdly, how this connects with the strategic responses of the state to manage crime within a market ideology. It is our argument that these three areas contribute to the fracturing of the social contract between citizen and state leading to a situation in which the limits of trust are drawn ever tighter and people experience feelings of greater insecurity and vulnerability.

In a recent paper Sack (1994) has succinctly outlined the connections and significance of economic factors and crime. Sack argues that economics is important because it highlights the activities of the market which he argues is not simply another form of the state but is an alternative form of social regulation. 'There is a tendency to conceive the market and the state as just two different, yet more or less exchangeable, systems or principles of social regulation or social control. [However] (...) the state and the law as its main mechanism of

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governing is (...) moral enterprise, which the market (...) is not (...)
Substituting the state and the law by market and costs is equivalent
to weakening and dropping the moral code of social regulation' (Sack,
So, for Sack, to consider economics and the market in criminological
thinking is an enterprise of ‘vital theoretical importance’ (p. 13). This
theoretical work cannot be undertaken without including ideas about
victimization.
The concept of the victim has already been recognized as a highly
complex one (Fattah, 1992). For example recent work by Sampson
and Phillips (1992) and Polvi et al. (1991), which considers multiple
victimization, has demonstrated that the process of being a victim is
not a random one but is influenced by a number of factors (Farrell,
1992; Farrell and Pease, 1994).
Much of the popular rhetoric concerning crime and offenders, especially
in the United Kingdom, is constructed around the notion of the state, on
behalf of the public, being engaged in a ‘war against crime' with the
offenders being defined as a minority of determined, dangerous and
deviant people (Hale and Brake, 1992; Downes and Morgan, 1994) who
are undermining the goal of a ‘crime-free’ society. However, this runs in
parallel with another rhetoric in which, as Reiner (1992) has argued,
crime is seen as being: ‘(...) made possible by (...) victims who are lax
in their own responsibilities to prevent crime’.
At one level the two positions are contradictory. The former is located
in a normative notion of social harmony in which individual citizens
hand over to the state the authority and responsibility to maintain social
order and through this personal protection. Individual autonomy is
sacrificed to the collective good. In contrast the latter asserts individual
responsibility to deal with crime both pro-actively and reactively. In the
UK, both government and judicial pronouncements have come close to
putting the citizen/victim on the same footing as the criminal in terms
of blame for the so-called ‘crime explosion’ and particular forms of
crime. Car crime and household burglary have been at the forefront
of a rhetoric of citizen responsibility.
While the notion of victim precipitation has a long and deep history (Von
Hentig, 1948) how strongly it is stressed can vary according to economic
circumstances or the political climate (Walklate, 1989). However, the
rhetoric of citizens having responsibility to protect themselves from
crime, expressed in such stark and widespanning terms, is we believe a
relatively recent development. Why should this be so? An explanation we
will argue can be found in the conjunction of economic and ideological
imperatives. The state's 'war against crime' and the discourse of citizen responsibility is expressed at a crude and common-sense level, which accommodates the 'rolling back of the state', providing greater scope for market forces, the reduction of public expenditure and the promotion of individual responsibility. For example a recent UK television crime prevention advertising campaign, promoted by the government, exhorted potential victims to invest in technological crime prevention hardware and portrayed offenders as a pack of rampaging predatory hyenas.

The problem with such a rhetoric is that it fails to account for the fact that some people, because of their structural position, inevitably are vulnerable, and that others, albeit vulnerable, are 'freer' to take preventive measures, e.g. to buy electronic burglar alarms, avoid dangerous locations and so on. However, a focus on market generated solutions to avoid being a victim has the ideological benefit of de-politicizing the concept of victim because political solutions are displaced by technology and behaviour.

In Britain this process of de-politicization, has coincided with mainstream criminology's pre-occupation with issues of how to prevent or reduce crime, the so-called 'administrative criminology'. Young (1986) has argued that this reflects an aetiological crisis in criminology which focused more on pragmatic considerations than on questions of causation. However, as Smart (1990) cautions there are problems in subscribing to all encompassing theories of crime causation.

Wilkins (1991) provides, in our view, an especially useful perspective for understanding the complex relationship between crime and victimization. He argues that to fully comprehend the ideas and concepts utilized in explaining crime we must come to an understanding of how the criminal justice discourse, and the language it employs, is translated into everyday usage. Wilkins (1991) defines this as a process of constructing 'value packages'. Such 'packages' simplify and reduce complex social, economic and political problems and ideas. This process of simplification is not haphazard. It occurs by employing the language of 'extremism' (Wilkins, 1991), to reduce complex social processes to over-simplified one-dimensional moral judgements. They are then understood on a micro level of understanding when they are, in fact, issues of macro complexity.

We would argue that within the contemporary discourse of the victim this reductionism can be seen at play. What is important about this reductionism is the way in which it facilitates a discourse which constructs victims as being responsible for their victimization. So, the
victim is not a de-politicized and thus a neutral and self-defining term but one which is highly political and this can be witnessed within the operation of the domestic household insurance market.

**Household content insurance**

Household content insurance has for many people been the primary method by which to manage the risk of economic loss through accidental damage, carelessness or theft of their possessions. However, this insurance market has recently been subjected to various pressures, two of which are of significance for this article. Firstly, the profitability of this market has proved difficult to maintain under recent economic circumstances and, secondly, insurance companies are expressing concern over the number and extent of fraudulent claims. Until recently insurance companies paid little attention to fraudulent claims due to the costs of discovering them (Litton and Pease, 1987). The models of the insurance market are primarily economic ones and therefore experience difficulty in taking account of moral and ethical considerations. But with a greater squeeze on profit margins and the insurance companies' belief that the number of claims has increased there now appears to be greater focus on such illegal activity (Sunday Times, 1994). To understand why these changes have occurred in the household insurance market it is necessary first of all to set a context by providing a general picture of the guiding principles and operation of the insurance market.

Historically insurance rests on an honourable tradition. At root it is about people coming together to share the risks of misfortune, a factor clearly reflected in the names of many British insurance companies (Friend's Provident, Scottish Widows, Scottish Amicable, Prudential, for example). Such a relation relies on participants behaving honourably, honestly and with integrity. The ethos is one of community spirit and interdependence rather than individual self interest. However, insurance activity has developed along classical capitalistic lines. From their local origins insurance companies have become national and international enterprises. In the process the original characteristics have become translated into formal concepts which carry legal force. Two of these, 'utmost good faith' and 'moral hazard' have particular significance which we will examine later. Premium payments are no longer accumulated to off-set loss among the collective membership but are used by insurance companies to enhance profitability through participation in, and stimulation of, the financial services market.
The insurance market is driven by the need for insurance companies to make a profit. Insurance companies have two main sources of income, premiums and investments. Premiums are earned before claims have to be paid and this income is invested to provide a profitable return. Therefore insurance companies need to calculate the balance between investment and premium income. So, when interest rates are high premiums may rise more slowly than inflation. Conversely, when interest rates fall, premiums may have to rise in order to provide an adequate reserve to meet claims.

There is also another side to the operation of the market. This is to do with the relation between claims and wider economic conditions. There are indications that the propensity of those experiencing losses to claim on insurance is related to their ability to absorb relatively small losses. Indeed some large companies do not purchase insurance for small scale losses (Economist, 1992) as is the case also with households (Independent On Sunday, 1993). So, in times of economic upturn businesses and households may be prepared to absorb losses. However, in times of economic hardship they may be more likely to claim owing to their inability to sustain even small losses.

Insurance companies, like any other business, rely upon favourable market conditions for profit, and they assess profitability not by individual insurance policies but by the overall performance of the insurance classification (Litton and Pease, 1987; Hemenway, 1990). A favourable market in relation to domestic crime risk insurance - which is usually included within household contents insurance - is also driven, we would argue, by the perceptions, at a personal and community level, of how high the odds are of being a victim. So, if we consider that we have a less than average chance of being a victim we will not be pre-disposed to purchase insurance, unless we consider ourselves to be extremely careless. The avoidance of insurance may be due to the calculation that the premiums saved over a calculated period, say five years, will more than off-set any potential loss through crime. However, if perceptions of personal wealth increase along with a greater perceived risk of being a victim then the calculation of the odds may favour purchasing insurance.

