
Who Benefit From Crime in Construction? A Structural Analysis

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Abstract

Purpose – The purpose of the study presented is to outline an understanding of the question of who benefits from crime in the AEC industry. The perspective chosen is conceptual in nature, and therefore focusses professional roles rather than individuals and/or cases.

Design/Methodology/Approach – The methods chosen include literary studies and in-depth analysis of previous research carried out within the research project from which this publication stems. Being conceptual, it is, nevertheless, deeply grounded in practical, coordinated research.

Findings – The findings indicate that most actors would seem to profit from crime in the AEC industry. Decision-makers (owners, contractors and to a certain extent sub-contractors) seem the most likely to profit – structurally and/or individually – on such dubious activity. According to the analysis, controlling agencies – as institutions – tend to profit by rather than to suffer under such criminal activity. Blue collar workers (in particular legally employed workmen and FM-personnel) and society as a whole in general bear the burden of the costs inflicted.

Research Limitations/Implications – There is an urgent need for a reorientation of the activity of the controlling agencies, redirecting their focus of attention from simple working on controlling worksites to addressing in-depth organisational challenges and responsibilities.

Practical Implications – Several papers have been identified that discuss the downsides of criminal activity in the construction industry. This paper suggests how most actors – on individual level – may profit on criminal activity.

Originality/Value – Little seems to have been published on the subject of who is to actually gain and what there is to gain from crime in the AEC industry. This paper presents a contribution to this research gap.

Keywords Ethics, AEC-industry, Crime, Structural analysis, Roles, Profit

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1. Introduction

The construction industry – especially when analysing the operational patterns of its main actors – forms a case of particular interest for analyses of criminal activities, both actual and potential. The industry is characterised by an



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- immense turnover (approx. 13 per cent of total turnover of Norwegian companies;
- massive employment (approx. 13 per cent of the workforce in Norway geographical distribution (construction is everywhere);
- and huge environmental impacts (e.g. 40 per cent of total inland greenhouse gas emissions in Norway) (Meld. St. 28 [2011–2012]).

In sum, the AEC industry is almost significant enough to constitute a society on its own. Yet, the industry lends itself relatively easy to scientific study given the relative clarity of its network of actors. In addition, its characteristics render it interesting for the study of criminal activity.

The AEC industry typically receives attention as an industry of doubtful virtue: where neither the police, the tax authorities nor the professional organisations fully master the challenges posed by professional practice (Andersen *et al.*, 2014); where the inherent complexity in itself opens the opportunity for suspicious dealings (Gunduz and Önder, 2012); where fraudulent business practices undermine the reputation of the industry (Slettebø *et al.*, 2003); and that lacks a clear vision based on a fortified ethical foundation (Wolstenholme *et al.*, 2009). In other words, vices are rife in the industry and it seems that actors do in fact act egoistically given the opportunity – an egoism leading to criminal activity.

The literature review carried out in preparing this article revealed that crime in the AEC industry typically has been examined according to specific perspectives, notably corruption research (e.g. Locatelli *et al.* [2017]; Chan and Owusu [2017]; Gunduz and Önder [2012]), research on workplace related crime (The Chartered Institute of Building [2009]; Zitkiene *et al.* [2016]; Golden and Skibniewski [2010]), so-called social dumping (e.g. Fromentin [2016]; Bengtsson [2014]; Bernaciak [2016]) and tax evasion schemes (e.g. Behling and Harvey [2015]). Comparatively little research seems to have been undertaken, however, on the subject of what fundamental structures of the industry function as fundamental drivers permitting for crime.

A notable exception is the momentous work of Williams *et al.* (e.g. 2008; 2009a; 2009b; 2012; 2015), who through a long series of publications have scrutinized what can be called grey zones, that is, patterns of action where criminal and legal activities intertwine. These analyses illustrate that the phenomena generally covered under the name “crime” within the industry, firstly, is not as clear-cut as might be expected, and secondly, that they stem from structural conditions governing the industry.

Understanding why and how such activity occurs depends on a firm understanding of what structures permit individuals to be tempted by and to commit crime. As a consequence, our attention is less oriented towards the actions of individuals than towards the roles these individuals fill.

More precisely, the concern of the present study is to conceptualise what actors benefit from crime within the Norwegian construction industry. To assess this overall question, we intend to address the following research questions:

- (1) What actors benefit from crime in the AEC-industry?
- (2) In what phases of construction projects are crime especially beneficial?
- (3) What are the implications for the control authorities?

