

Corporate Governance

(Legal Issues relating to various types of corporate crimes)

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ABSTRACT

The term corporate crime refers to the crimes committed by a corporation i.e., business organisation exists under the eyes of law which has separate legal entity as an artificial person or by its individuals.

There are various types of corporate crimes. I would like to suggest some measures to overcome the corporate crimes with the help of some case studies in my paper. Most of the times crime takes place by some professionals due to less amount of salary, delay in payments, officials thirst for obtaining money and status, economic recession, competitiveness, worst political practices, irrelevant corporate Governance (Lifting the corporate veil and breaking the corporate shell) (Constructive notices) etc irresponsible Government policy implementation, black marketing, Unfair activities of stock market speculators, embezzlement of organizational funds, conflicts in interests, job discriminations, unsafe products etc.

Profession arises when any trade or occupation transforms itself through, "the development of formal qualifications based upon education and examinations, the emergence of regulatory bodies with powers to admit & discipline members & some degree of monopoly rights.

Professionalism means starting with the establishment of the activity as a full-time occupation, progressing through the establishment of training schools & university links, the formation of a professional organization & the struggle to gain legal support for exclusion & culmination with the formation of a formal code of ethics.

Professional bodies function is to define, promote, oversee, support & regulate the affairs of its members. In my study the following points are highlighted relating to corporate crimes committed by professionals:

- **Blue collar crime**
 - Juvenile crime
 - Organized crime
 - Corporate crime
- **Political crime**
 - Public order crime
 - state crime
- **White collar crime**
 - Victimless crime
 - Plaid collar crime

BLUE COLLAR CRIME :

It is the crime committed by potential offenders on misusing the opportunities through physical force
Ex: shop lifting, vandalism

CORPORATE CRIME :

The term corporate crime refers to crimes committed by a corporation or by its individuals.

Examples of criminal behaviour in most jurisdictions are inside trading, anti trust violations, fraud (usually involving the consumers), damage to the environment, exploitation of labour in violation of labour and health and safety laws, the failure to maintain fiduciary responsibility to wards stakeholders.

JUVENILE CRIME :

Refers to criminal acts performed by youngsters and adolescents. It takes place mostly because of lack of parental level of supervision, with criminal parent background, negligence, societal conditions.

Ex : mobile.

(A poor boy who cannot afford to buy a mobile).

Youngsters will have some inbuilt characteristics, such as fighting, daring, over confidence etc. These youngsters who commit crime may face problems like lack of self control which results in execution of organizational functions with disturbed mind. An adolescent with weak attachment to their parents are more likely to offend these kind of crimes. Sometimes an Anti social personality disorders also starts at this stage and continuous into adulthood which results in violation of the rights of others, lack of realistic long term goals and plans elevated self appraisals, poor behavioural controls like irritability, impatience, inadequate controls etc.

Prevention: counseling, mentoring, educational support and parental education etc. Corrupt political leaders may have business tie ups with existing organized crime groups either domestic or international, or else may simply exercise power, which duplicates the functioning and purpose of organized crime.

ORGANIZED CRIME :

1970 US Act refers to operations run by criminals for the purpose of generating a monetary profit. The familiar term is Mafia. The first organization in organized crime was labeled as Silican Mafia known to its members as Cosa Nostra. Some examples for organized crime come under the category of black market, due to market failure or prohibition by Govt. on certain activities.

Ex : Tele marketing, Internet for e-commerce are a few examples of organized crime which discourages the customers.

The Federal Bureau of Investigation estimates that global organized crimes make 1 trillion per year. To avoid this FBI, operates an organized crime sections from Washington through various agencies.

POLITICAL CRIME (public order crime) :

Is one which involves overt acts or omissions (where there is a duty to act) which prejudice the interests of the state, its Govt or the political system. Supporting, pursuing non Govt activities picketing against private employers are a few examples of political crime which disturbs the economic stability.

Ex: Public order crime using mobile while driving leads to accidents. Such mobile companies should be banned. . Drug addicts driving car so liquor companies must be banned.

STATE CRIME :

Acting against the states law or public law and crimes committed by the government organizations. Examples: failure in tax payments, not closing the industries which causes pollution, health and safety, cigarettes, liquor, plastics etc.

WHITE COLLAR CRIME :

Edwin Sutherland defined as 'a crime committed by a person of respectability and high social status in the course of his occupation criminal behaviour was learned from inter personal interaction with others.

It overlaps with corporation crime because the opportunity for fraud, bribery, inside trading, embezzlement, computer crime and forgery is more available to white collar employees.

Ex: manipulation of accounts or inventory records, false advertisement etc due to personal interest or to promote corporate interest.

Victimless crime refers to an un identifiable criminal act by an individual which causes damage to organizations.

Ex: material misuse, unnecessary use of funds, tax evasion, restricting the freedom at work place etc. misuse of power, unnecessary criticisms, discouraging the talent and artificial scarcity of goods etc

PLAID COLLAR CRIME :

This kind of Crime relates to the theft that directly affects farm workers such as theft of farm stock and equipment which has been evidenced by US and UK. It also includes unlawful acquisitions of rural commodities such as nuts, fruits vegetables, artichokes, trees, timber, cattle, diesel.

12 tractor -trailers carrying almonds have been stolen in California in 2007.

CONCLUSION

In corporate world identifying the victim and reporting against such corporation is becoming controversial due to boundless commercial confidentiality to gain the market share. So I conclude that corporation crime can be detected if Corporate Governance implements right things in right times by right persons i.e lifting the corporate veil and breaking the corporate shell without any personal bias.

PUNISHMENTS AND PREVENTIONS

- monitoring, mentoring and counseling, gardening
- based on the seriousness of the event (wrong)
- in pari-delicto-est condition defendantis (equal guilt)
- display of artificial imprisonment (with animated films)
- gyms, libraries, educating, healthcare, constant observation

References :-

Google

Current Law Reports