A strong feature of the socio-political discourse of the past decade or so, especially in Britain, has been one of individual wealth accumulation.

We are thankful to Robert Dingwall for his comments on the operation of the insurance market which are contained in personal correspondence.
through competition and alongside this, we are arguing, a heightening
of fear of crime and victimization3 which may well have encouraged
individuals to purchase insurance to protect their wealth.

However, insurance is not a social service and insurers are concerned
with the profitability of an insurance classification, that is they consider
the insurance problem from a macro perspective. On the other hand
individuals consider insurance, in relation to property crime, from the
micro perspective of how participation or non-participation, as outlined,
will effect them personally. Should the insured be viewed as a ‘bad risk'
through ‘moral hazard’ (a concept to which we will return in the next
section) they are only permitted by insurance companies to purchase
insurance at an increased cost, if at all (Sunday Times, 1994). In this way
the market operates in favour of the more affluent who are also often less
likely to be victims of crime (Levi, 1987; Mayhew et al., 1988). So, we
would suggest that the insurance market in protecting the profitability
of insurance companies operates in such a manner that it protects the
economically powerful and exacerbates the disadvantage of the
economically dispossessed. At times of economic recession these
features become particularly marked.

During recession there is an increase in property crime (Field, 1990),
producing more insurance claims. Also the profitability of investments
held by insurance companies falls. Both of these factors contribute to
an overall decline in insurance company profits. In these circumstances
a further factor comes into play: the insurance companies become more
centralised with the potential of the insured population to be dishonest
through fraudulent claims.

**The victim as criminal**

It is self-evident that without insurance there could be no offence of
insurance fraud. However, fraud is not limited to bogus claims but also
to claim inflation and premium recuperation. If an insured person
should experience a loss they may be tempted to inflate their claim by
stating that the goods lost were of greater value or by including goods
which they did not possess. Insured people may also claim for goods
which were previously lost but which it was not feasible to claim due to
the ‘excess’ payments which insured people make before a claim is paid

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3 Evidenced by crime surveys, see for example British Crime Surveys (Hough and Mayhew,
1983; Mayhew et al., 1988; Van Dijk et al., 1990).
by the insurance company. The opportunity of submitting a claim also provides the insured with a chance to inflate their claim in an attempt to recuperate premiums already paid but on which there has been no claim. Anecdotal evidence leads us to believe that these are common practices the illegality of which has been obscured. This has arisen partly out of the competitive practices of the insurance companies themselves in expanding their 'share' of the market such as providing 'new for old' replacements, weakening the insurance tenet of covering the actual loss incurred; and the recognition that bargaining is a legitimate aspect of settling claims (Independent on Sunday, 1993).

Additionally, as Litton and Pease (1987) note, it is expensive for insurance companies to enter into litigation over false claims. At the time of their research they concluded that there was little evidence to suggest that fraudulent claims ran high in relation to domestic insurance; however, the lack of enthusiasm by the insurance companies to pursue such cases could mask the true extent of such fraudulent behaviour. Thus some victims of property crime, i.e. those who are insured, are tempted, or provided with the opportunity, to offend by making a false claim. Here is a research agenda which we are actively pursuing.

Alongside the economic downturn in the late 1980s which effected the profitability of insurance companies (The Guardian, 1993) and the attention by government to reducing public expenditure (Fowles, 1990), the dominant discourse concerning the victims of crime has also undergone a change. This is reflected in the rhetoric and behaviour of both government and insurance companies. As stated, recent British government rhetoric has castigated individual victims for failing to exercise proper care over their goods. This rhetoric has a close resemblance to the insurance notions of 'utmost good faith' and 'moral hazard', principles of insurance underwriting which are used by the insurers when considering the insured.

When insurance companies engage in the business of 'risk calculation' they rely upon the insured acting in 'utmost good faith'. There are three elements to this: the care the insured exercises over their goods to ensure that they do not lose or mislay them, the potential for the insured to be a victim of crime, and the potential for the insured to make a claim which is fraudulent. If they are not able to rely on such 'good faith' then the insured may be seen to be a 'moral hazard'.

Moral hazard is '(...) revealed by lack of self-interest, poor housekeeping, carelessness, poor business reputation and, of course foreign origin' (Litton and Pease, 1987, p. 212).
These words ring remarkably close to offender stereotypes and are reflected in evidence of increasing difficulty of certain sections of the population – predominantly those living in so-called high-risk inner-city localities – either getting household insurance cover at all or, if they are quoted, at an affordable premium or without unrealistic and uneconomic excess payments (Observer, 1994). Also, there is evidence that insurance companies are becoming increasingly reluctant to settle claims as submitted with a presumptive suspicion of the insured’s rectitude (Sunday Times, 1994).

These developments represent a clear illustration of the kind of market-based social regulation to which Sack (1994) was referring. To reinforce his point, in fact, ‘moral hazard’ in the language of insurance is in no sense a moral concept. It is activated through economic models developed within economics for the insurance industry with no other purpose than ensuring profitability. Sack (1994) predicts an outcome in the form of a weakening of the moral code of social regulation based on the state and the law. This, we believe, can be exemplified in the interaction between insurers and the insured. In a purely market relationship in which each side is seeking to maximize profitability, behaviour which is defined and known to be illegal is stripped of its moral element. That this behaviour takes place in the household, a key site of socialization to, and reinforcement of, social mores and conventions, is of particular significance. It represents a blurring of the boundaries between right and wrong, a further challenge to universal codes and beliefs which contributes to the processes of social fragmentation as identified by post-modernist theorists as a feature of contemporary society (Baumann, 1987).

**Strategic responses**

Many western governments have been faced with annual increases in recorded crime and the knock-on economic consequences (Spencer, 1993). We will now argue that there are connections, in the context of the UK, between government property crime prevention strategies, framed within a ‘new right’ ideology, and the property protection strategies undertaken by citizens participating in the insurance market.4

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4 Such strategies include ‘neighbourhood watch’ schemes, alarm systems and so on which can attract household content insurance premium discounts.
For the government to be successful in presenting itself both as ‘managing’ crime and, at the same time, reducing law and order expenditure, it will need to change the expectations of victims about the scope of state intervention. A current strategy in this direction, in the United Kingdom, is to narrow down the range of crimes which are considered serious enough to warrant police attention and wherever possible to restrict these to the ones which the police have a reasonable chance of being able to ‘clear up’. This progressive downgrading of certain categories of crime is reflected in the latest proposals for moving the immediate response to victims of burglary and car theft to private security companies.

The policing role is, of course, also part of the established framework for maintaining social order. However, if this process can be characterized as the ‘taking of individual responsibility’, or the protection of oneself and goods, the whole process will have at first sight both ideological coherence and economic pay-offs. The immediate economic beneficiaries will be the security and insurance industries, enhancing the expansion of the former and protecting the profits of the latter by reducing claims.

All of this is, of course, entirely consistent with the ideology of the free market, of ‘rolling back the state’ and of individual responsibility. Those who fail to assume individual responsibility through the purchasing of insurance and security devices can be accused of precipitating their own victimization. Individuals who cannot afford to participate fully in the market fall either as part of a small residuum of deserving victims who evoke public sympathy and discretionary help – older people especially – or are the economically dispossessed and excluded who do not benefit.

In sustaining these ideological and economic priorities the state has to define and manage its responsibilities and duties to individual citizens. The state has a responsibility to ensure all are afforded protection (see, for example, Rawls, 1972). In this way the state assumes the responsibility for external peace and social order. Thus in relation to law enforcement the actions of citizens’ must be legally constrained in relation to the protection of their property and self. In sum, the citizen’s role is to exercise only that limited level of protective action which can be legally defined as reasonable.

However, if the state is perceived as ineffective in maintaining protection of individuals and their property or the security industry, via the market, is considered to provide more effective protection than state agencies
then control will slip outside of the regulatory frameworks of the state. This is a process that can, once established, result in social fragmentation. Thus the internal logic of self protection, which may be promoted by governments to achieve their own economic and ideological aims has the potential to run close to creating social disorder and disharmony. These developments are not surprising if considered in the context of the 1980s which was primarily concerned, in the UK, with individual wealth accumulation, the de-regulation of financial institutions and the denial of 'society'. Once the self-protection agenda, meeting the complimentary interests of the state and insurers, had been established, the security companies were able to exploit the newly defined market in property protection in particular. This ranges from visible security guards in shops - which again highlights the ineffectiveness of state policing as shops purchase their own in-store security – to burglar alarms on private houses, personal attack alarms and self-defence courses. With such a focus on protection and a discourse which claims that strangers are not to be trusted (Cohen, 1984) the outcome is one of social fragmentation.

