

REDUCING CORPORATE CRIMINALITY: THE ROLE OF VALUES

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I. INTRODUCTION

Can businesses effectively regulate the behavior of their employees, and if so, what strategies should they use to best achieve that goal? Recent corporate scandals have evoked a heightened concern among members of the public, government officials, and business leaders about both whether businesses can regulate the conduct of their employees, and how to effectively secure employee adherence with corporate rules and policies. White collar crime is again on the public agenda.

White collar crime is crime committed by employees in for-profit companies to benefit either their companies or themselves. White collar crime has two principal characteristics. First, white collar criminals are typically well educated, employed, middle class and, at least historically, white males. Second, the crimes they commit tend to be nonviolent and to focus on monetary gain. The crimes involved are not emotionally driven, such as assault or rape, nor do they involve physical harm. Instead, they are efforts by individuals to achieve economic rewards outside the framework of the law.

Business-related criminal behavior is a key regulatory issue because if corporations are unable to effectively manage the lawfulness of their conduct, the government has a reason to heighten external legal regulation.

What can be done to minimize the likelihood of unlawful behavior in the world of for-profit organizations and corporate regulation? In this analysis, I argue for the importance of values, in particular legitimacy, as a central feature of the law, particularly in relation to the regulation of business. I focus on why legitimacy is often undermined and, conversely, how it can be more effectively maintained. First, legitimacy is important for internal regulation, as businesses with ethical cultures that are legitimate to employees are less likely to engage in wrongdoing. Second, legitimacy is also important for external regulation because it is central to people's willingness to obey the law, and follow the policies and practices imposed on for-profit organizations by legal authorities.

This article will address the advantages of legitimacy as the central element in a regulatory strategy. I argue that legitimacy is a better strategy than the command and control approach widely used today, but that it is difficult to implement because the approaches to governing and exercising legal authority that most effectively build and maintain legitimacy run counter to the intuitions and preferences of many people in positions of authority.

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