The corollary to the first and second research questions – that is, who are suffering from crime – is illustrated in a cursory manner in Table 1. The nature of the sufferings is not detailed. For a more thorough going through of these aspects from a Norwegian perspective, see Engebø *et al.* (2016; 2017a; 2017b); Kjesbu *et al.* (2017a, 2017b); Richani *et al.* (2017);

Skovly *et al.* (2017) Lohne *et al.* (2015; 2016; 2017a; 2017b) Svaalestuen *et al.* (2015) and Drevland *et al.* (2017). Please note that only the service-side of construction projects is covered by this paper – the materials side is omitted.

2. Theoretical framework

The last years have witnessed a proliferation of publications reporting on criminal activity in the Norwegian AEC industry and proposing measures for countering such crimes. These publications stem from contractors (Byggenæringens landsforbund [2014]), sub-contractors (Entreprenørforeningen – bygg og anlegg [2016]) and controlling agencies (Arbeidstilsynet, NAV, Politiet og Skatteetaten [2015]; Byggenæringens landsforening [2003]). Owners seem, curiously enough, not to have produced much material concerning criminal activity in the industry. The same must be said for the insurance companies. Typically, all these publications detail the situation concerning criminal activity in the AEC industry from their respective perspective. Secondly, they identify measures that ought to be taken against such activity. We have not, however, found any analyses concerning who actually are benefitting from such crime, neither from the Norwegian nor from the international context. The current paper fills parts of this knowledge gap.

Concerning the question of criminal versus unethical action, a limitation needs being made. Though often concurrent with, ethics must be separated from the field of the law to be fully understood. What is perceived as unethical can – in certain circumstances – be lawful, while what is perceived as ethically laudable can be deemed unlawful. This paper concentrates on clearly illegal action, condemnable by law. Examples of such criminality include the use of illegal workforce, transgression of labour laws, actions in conflict with HSE regulations and tax-fraud. Unethical exploitation of for example loopholes in contracts by one of the actors will thus not fall within the scope of the analysis.

3. Methodology

The methods chosen includes several scoping literary studies and in-depth analysis of previous research carried out within the research project from which this publication stems. Being conceptual in nature, it is thus, nevertheless, deeply grounded in practical research. The research carried out within the project has so far included approximatively 100 semi-structured in-depth interviews with industry actors ranging from project managers to CEOs, a major survey among Norwegian contractors and several extensive literature reviews. The main findings – presented in Table 1 – were carved out during a series of workshop amongst the authors and are mainly based on the insights gathered during the project.

One major precondition needs to be noted. In the following analysis, we presuppose that all involved actors actually employing illegal workforce or otherwise engage in criminal activity in the industry *actually know what they are doing*. To a large extent, this has proven to be the case in the cases examined during the ongoing project – actors involved have had clear indications of and a comprehension of that the work undertaken has been carried out by methods and means not acknowledged.

4. Results

Table 1 presents the results from the analysis. The choice of five years as the distinction line between the short and long horizons, respectively, is based on the guarantee time of Norwegian construction projects, as established in the law. The categorisation is mainly based on the experiences gathered during the research project.

The table is organised according to, firstly, stakeholders (rows), secondly, a process perspective (columns) and, thirdly, the degree of relative gain/harm from criminal activity.

Stakeholder	Front-end and construction	Operation within guarantee period	Operation after expiry of guarantee	Risk
Owner	Lowering construction time Lowering cost	Releases funds for other strategic priorities	Releases funds for other strategic priorities	No convictions so far in Norway Potential for construction breakdown
Main contractor	Lowering construction time (heightening ROI) Competitive advantage	Difficult to hold sub-contractors responsible No consequence for the project manager	Construction errors outside contractor's responsibility No consequence for the project manager	No convictions so far in Norway
Fraudulent sub-contractor	Competitive advantage (time, cost and quality)	Has left the country/ closed down/out of market	Construction errors outside contractor's responsibility Competitive advantage No reputation to lose	Risk increases with frequency of projects within the same organisational structure Quality
End user	Potentially cheap buying/rent opportunity Faults are contractor's responsibility	Potentially cheap buying/rent opportunity	Uncertainty concerning quality Can live with lower standards	Potential for construction breakdown
Controlling agencies (HSE, legal, tax, social welfare)	Increased need for services	Increased need for services	Increased need for services Increased reputation	Difficult to prove efficiency of measures – creating the need for more funds. A certain risk for loosing reputation might be envisaged if criminal activities are not hindered effectively
Insurance companies	Hardly any consequences beyond increased turnover	Hardly any consequences beyond increased turnover	Hardly any consequences beyond increased turnover	Long-term damages to buildings Difficult to link damages to crime
Consultants	Little difference in work layout depending on workforce	Little influence on work carried out	Little influence on service time of buildings	Little risk
Illegal workmen	Work opportunities Better salary than in home country Potential for exploitation	Potential for long-term exploitation (getting "caught" within the system over time)	Potential for long-term exploitation (getting "caught" within the system over time) Few (if any) rights	Potential for naturalisation SHE-challenges No risk for legal prosecution