The market in crime prevention devices has now expanded to the point where some insurance companies give a discount for their installation. The failure by individuals to purchase security devices, whether on their car, home or person, leads to the accusation that they are not acting responsibly in that they are leaving themselves vulnerable to crime. Also, whilst the entrepreneurial spirit promotes security techniques to expand the market it also works, at the same time, to 'soften' targets by the promotion of devices specifically designed to circumvent the very devices to make home and car secure (The Guardian, 1992). Once again the processes of social fragmentation are clear.

A further irony is the need for insurance companies publically to warn their 'clients' against making fraudulent claims. In a series of advertisements, which appeared in UK daily newspapers, under the headline of: 'cheating on insurance is a crime; we'll make fraudsters pay not you', insurance companies are stating unequivocally that they intend to take criminal proceedings against those who make fraudulent claims. So, the very people who are defined as the potential market for insurance are, at the same time, perceived as being potentially dishonest and criminal.

Thus the wheel has turned full circle. The advertisement summarizes how those who are victims are no longer perceived as such but as potential criminals. The ideological definitions of offender and victim are now conflated to produce a society in which no-one can be trusted.
and each individual is at risk from each other; such a society is one where the fault lines of fragmentation are clearly visible. It is a society which increasingly perceives itself under siege from crime and dishonesty and to be fragmenting under the strain.

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Insurance, fraud and justice

Jean-Luc Bacher

Insurance fraud or insurance swindling is an economic crime that can take diverse forms. For the insured, it consists essentially in misleading his insurance company in order to obtain an economic advantage to which he is not entitled. This advantage most often takes the form of an insurance benefit. The insurance fraud to which reference is made herein is that involving private insurance companies rather than public or state insurance programs.

Over the past several years, insurance swindling has been discussed at considerable length although it was more often the causes and effects of the fraud that were called into question. A recent study on insurance fraud led us to conclude that the fight against insurance fraud depends primarily on the insurers. We will touch upon the general attitude of insurers towards insurance fraud, outline the causes and effects of this attitude and above all, attempt to evaluate the contents of this attitude from the perspective of fundamental justice.

In support of our arguments, we will refer to the information drawn from our poll of 20 Swiss insurers completed in 1992, a survey of Montreal insurers undertaken by Tremblay, Massé and Clermont, also completed in 1992, and a survey of German insurers undertaken in 1990 by Wittkämper, Wulff-Nienhäuser and Kammer.

Attitude of insurers

At first glance, it may appear difficult to explain the general attitude of insurers toward insurance fraud. Given that insurers from the western world have equipped themselves with diverse means of varying importance to counter fraud, one would not expect that insurers all react in the same manner to this crime.

Switzerland is amongst countries least equipped to combat fraud; its insurers still have modest means available to them when compared to
those of Dutch, French or American insurers. Canada can be counted amongst those countries best endowed with means to control fraud. Since the 1920s, Canadian insurers have had at their collective disposal large organizations whose primary purpose has been to prevent and detect insurance fraud. Nevertheless, above and beyond the considerable differences between Canada and Switzerland in the means and ways to counter fraud, there are nonetheless important analogies to be found within the respective attitudes of insurers from these two countries. It is important to note, in particular, a lack of interest and determination in combating fraud.

In support of this diagnosis, we offer the following information: during our survey of 20 Swiss insurance managers charged with the fight against fraud, half of them confessed that their insurance contracts did not contain a clause intended to prevent fraud. Seventeen insurers admitted that their companies did not provide their clients with any information destined to prevent fraud. Only half of the Swiss insurers stated that they had taken legal action in criminal courts against swindling. Of the Swiss insurers surveyed, 70 percent considered that their attitude towards fraud could be qualified as understanding, accommodating or lenient rather than strict or severe; 40 percent of these same insurers went so far as to acknowledge that their vulnerability is attributable to their failure to implement control mechanisms against fraud.

The survey conducted by Tremblay et al. of Quebec insurers reveals that the increase in insurance premiums is considered by 71 percent of those questioned as being the prime strategy implemented by insurers in response to the growth of fraud (Tremblay et al., 1992, p. 159). Moreover, Quebec insurers admit that 21 percent of insurance swindles committed by individuals could be prevented if insurers were more vigilant at the time of underwriting new insurance policies (Tremblay et al., 1992, p. 193).

Despite a great diversity in the means used in countering fraud in different countries, insurers everywhere demonstrate a partial interest in the struggle against fraud. Thus, even in Canada, where insurers have sophisticated means of combating fraud at their disposal, the strategies most often used against fraud are those of tolerance and avoidance; the least frequently used means are those intended to resist, detect and neutralize fraud (Tremblay et al., 1992, p. 157).

Generally, insurers prefer to raise premiums as fraud increases rather than attempt to prevent or detect it. Although this tactic has its limits, it is generally preferred to any other measure as long as insurers lack the interest to find other means to deal with fraud (Schiess, 1992, p. 44).
Of course, not all swindles can be detected or prevented by insurance companies. In order to absorb the cost, insurers have little choice but to raise insurance premiums. However, insurers voluntarily fail to detect and prevent a large and important proportion of fraud. Insurers usually fail to follow suit on modest fraud: according to 75 percent of German insurers surveyed by Wittkämper et al. (1990, p. 246), small claims are not generally subject to detailed investigation. Canadian insurers also note that fraud in the form of overvaluation of claims, which are the most frequent and benign, are those least often the object of investigation as a result of a lack of resources or the fact that the amounts in question do not justify the expense (Tremblay et al., 1992, pp. 137 and 162). Succinctly put, we can state that insofar as benign fraud is concerned, insurers are particularly passive in light of the lack of means to detect or sanction the swindler (Wittkämper et al., 1990, p. 196).

In addition to the cases in which insurers voluntarily give up countering fraud, there are those cases in which insurers choose to negotiate with the presumed swindler. In fact, it is not uncommon that insurers agree to bargain with the swindler in the hope of finding a compromise (Mathieu, 1991, p. 91). In those cases in which the fraud represents but a small portion of the claim, insurers are frequently inclined to pay all or part of the claim (Maurer, 1986, p. 367).

Globally, insurers demonstrate a clear lack of determination to fight fraud (Gélineau-Larrivet, 1987, p. 22). They display a lax and permissive attitude towards it.

**Causes and effects of this attitude**

The attitude of insurers is explained by the desire to limit costs (Clarke, 1989, p. 18; Kerr, 1992). If fraud is costly, so is its prevention and detection. Knowing this, an insurer generally adopts the attitude that best serves his interest. Thus, in assessing whether detection of fraud is justifiable, the insurer does not limit himself to the costs related to an investigation or an expert opinion, but also assesses the indirect costs involved in such a venture. Among these costs must be included the loss of a client dissatisfied with his implication in an investigation. Insurers must also consider the commercial impact of a corporate image tarnished in the eyes of some by its harsh excesses (Reichman, 1987, p. 252). In this regard, insurers are generally wary of the fallout caused by litigation that could create the impression of insurance companies relentlessly using disproportionate means against the small, penniless
individual. However, insurers not only dread the indirect costs of detection but also those of prevention. In this regard, among the insurers surveyed in Switzerland, only 57 percent stated that they believed prevention is compatible with a good company image. In short, insurers dread indirect costs of prevention and sanction all the more because these are generally difficult to assess.

Evidently, in some cases the insurer prefers to satisfy the swindler or negotiate with him rather than fight. Complacency or passivity with regards to the swindler can obviously seem beneficial. However, such an attitude is not wholly advantageous. By conceding to the swindler, the insurer processes the fraud as though it were a real claim and in effect passes on the costs to all those insured, swindlers or not. In doing so, the insurer provides himself with a kind of insurance against fraud at the expense of the insured as a whole. If the attitude of the insurers provides them with a clear advantage, it is not thus for the insured who must, in the end, bear the costs of the fraud. Insofar as this transfer of costs is indiscriminately detrimental to both honest and dishonest clients, clearly the attitude of insurers is at best questionable.

For other economic reasons, insurers are not naturally inclined to work together in the fight against fraud. Within the context of a free market, each insurance company seeks a competitive edge over the others. In the field of fraud prevention, this implies that companies will often find a greater advantage in developing independent strategies for their own benefit rather than implementing common strategies which, even though more efficient, uniformly benefit all companies. Even in Canada, where insurers have access to very specialized organizations to combat fraud, some insurers still prefer to fight it independently. In doing so, they deprive themselves and the organizations of the benefit of a general and concerted collaboration. However, in order to gain an competitive edge, they seek to implement strategies which are intended to offer a better cost/benefit ratio than that offered by the specialized organizations.

If the attitude of insurers towards fraud can be justified in terms of benefit, profitability and competition, it produces but extremely limited results. It has thus been stated that 'at root, there is a fundamental incompatibility between the profit oriented objective of the insurance industry, in getting business and generating premium income, and vigorous fraud control' (Clark, 1989, p. 18). As a result of their attitude, insurers not only make fraud a low-risk crime (Dionne et al., 1992, p. 92) but indeed a *sirene fort tentante* (Coste, 1991, p. 31); with this attitude, insurers encourage fraud (Voute, 1987, p. 2). Moreover, the insurers'
tactics are frankly disadvantageous to the honest insured. Given the obvious questions of equity that the insurers' attitude raises, it is appropriate to appraise them within the context of fundamental justice.

**Fraud and justice**

If we consider classical Aristotelian philosophy, we must distinguish between commutative justice and distributive justice. Commutative justice applies to private transactions 'about the mutual dealings between two persons' (St. Thomas Aquinas, 1947, p. 1452). It tends to secure equality between individuals deemed equals 'Here it is a matter of so adjusting transactions that each gives or receives in proportion as he receives or gives' (Gilson, 1965, p. 312). On the other hand, distributive justice aims to insure a degree of equality between individuals deemed constituents of a whole. It applies to acts of distribution, 'that is, of assigning to some particular person his part of the goods collectively owned by the group (...)’ (Gilson, 1965, p. 311). Distributive justice is based upon the merits of each individual: 'All men agree that what is just in distribution should be according to merit of some sort, but not all men agree on what that merit should be' (Aristotle, 1975, p. 83). 'Hence in distributive justice the mean is observed, not according to equality between thing and thing, but according to proportion between things and persons' (St. Thomas Aquinas, 1947, p. 1452). If retaliation characterizes the notion of commutative justice, 'there is no place for it in distributive justice' (St. Thomas Aquinas, 1947, p. 1455).

The question that we must ask ourselves is not which theory of justice the penal system should follow, but rather which theory of justice governs insurance, since it is within this context that we seek to evaluate the attitude of insurers towards fraud. If it is understood that insurance is governed by commutative justice, the insurer and the insured are individuals deemed equal, bound to equivalent obligations. However, nothing prevents one party from offering the other more than is owed. As such, the insurer is free to ignore fraud or even relinquish that which the swindler is extorting. In effect, insurers can manage fraud as they wish and the insured are limited by the constraints found within their personal insurance contracts. This means that the insured have no basis to oppose the favourable treatment afforded to swindlers by their company.

Legal principles applicable to insurance clearly belong to the theory of commutative justice due to the fact that the contracts are sanctioned by
private law, that part of law pertaining to transactions between equals. However, the reality of insurance is more ambiguous.

Firstly, the insurance contract does not generally respect the equivalence of obligations rule. In fact, the vast majority of insured do not pay premiums exactly equivalent to the risk they represent individually but rather to the average risk of a certain class of risk or, in other words, a certain category of insured. According to the mathematical equalization formula, the sum of premiums paid by a certain category of insured allows the compensation of individuals within the category who incurred damages. Regrouped in categories and subcategories, the insured thus form groups in which they are jointly obligated. If we can refer to communities of insured, it is essentially as a result of the fact that the insured whose claims are settled, receive payment merited by the damage they incurred, and that this payment is drawn from the pool of premiums paid by all members of the group in question. It should be noted that, amongst others, Swiss and German insurers strongly advocate the concept of a community of insured (Münchener Rück, 1988, p. 14; Les assureurs privés suisses, 1994).

Secondly, the insurers themselves defend the idea of a certain solidarity or mutuality among insured (Hug, 1991, p. 3; Lamontagne, 1992, p. 258). This is at least the message they still present to the public. If we were to believe them, they fulfil a social duty (Gélineau-Larrivet, 1987, p. 22) and as such are responsible for ensuring that each individual is offered the needed coverage. Insurers thus present themselves as redistributors of the money paid in the form of premiums. In this regard, the insurers should act in conformity with the theory of commutative justice.

However, if such was the case, the companies ought to ensure that the claimants receive only that which is truly owed in accordance with the contractual conditions of their policies.

In other words, with respect to the principle of solidarity between the insured, the insurers should not afford themselves the liberty of settling claims they know to be unfounded. This means, on the one hand, that insurers should refrain from adopting permissive and lax attitudes which can, amongst others things, incite fraud. On the other hand, it suggests that insurers ought to implement all means at their disposal to maintain the lowest volume of fraud possible. In short, insurers should thus unite their efforts rather than settle for isolated tactics and this, even if a concerted effort uniformly benefits all contributors. In general, insurers should cease to passively accommodate fraud since it is an abuse of the system that is fundamentally incompatible with the theory of commutative justice.
In all logic, it is necessary that insurance companies, so little inclined to vigorously combat fraud, be obliged to answer for the manner in which they deal with fraud. This would at least provide the public with some assurance that companies act responsibly with the premiums that they receive. However, at present in countries with purely private insurance companies, neither the state nor the insured are in a position to demand that companies demonstrate the effectiveness of their policy against fraud.

The facts show that insurance oscillates between the logic of distributive justice and commutative justice. This however, presents a clear problem of coherence in countering fraud due to the incompatibility of these two theories of justice. Unfortunately, the predictable evolution of insurance does not clearly indicate which logic will prevail in the future. On the one hand, insurance companies, particularly Canadian companies, strive to offer their clients ever more personalized products. In concrete terms, they seek to establish premiums that reflect an ever-increasing number of personal attributes. In order to determine an automobile insurance premium, companies will take into account the insured's place of residence (neighbourhood), occupation, the make and model of the car and even its colour. Even in Switzerland, the notion of a community of risk is losing ground while the idea of offering products adapted to the individual needs of the insured begins to take shape (Roost, 1994). However, this personalization of insurance implies a reduction of solidarity among the insured since each insured finds himself within a risk category, therefore in a community of insured all the more restricted.

On the other hand, some countries seem to offer their insured new rights which should allow them to defend the interests of the community in the fight against fraud despite the passivity of insurance companies. In this way, a court in France recently recognized the right of a consumer association to intervene as a civil party in a criminal proceeding for insurance fraud. The judgment granted damages to the association (Pradel, 1991, p. 80).

If, in the form of a conclusion, an attempt to answer the question as to which theory of justice ought to prevail is made, in all likelihood it is necessary to first determine whether insurance is an ordinary consumer product or if it is endowed with a specific importance. If insurance coverage is an ordinary product, only insurers have the right to determine the conditions of its distribution and to evaluate the pros and cons of combating fraud. In the same manner that department stores are free to tolerate or ignore shoplifting, insurance companies could in turn
choose to resist or remain passive. If, on the other hand, insurance coverage meets fundamental needs, a certain solidarity is justified in order to provide secure access to the largest possible number of individuals. However, it is then imperative to ensure that beneficiaries of the system abuse it as little as possible.

In the manner that the state offers its services to those who deserve it or more specifically to those in need of it, insurance companies ought to offer coverage to contributors who merit it, while protecting the interest of all by ensuring that the few do not unduly benefit at the expense of the many. If supply and demand continue to dictate the price of insurance products, coverage is liable to become very expensive or virtually inaccessible for those in the unfortunate position of being of the same age, of the same gender, of having the same education and of residing in the same neighbourhood as professional swindlers. Thus, some people, albeit honest individuals, will no longer be able to subscribe to insurance coverage.