Table 1.
Analysis Results

Stakeholder	Front-end and construction	Operation within guarantee period	Operation after expiry of guarantee	Risk
Legal workmen	Unfair competition Decreased work conditions Loss of work SHE-related issues	Unfair competition Decreased work conditions Loss of work SHE-related issues	Fall in status Unfair competition Loss of work	SHE-challenges
FM-personnel	Typically not involved in the construction process	SHE-issues Potentially increased workload due to reclamations Maintenance challenges	SHE-issues Maintenance challenges	SHE-issues Maintenance challenges
Society	Lack of revenues Social challenges Pollution	Reduced quality of the built environment Lack of revenues Social challenges Pollution	Reduced quality of the built environment Lack of revenues Social challenges Pollution	Social challenges Pollution Potential for construction breakdown

Note: The rows are organised according to influence. The owner is the most influential, while society is the least influential. The columns are organised after temporal breaking points

Table 1.
(Continued)

The stakeholder row is organised according to influence. The owner – who pays – has most influence. The society – as a whole, except from the other listed stakeholders – has least influence. The process perspective is organised according to a (highly simplified) picture of crucial temporal breaking points (e.g. before/after expiry of guarantee time). Thirdly, the assessment of relative gain/harm is represented according to actor and process perspectives according to the colours *green* (overall positive/clearly gainful), *orange* (approximately neutral) and *red* (overall negative/clearly harmful). The actual assessments all spring from the research endeavour undertaken and reported on in the publications cited above. Table 1 provides an overview over stakeholders in construction projects and their relative gain/harm gained from criminal activity in the construction industry according to phases in the project.

Two main findings can be read out of Table 1. Firstly, actors seeming to profit from criminal activity are mainly to be found in the influential decision-making segments – owners, contractors and subcontractors. These all tend to benefit directly (lowering cost and increasing flexibility).

Owners tend to experience challenges in the long term (with particular regard to increased risk for building collapse etc.); but according to the analysis, the direct benefits seem to outweigh such long-term challenges. A corollary to this is that in the long-term, all the directors from the owner organisation probably have switched jobs, rendering accountability almost impossible.

Contractors are almost totally in the green – they experience all the benefits of criminal activity, whilst bearing very little of the risk and complications involved. The advantages for time/cost/quality aspects of the work seem to largely deflect any structural hindrances to permitting criminal actors to operate. A further point underlining this is that the operating pattern of the controlling agencies is such that no major contractor so far has under any serious allegation for permitting criminal activity within the Norwegian context.

Sub-contractors are mostly in the green. Actors permitting – or actively employing – illegal activities stand very little chance for legal prosecution, and tend to profit largely from

such activity as a competitive advantage. The reputation of the industry as being characterised by the number of “cowboys” involved probably lowers the threshold for instigating such activity. The definitiveness of the five-year guarantee actually in vigour in Norway probably renders felonious activity more attractive to certain sub-contractors, on the basis that their activity is very little investment sensitive and reorganisations/closures can be arranged swiftly if challenges occur.

In addition to these decision-making actors, according to the analysis, controlling agencies – as institutions – tend to profit by rather than to suffer under such criminal activity. The cause for this is the increased demand for their services when serious crime is discovered within the sector. There seems, in fact, a certain (if never acknowledged) institutional need for a certain level of criminal activity for the agencies’ claim for resources.

The second main finding observable from the table is that crime in the AEC industry typically benefits actors who are situated early in the construction process – if you can get out before the shit hits the fan, profits are up and potential challenges are never pressing.

5. Discussion and conclusion

On the basis of the analysis, the number of actors benefitting from crime in the AEC industry is surprisingly high. Owners as well as main contractors yield substantial benefits. Equally, control authorities tend to benefit largely from an increased demand for their services. On the other hand, legally organised workmen, FM personnel and society as a whole tend to lose largely from such activity. Actors such as insurance companies, end-users and the illegal workmen typically employed are situated in curious middle-positions, in which the picture of gain/loss is far from being clear.

Further, it seems clear that challenges (that is, cost of various nature) resulting from criminal activity in the industry occurs at early stages of the process – yet, the costs inflicted are to be suffered by those situated “downstream”, that is, towards the end of the life cycle of the project.

The question of what implications this has for the control authorities is interesting indeed. From a limited – intra-organisational perspective – these organisations have all incentives directed towards underlining the magnitude of the problems encountered. To put it crudely, the more criminal activity, the more need for the police force. On the other hand, the analysis illustrates clearly that the focus of attention of the control authorities ought to a larger degree to be directed towards actors “upstream” in the construction process, most notably towards owners and main contractors, who are reaping the main benefits from criminal activity in form of reduced capital spending.

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