In order to expect that those least at risk be grouped with those most at risk, insurance would truly have to be considered as a primary necessity. While such is perhaps the case with health insurance or general accident insurance, it is certainly not the case for holiday cancellation insurance or ski theft insurance. In other words, if there is indispensable insurance coverage available today in the western world, non-essential coverage also exists. Thus, we believe the insured or the state should be equipped to oblige insurance companies to counter fraud only as it pertains to essential coverage. Insofar as luxury insurance is concerned, the insured are free to sanction their companies lax attitude by changing companies or by renouncing any form of coverage.

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The potential value of international comparisons

In general, international comparisons can be very useful in the process of policy-making. Theoretical concepts can also often be tested by making international comparisons. In order to be useful, however, the comparison must conform to a certain standard.

In some cases, statistics can be compared. If statistics of the countries under scrutiny are available, the researcher must ensure that the definitions underlying the figures are equal or at least comparable for all countries. If the definitions used are not comparable, accurate conclusions cannot be drawn. If the researcher is able to produce the different underlying definitions, the statistics have frequently to be presented with the reservation that the figures are merely indicative of the phenomenon described. Even if acquainted with the different definitions, a researcher will often be unable to determine the quantitative effect of the use of different definitions.

There is always the possibility that no statistics will be available. This is often the case when social phenomena or government policies are being compared. In this event, a framework of possible relevant indicators can be established and used to make the comparison. The next step would be to find out as much information as possible about every indicator, and the final step would be to compare these indicators, and to draw overall conclusions.

This kind of comparison might be useful, but there are numerous inherent pitfalls. The 'Country summaries' article in the European Journal on Ethnic Prejudice and Violence (vol. 2, no. 3), provides us with the opportunity to discuss many of these potential pitfalls. In this contribution, information is presented on immigration and asylum policies and on the occurrence of racist and fascist activities in a number of European countries. No explicit comparison is made, but the way the data are presented calls for a comparison. Any comparison will be unsatisfactory however, because the information given is inadequate, unstructured and (certainly for the Netherlands)
absolutely wrong. As a result, the entire contribution can be seen as no more than an enumeration of incidents in a number of European countries that have come to the author's attention. The first, and probably most crucial step in any international comparison is the choice of sources on which the study will be based. The source determines the line of approach for the study as well as the information content received by the researcher. In the contribution under discussion, it is obvious that only sources that are highly critical of government policies in any particular country are mentioned. Laws relating to immigration and asylum vary from strict to very strict. However, no comparison is made between the potentials for violating international treaties or guidelines in each country. As a result, the evaluation of every law as strict or even very strict, becomes meaningless. Second, indicators should always be mentioned, even if there is no information available. For example, for Luxembourg, no information is given (except the remark that there are strict immigration controls) on racism and fascism. Does this mean that there are no right-wing parties, electoral or otherwise, and that there is no racial, fascist, police or institutional violence? Third, there is no description of government policy given, apart from a single line on the existence or absence of legislation against racism and fascism. The absence of this description makes it impossible to distinguish government policy from incidents reported by the public or by public servants (which the government might possibly oppose). Fourth, comparisons are not made, but they are implicitly suggested. The immigration and asylum rules of the countries are sometimes called 'strict', and sometimes 'very strict'. Does this mean that immigration rules in countries with 'very strict' rules are more strict than those of countries with 'strict' rules. In so far I am acquainted with the policies of a number of the countries mentioned, this is not always true. The same goes for the conditions for naturalisation. Finally, international comparisons, and also country summaries should always be based on facts. This is not the case in the contribution mentioned. I have no information on the other European countries, but at least three examples in the description of the situation in the Netherlands, emphasizes this point. In the first place, a racist murder in 1992 is mentioned, 'although courts officially denied racial motivation'. According to
my humble opinion, if courts decide that there is no racial motivation, then the murder cannot be called racist: a suspect who is not convicted, cannot be called an offender.
The same argument goes for hearsay as a source of information. The fact that asylum-seekers (not 'refugees', as they are called in the article) claim to have been badly beaten, does not mean that they have been beaten. On the other hand, if the riot police are deployed to suppress a riot, a certain amount of violence is almost inevitable. If this is called institutional violence, the meaning of this term becomes empty, because any country suppresses riots, to maintain public order. Finally, a case is mentioned where a child would have been left to drown in a public park 'through onlookers' indifference'. An investigation has revealed that this story was just a rumour, created by the media.
After reading the contribution, I am left with the impression that many of the 'facts' presented, were gathered from rumour. I do not wish to deny the fact that racial violence is clearly present in modern Europe. There is also a tendency towards stricter immigration and asylum policy in many (maybe all) European countries. These phenomena do indeed call for comparative study, which might stimulate the harmonization of policies and, in that way, guarantee the rights of asylum-seekers. The 'Country summaries', presented in the European journal however, have not served this cause.

Ruud van den Bedera

The future VAT system in the European Union

The VAT system in a single market
In December 1994 the Trier Academy of European Law sponsored an expert seminar on the future system of value added tax\(^1\) (VAT) in the European Union. This two-day expert meeting, held in Trier on December 8 and 9, was designed to provide an alternative forum to the EU institutions in Brussels. It brought together an international audience of practitioners from tax

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\(^1\) Value added tax (VAT) is a cost price increasing tax: it creates a 'wedge' between the price of the real production process and the final market price.
consultancies and large international corporations as well as researchers and government officials from VAT and fiscal services. The programme's format originated with Mr. Michel Aujean, Commission of the European Communities, Head of the Directorate General XXI (Brussels). Both he and Ms. Kirsten Borgsmidt of the Trier Academy of European Law served as project managers. The purpose of the conference was to elaborate upon the strengths and weaknesses of the models suggested to replace the transitional rules.

'With effect from 1 January 1993, Council Directives 91/680/EEC of 16 December 1991 and 92/111/EEC of 14 December 1992 amended Council Directive 77/388/EEC (The Sixth EC VAT Directive) to provide for transitional rules dealing with the movement of goods between EC Member States following the abolition of border controls. The transitional rules were intended to last for a period for four years, i.e. until 31 December 1996, although they are extended automatically until the definitive regime is introduced. The conference introduced participants to four major models, any of which could be adopted as the definitive regime in 1997. Those models queried were:

1. Should the transitional rules be maintained?
2. Should the transitional rules be replaced by the country of origin?
3. Replacement by a system based on the place where the business has its seat of establishment?
4. Should VAT be levied at the Community level?

Conference presenters were appointed to take a 'pro' or 'contra' approach to the model. Concrete examples taken from the speakers' professional practice were used to strengthen arguments. Discussion followed after each model was presented. Issues that were raised subsequent to almost every presentation dealt with cost-benefit analysis. In other words, for each recommended approach, the questions raised concerned additional costs to member states, the sensitivity of a new system to fraud, and the ease with which a new system could be implemented and the willingness of businesses to make changes.

Value added tax is a political as
well as an economic concern. While discussion revolves around a 'single market', in essence we are talking about fifteen different fiscal markets. Currencies differ, as do VAT rates. Emphasis is placed upon harmonization, when in fact the laws in each member state are different. There is the additional problem of a deep mistrust between countries which impacts negatively upon a mutual cooperation. It is questionable whether in fact one can even speak of harmonization or a single market.

Any definitive system must meet the following criteria in order to ensure success: cost reduction (including start-up costs) for businesses, tax payers and the tax administration; simpler operating and reporting procedures are required; current problem areas (triangulation, multi-stage processing) must be resolved; the opportunity for fraud and/or distortion of competition must not increase; national revenues must be protected. Additionally, any definitive system must take into account the needs of government, businesses and the consumer.

The concept of the conference was well thought out and the conference itself was extremely well organized. It provided a forum for fiscal and tax experts to examine options with an eye toward influencing EU fiscal policy in the area of value added tax. While no agreement was reached emphasizing one particular system over another, the strengths and weaknesses in each system were discussed and analyzed, often with reference to specific cases. One came away from the conference with a great appreciation for the complexity of the problem and the difficulty facing VAT-policy makers in their attempt to find a solution which will please all of the people all of the time.

Trier Academy of European Law

As the conference was organized and sponsored by the Trier Academy of European Law it should be appropriate to use the occasion to introduce the reader to the structure and programme of this interesting institute. The Academy was established in 1991 for the purpose of providing more in-depth knowledge of European and Community law to practitioners by organizing practically oriented post-graduate

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seminars, courses and conferences. This setting provides a forum for an exchange of experience and views concerning European law issues. The Academy targets lawyers employed in industry and trade, independent lawyers, notaries public, tax advisors, administrative lawyers, public prosecutors and other practitioners of law from EU member states and other countries who are interested in a close cooperation with the European Union. The course offerings are structured to provide the following opportunities:

- Basic general education courses provide information in specific areas targeting general groups: persons with little or no prior exposure to European and Community Law issues such as fiscal law, labour and social law. Furthermore, courses in specific areas of EU law (in 1995 for instance in the areas of environmental law, company law and competition law) are designed to give an outline and an overview of current developments in a given field. This is done through the provision of status reports on Community regulations, directives and court decisions, as well as selected national provisions. As an integral part of certain basic courses, the Academy organizes visits to the European Court of Justice and the Court of First Instance for the purpose of attending hearings.

- Seminars for practitioners are designed to impart fundamental knowledge in Community law provisions in specific fields of law by addressing recent developments and current problems that arise for practitioners.

- Expert meetings provide an up-to-date analysis – and in some cases a comparison – of legal positions on specific Community law issues from the perspectives of national experts. These meetings further involve discussions on legal policy and are often focused on conflicts between national and Community law. The conference in September 1994 on European Efforts in the Field of Liability for Environmental Damage was just such an expert meeting.

- Expert forums on European policy issues are organized to give experts in specific fields of law an opportunity for controversial discussion of topical European policy issues.

A Preliminary Overview of the 1995 Annual Program of the Trier Academy of European Law projects a total of 53 offerings to
include an annual congress with the theme: A New Constitution for Europe?, a summer course introducing young lawyers to Community law, numerous expert meetings, seminars for practitioners, basic courses and expert forums. Meetings address a wide range of topics from environmental taxes in Europe, and European social and labour law, to organizational questions for multinational law firms, and proceedings before the European Court. From three to eight courses or meetings are offered on average each month with the exception of the month of July in which only the Summer Course is offered. More information concerning the programme may be obtained by contacting Ms. Kirsten Borgsmidt at the Academy (Dasbachstr. 10, D-54292 Trier, Germany; tel. (+49 651) 147 10-0; fax (+49 651) 147 10-20).

Alexis Aronowitz
Crime institute profile

Centre For Penal And Criminological Research (CPCR), Section of Penal Sciences, University of Athens

C.D. Spinellis¹

The University of Athens, founded in 1837, was the first university to be established in the modern Greek state. Over the years it has expanded and is now a large institution with about 1,700 faculty members, 800 administrative personnel and 70,000 under-graduate and graduate students. It has five faculties (Theology, Law, Medicine, Arts, Science) divided into 19 departments, and 10 independent departments. Moreover, a number of research institutes or centres operate within the University. One of them is the Centre for Penal and Criminological Research (CPCR).

The CPCR's role

The CPCR was re-established by Presidential Decree 535/1991 in the Penal Sciences Section of the University of Athens Law School. The main goals of the centre are:
— to conduct research in the fields of criminology, criminal justice, penal law, penal procedure, penology and criminalistics;
— to promote the study of these subjects.
The activities of the CPCR are carried out by faculty members and other staff members of the Penal Sciences Section under the guidance of the

¹ Director of the Centre for Penal and Criminological Research, University of Athens, Law School, 57 Solonos Street, 106 79 Athens, Greece. The assistance of K. Angelopoulou is acknowledged in the preparation of the profile of CPCR.
director or a deputy director (Professor Dr. N. Courakis). Moreover, approximately 20 post-graduate and graduate students trained in field research and/or data processing assist in research projects working on a part-time (or even voluntary) basis.

According to the bylaws of the CPCR its role consists of:
- conducting research projects with the participation of expert scientists and students;
- publishing the results of the completed research projects;
- organizing lectures, seminars, colloquia, conferences and other scientific events;
- covering tutorial needs both at under-graduate and post-graduate level in the CPCR fields of knowledge;
- assisting, financially or otherwise, post-graduate students, developing doctorate theses related to the CPCR's fields of knowledge,
- cooperating with other Greek and foreign academic institutions or research centres;
- collaborating with public agencies and local authorities in applied research.

**Research activities**

The CPCR has participated in a number of cross-cultural empirical studies covering a wide spectrum of subjects. Suffices it to mention two such research projects, both of them conducted in cooperation with the Dutch Ministry of Justice; one of them completed, the other still in process. The completed project concerns the International Self-Report Delinquency Study (1992-1993), the first major research of this kind in Greece, initiated by Dr. J. Junger-Tas (Kugler Publications, the Netherlands, 1994). The preliminary findings were given considerable attention by the Greek media and constitute a book entitled: 'Delinquent Behaviour among Young People in the Western World: First Results of the International Self-Report Delinquency Study'. The ongoing study deals with fraud perpetrated against the economic interests of the European Union. It is a research project carried out within the framework of the European Documentation and Research Network for Crossborder Crime by Professor Dr. Ulrich Sieber (Law School, University of Wurtzburg, Germany), in cooperation with Panteion University and associate Professor N. Passas (Temple University, Philadelphia, USA).

The Centre has also been involved in an attempt to monitor human rights' violations; thus, data were collected on the recent (clandestine)
migrants from ex-communist countries (Albania, Poland, ex-Yugoslavia, ex-USSR etc.), and matters under investigation included the degree and type of victimization endured by these groups, the extent to which their rights were violated, especially by the criminal justice system, and the potentiality of preventing these phenomena. A technical report has been published entitled 'Protection of Human Rights of Migrant Groups with emphasis on those deprived of their freedom' (Fellowship of the Council of Europe, Directorate of Human Rights). Within this context, the centre has started conducting research on 'Overcrowding in Greek Prisons' too. It should be pointed out that detained foreigners constitute almost a quarter of the prison population. The CPCR is also concerning itself with the reintegration of released detainees through vocational training and psychological support (project initiated by the Law School of the Aristotle University of Thessaloniki, with the support of the Ministry of Justice for the Greater Athens area). A second project with similar aims which also involved the Greek Ministry of Justice, initiated by Professor Dr. N. Courakis in cooperation with Dr. A. Tsitsoura, ex-director of Criminal Affairs Division of the Council of Europe, and the director of the CPCR has now been completed (1993-1994).

In CPCR a number of small-scale, mostly pilot research studies, are also conducted. These include
- the victimization of banks in the Greater Athens area in relation to their security systems and bank robberies (1993);

Educational activities

The CPCR organizes a series of educational activities each year. It should be mentioned that the courses or seminars offered are for those who have the means to pay. This works positively, given the fact that students attending the educational activities of the centre are genuinely interested in them and highly motivated.

Firstly, each year the centre provides law students, who show an interest in penal sciences, with an optional training in the use of PC systems in cooperation with the Informatics Section of the University of Athens. This consists of one theoretical and two practical parts. The former focuses on the learning of Lotus 1,2,3 and SPSS and the latter on an application of the acquired knowledge and skills in research projects run by the centre. As soon as the training period is completed, the students who participated in it, meet regularly for at least two hours per week.

Secondly, a seminar on 'Document Examination' for under-graduate and
post-graduate students is scheduled twice a year during the winter and spring semesters; it is a two-hour session held once a week.

A further educational activity concerns the compilation of a concise Dictionary of Criminological Terms. In addition to the Greek, English, French and German terms, the dictionary includes a brief description of each term and some biographical data on internationally renown criminologists.

The director and the deputy director supervise a number of master's and doctorate theses, most of which are based on empirical research. Among the doctorate theses the following should be mentioned: Shoplifting in Greek Department Stores (completed by Dr. M. Kranidioti), Patricide (D. Mikelopoulos), Community or Non-Custodial Sentences (N. Koulouris), Violent Behaviour by State Officials (K. Angelopoulou), Pre-trial Detainees (E. Kormikiari) and After-care (E. Dikaiakou). Other noteworthy theses include two master theses, on the Military Prisons of Avlona (A. Kanavaris) and on the Delays of the Greek Criminal Justice System Concerning Negligent Homocide (P. Taliaki).

Scientific events

Other interesting features of the CPCR's activities are its scientific events or colloquia in which experts from abroad and from Greece have participated. Among them have been Dr. N. Passas who discussed the topic 'Searching for contributing factors of fraud against the interests of the European Union'. Dr. H. Dammer, Fulbright Fellow at the University of Saarbrucken, Germany, presented a paper on 'Ethno-methodology: Advantages and Disadvantages of the Ethno-graphical Method in an American High Security Prison'. Mr. Ed Leuw of the Research and Documentation Centre of the Dutch Ministry of Justice, highlighted the main areas of the book he had edited: 'Between Prohibition and Legalisation; the Dutch Experiment'. Dr. John Graham, Principal Research Officer, Home Office, England, outlined research findings of the International Self-Report Delinquency Study from England and Wales and other European countries.
Abstracts

This section contains a selection of abstracts of reports and articles on criminal policy and research in Europe. The aim of publishing these short summaries is to generate and disseminate information on the crime problem in Europe. Articles that generate comparative knowledge are seen as being of special interest. Most of the articles have been published in other journals in the English language. More information can be supplied by the RDC Documentation Service. Single copies of the articles mentioned in this section can - when used for individual study or education - be provided by the RDC Documentation Service at your request. A copy charge is made.

RDC Documentation Service
P.O. Box 20301
2500 EH The Hague, The Netherlands
Tel: (31 70) 3706553;
fax: (31 70) 3707948

Alexiadis, S.
Dirty money-laundering: the Greek experience
— Money-laundering has been connected with organized crime, specifically with illicit drug-trafficking and violent forms of crime, such as (bank)robbery. The problem of the most appropriate crime policy in this area has attracted the interest of various governmental and international organizations, including the United Nations, the Council of Europe and the European Union. Greece, being a member of these organizations, responded in two ways, first of all, the UN Convention against Illegal Drug-Trafficking was signed and ratified. Secondly, the Greek legislator passed through Law no. 2145/1993, a new Article 394A in the special part of the penal code with the title 'on legitimating the profits from criminal activity'. The penal choices of the Greek legislator form the main focus of this article.

Bevers, H.
Regionalization: the Dutch police forces after their reorganization
Police journal, vol. 67, no. 4, 1994, pp. 326-334
— This article is an elaborated version of a paper presented at a conference on The Legal Protection of the Financial Interests of the European Community in Relation to the Dutch Legal System, that took place on January 27 and 28, 1994 at Tilburg University in the Netherlands. The new Police Act, in effect from April 1994, has abolished both municipal and state police and replaced them with 25 regional police forces to whom all general police tasks have been entrusted. These regional police forces (Regiopolitiekorpsen) are placed under the management of a regional police manager and a regional police management council, and are financed
by the Ministry of the Interior. Bevers describes the management of the Regional Police Forces, the internal organization, the task division, the KLPD (Force National Police Services), the supervision over the regional police forces and the evaluation of the reorganization.

Briggs, C.M., P. Cutright
Structural and cultural determinants of child homicide: a cross-national analysis
*Violence and victims*, vol. 9, no. 1, 1994, pp. 3-16
— The major aim of this research is to develop more reliable and inclusive tests of models of infant and child homicide than those generated by prior research. The authors compare predicted effects, generated by theoretical perspectives, to measured effects, generated by the analysis of cross-national time series data on infant and child homicides.

Cheatwood, D.
Changes in homicide patterns in the 'new' Europe: implications from the American experience
*European journal of crime, criminal law and criminal justice*, vol. 2, no. 3, 1994, pp. 239-251
— Based upon the United States' extensive experience with homicide, there are reasons to believe that in the next few years Western Europe may undergo changes in the volume of homicide and, perhaps more importantly, the type of homicides that occur. Given that, the lessons to be learned from the American experience with homicide may have some value for Europe. This manuscript considers what some of these lessons might be, and whether they may, or may not, have any relevance for a changing Europe.

Clark, R.
Computer related crime in Ireland
*European journal of crime, criminal law and criminal justice*, vol. 2, no. 3, 1994, pp. 252-277
— The main focus of this article is to assess how existing (and proposed) Irish criminal law measure up to the Council of Europe Select Committee Report on minimal and optional measures necessary to counteract computer-related crime. Topics discussed are: computer crime in Ireland, computer-related fraud in Irish law, unauthorized interception of communications, unauthorized reproduction of a computer program, unauthorized reproduction of a topography, and further reforms of Irish law.

Courakis, N.
Alternative penal sanctions in Greece
— In Greece, doubts about the effectiveness of prison and observation of its undoubted negative effects have led to an increase in the use of conversion and suspension of sentence, and a willingness to consider mediation and diversion. While the former represents a difference in the application of sanctions already available, the latter may herald a more deep-seated change in attitudes towards penal sanctions.
Das, D.K.
Can police work with people? A view from Austria
*Police journal*, vol. 67, no. 4, 1994, pp. 334-346
— Das examines how important national tradition, values and beliefs are in ensuring that police organizations are democratic and people-responsive. Within this theoretical perspective, he examines a few of the most salient and prominent features regarding the structure, leadership, functions, training and community initiatives of the police in Austria. He refers to Austrian history and culture to illustrate the unique characteristics of the Austrian police. His objective in doing so is to come to an understanding of the elements in Austrian policing that are responsible for the qualities defined as 'people skills': propensity, facility, and expertise for police to work together with people.

Gudjonsson, G.H., J.F. Sigurdsson
How frequently do false confessions occur? An empirical study among prison inmates
*Psychology, crime and law*, vol. 1, no. 1, 1994, pp. 21-26
— In this study all offenders admitted to Icelandic prisons over a one-year period were approached and 229 (95%) agreed to co-operate with the study. Twenty-seven (12%) of the 229 subjects claimed to have made a false confession in the past during police interviewing. Women prisoners more commonly claimed to have made a false confession than males. The main motives given for having made a false confession were to protect somebody else (48%), and police pressure or escape from custody (52%). The findings in the present study raise the possibility that within an inquisitorial system false confessions may go relatively undetected by the judiciary and be rarely retracted or disputed.

Hancock, M.
Money laundering in England and Wales
— This article assesses the significance and impact of the Criminal Justice Act 1993 and the Money Laundering Regulations in the context of previous legislation, and examines the extent to which the law has been strengthened by the new legislation. It also highlights the major international initiatives which have been responsible for exposing the extent of the money-laundering phenomenon and which have helped shape the present legislative framework.

Jensen, K.
Crime prevention in Denmark
*Innovation exchange*, no. 4, 1993, pp. 61-62
— In 1971, the initiative of the Danish National Police Commissioner resulted in the creation of the Crime Prevention Council (CPC), which includes representatives of the police, State Prosecutor's Office, government ministeries, and municipal government agencies. The goal of the CPC is to reduce crime through the use of preventive methods, through increased information to the public and through any other effective method.
Joutsen, M.
Victim participation in proceedings and sentencing in Europe
*International review of victimology*, vol. 3, no. 1/2, 1994, pp. 57-67
— The article reviews the different ways in which victims can influence the course and outcome of criminal proceedings in different European criminal justice systems. The range is from some jurisdictions (such as Greece, the Netherlands and Portugal) where the victim can appear only in the capacity of witness, to others (such as Finland) where there is a general right to prosecute. Even in the systems providing victims with the greatest opportunity for participation, the victim in practice generally leaves prosecution to the public prosecutor. The article concludes by arguing that none of the systems is ideal from the point of view of the victim.

Korf, D.J., S.A. Reijneveld, J. Toet
Estimating the number of heroin users: a review of methods and empirical findings from the Netherlands
*International journal of the addictions*, vol. 29, no. 11, 1994, pp. 1393-1417
— This article reviews major methods applied to estimate the number of heroin users in a community, predominantly urban areas. The main focus is on applicability of methods to the available data. Methodologies are evaluated with regard to reliability, validity, and feasibility from the perspective of empirical findings, in particular in the Netherlands. Findings from Amsterdam and Rotterdam are presented in more detail in order to discuss major criteria for the application of the capture/recapture and the nomination techniques.

Nijboer, J.F.
Common law tradition in evidence scholarship observed from a continental perspective
*American journal of comparative law*, vol. 41, no. 2, 1993, pp. 299-338
— The original purpose of this article was to review the book of William Twining, *Rethinking Evidence*, published in 1990. This book contains a sample of Twining’s essays on evidence of the past eleven years. Preparing the review, the author noticed how little is known in the Anglo-American culture – amongst evidence scholars – about the variety of procedural systems in Europe. He goes into details about a few aspects of the continental procedural ‘styles’ and their historic development. For this reason the first half of the article deals with Europe – with an emphasis on the Netherlands – offering a fair background for the review of Twining’s book in the second half.

Paoli, L.
An underestimated criminal phenomenon: the Calabrian ‘Ndrangheta
*European journal of crime, criminal law and criminal justice*, vol. 2, no. 3, 1994, pp. 212-238
— Paoli describes the criminal phenomenon ‘Ndrangheta. This phenomenon is understood as an aggregate of mafia families whose base is in Reggio Calabria province and its environs, and has ramifications in Italy and abroad. He discusses a few historical notes on the word and the
phenomenon, the family, the development of hierarchies, the entrepreneurial mafia, the extention of the 'Ndrangheta and the power dimension.

Parry, H., S.S. Hunt
Undercover operations and white collar crime
*Journal of asset protection and financial crime*, vol. 2, no. 2, 1994, pp. 150-159
— Undercover policing operations are on the increase in the United Kingdom and the United States and questions surrounding the judicial and administrative controls of such operations in the field of white-collar crime investigations need to be addressed. This article considers recent case examples involving such methods, looking in particular at recent developments in the law relating to entrapment and agents provocateurs and also at the differing regimes of administrative control in the United Kingdom and the United States. While some United States developments point to a restriction on the scope of undercover operations, the United Kingdom courts and European Court of Human Rights have been providing judicial backing to such police methods.

Passas, N.
The nature and risk of European community frauds
*Criminal justice newsletter*, vol. 7, no. 2, 1993, pp. 1-3
— On the basis of a three-year long study focusing on the United Kingdom, Italy, France and Germany, the author suggests that the reality of organized crime in the European Community, and especially European Community fraud, is more complex than portrayed by most media reports. He argues that, although there is cause for concern, the potential extent of the problem should not be confused with the actual extent.

Polak, F., M. Lap
A view on the board
*International journal of drug policy*, vol. 5, no. 3, 1994, pp. 147-156
— Polak and Lap respond to the 1992 Annual Report of the International Narcotics Control Board (INCB), in which not only the positive results of the Dutch policy on drugs were mentioned, but in which also the INCB's strict position on the issue of legalization was restated as well.

Ruggiero, V.
Corruption in Italy: an attempt to identify the victims
*Howard journal of criminal justice*, vol. 33, no. 4, 1994, pp. 319-337
— Criminological analysis of corruption is rare, perhaps because this type of offending is regarded as a victimless behaviour. Ruggiero analyses political corruption in Italy with a view to identifying the social damage caused by it. Aspects of victimization are mainly found within the domain of civil and political rights. He examines the erosion of these rights in the light of controversial definitions of democracy. Corruption and aspects of the ensuing victimization are traced on the boundaries separating two different interpretations of democracy, that is, on the border between democracy and despotism.
Schneider, H.J.
Violence against foreigners in the Federal Republic of Germany
— Racial and ethnic minorities are in principle vulnerable to violence. This happens because each society tends to attribute its problems to 'outgroups' of foreigners rather than to its own shortcomings (scapegoating). Thus the causes for violent acts arise from the current situation in a society's process of development. The five major assaults against foreigners in Germany between 1991 and 1993 exemplify this. The author discusses five theories which offer an explanation for the events: the theories of socialization deficiencies, deprivation, and the theory of marginalization, as well as the concept of 'hate-crimes', and the theory which holds that the rapid changes brought about by the German reunification, and the consequent loss of identification, are responsible, can all be used to explain the outbursts of violence against foreigners in Germany.

Stephens, M.
Care and control: the future of British policing
*Policing and society*, vol. 4, no. 3, 1994, pp. 237-251
— The article focuses on the interplay of care and control functions within the British police. There are several areas of police activity, such as child sexual abuse investigations, sexual assault, and the handling of the mentally ill, where there is already an operational mixture of care and control functions. Recently, the police have emphasized the service and care nature of their work. Indeed, there are good operational and ethical reasons to do so. However, the government's priority, expressed through such documents as the White Paper on Police Reform, the report of the Royal Commission of Criminal Justice, and the Sheehy Report, appears to be one of enhancing the police's control functions. An emphasis on a combination of care and control would, however, result in greater benefits than focusing predominantly on control. This article highlights the obstacles that the police service must overcome to realize that combination.

Stessens, G.
Corporate criminal liability: a comparative perspective
*International and comparative law quarterly*, vol. 43, no. 3, 1994, pp. 493-520
— This article aims to examine the question of how to punish corporate criminality in a comparative perspective. Comparing national law systems, some of which are familiar with corporate criminal liability, some of which are not, enables one to get a clearer view of the advantages and disadvantages of corporate criminal liability. It also creates a 'supranational', European perspective: by highlighting the differences between the respective national solutions to the same question (i.e. how to punish corporate criminality), it may give some hints towards a (European) harmonization of the legal solutions. First the author looks at the historical evolution of corporate sanctioning in Europe, paying
attention to the different types that have developed. He goes on to describe the differences between the respective national systems of corporate liability as they function today in France, Belgium, the Netherlands, Germany, England and Wales, the United States and Canada.

Sullivan, G.R., C. Warbrick
Territoriality, theft and Atakpu
Criminal law review, 1994, pp. 650-660
— The international dimensions of fraud, terrorism and drug-trafficking have given rise to a variety of legislative initiatives seeking a more effective response to these phenomena. In the light of these developments it is disconcerting to observe the Court of Appeal in Atakpu declare itself powerless to respond to a relatively straightforward transnational fraud because of a misconception of the territorial nature of English criminal law. The case discussed: D. and others hired cars in Belgium and Germany. As was always intended, D. drove the cars back to England with a view to rinsing the changes and dishonestly selling them here. The essential issue was whether this conduct involved thefts perpetrated in England. In this article the territoriality principle is looked at in general terms and then the specific reasoning in Atakpu is examined. It is argued that the outcome was unwarranted and was based on a misconception of the territorial basis of the criminal law.

Tupman, W.A.
You should have read the small print: the European Commission's Post-Maastricht response to fraud

— The work of the European Commission's unit to combat fraud, UCLAF, is taking full advantage of information technology in its efforts to improve the collection, collation and detection of fraud and irregular activities in the member states. This is the first of two papers dealing with the work of UCLAF, and it concentrates upon bringing the nature of the problem and the institutional and technological background to the readers' attention.

Vaeren, C. van der
The international drug control cooperation policy of the European Community: a personal view
— The programme of international cooperation of the European Community in the field of drugs has been in existence since 1987. The scope of the programme is wide and covers, in principle, all aspects of the drug problem in the partner countries. However, interdiction of illicit activities in drug production and trafficking has fallen far outside the competence of the European Community, although it will be covered by the European Union once the Maastricht Treaty comes into force. Out of the experience gained in managing the programme, the author suggests that, to be effective, an integrated approach should provide an appropriate place for cooperating more fully in the field of law enforcement. The two priority areas of
application of the programme should then be prevention of drug abuse and the fight against trafficking – two areas which, in fact, tightly reinforce each other.

**Williams, P, C. Florez**

Transnational criminal organizations and drug trafficking

*Bulletin on narcotics*, vol. 46, no. 2, 1994, pp. 9-24

— Transnational criminal organizations, particularly drug-trafficking organizations, operate unrestricted across international borders. They are very similar in kind to legitimate transnational corporations in structure, strength, size, geographical range and scope of their operations. Above all other features they engage in unregulated forms of capitalist enterprise. This article identifies the key environmental factors relevant to the emergence of transnational criminal organizations, and explores the intrinsic relation between those organizations, their home states and host states. These conditions not only give rise to transnational criminal organizations, but also help to sustain them.