Causes of Economic Crime and the Impact of Values: Business Ethics as a Crime Prevention Measure

Prof. Dr. Kai-D. Bussmann
Martin-Luther-University, Faculty of Law, D-0699 Halle, Germany,
e-mail: bussmann@jura.uni-halle.de,[1]

ABSTRACT

This contribution outlines the causes of economic crime and focuses particularly on comparing the meanings of social control, the culture of business (e.g. fairness and trust, corporate identity) and the effect of social values. It suggests a system of business ethics for reducing crime risks in companies and concludes by describing the decisive criteria and the specific steps necessary for its implementation.

CONTENTS

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1. Risks and Damage

Economic crime in companies poses an enormous challenge to today's economy and society. The emerging global and networked economy increases the scope and scale of risks that organizations face from economic crime. A number of surveys have shown the most frequent economic crimes against businesses are, above all, fraud, asset misappropriation, false accounting, bribery and corruption as well as cyber crime and insider trading; less common are industrial espionage and money laundering (PriceWaterhouse Coopers 2003, 8f.; KPMG 1999).

The latest survey in 2003 shows that, over the last two years, 34% of all polled companies in Western Europe had been victims of an economic crime with an average loss of around two million Euros (PWC 2003, 12f.). The amount of undetected damage is probably up to five times as high. A study by KPMG in 1999 revealed that 57% of the companies surveyed suspected that economic crime costs them an unconfirmable amount of damage valued at less than 1 million DM, whereas 29% considered the unconfirmed losses to be up to 10 million DM. The Hermes study (1997) reported that one-third of the firms probably experienced this amount in a range of 41-60% and a further third as much as 61-80%.

Quite apart from direct financial loss, companies suffer intangible damage: loss of trust in business in general, as well as damage to the particular firm's reputation, loss of management time, and damage to its business relationships. Moreover, economic crime offences in a company threaten the morale of its employees and encourage imitation and “repeat players”.[2]

Many indicators lead one to believe that the risk posed by economic crime is growing. In our own study, carried out in 2001, 50% of the firms reported that the situation has deteriorated in recent years, whereas only 2% considered their companies to be less at risk (Bussmann, Werle 2003). Other studies, however, have revealed an even higher crime risk. The KPMG survey showed that nearly 90% of respondents think that this form of crime will continue to grow (KPMG 1999).

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[2] Heinz 1998, 27; Levi 2000; PWC 2003, 13.

Nonetheless, it is also clear that increased awareness and a greater number of prevention and control measures lead to a better rate of detection. In criminology, we call this effect the "*control paradox*".

2. Impact of Criminal Charges

2.1. The Inefficiency of Economic Crime Law

It is easy to think that economic crime will be tackled best by criminal law through careful controls and regular criminal charges. A recent study showed that about 50% of companies[3] pursue a policy of reporting all cases to the police. Reality, however, appears to be very different: Only a significantly small number of cases actually do end up being reported to the authorities.[4]

My thesis is that such a cautious policy is justifiable: Criminal charges are generally not advisable, because they will normally not lead to the desired effect.

Although people usually expect the law on economic crime to be effective, reality must be viewed in a more sober light. Sensational reports in the media on severe sentences distract us from the negative overall picture. New legislation has raised great expectations but, nonetheless – doomed to a belly landing – was soon described as having a negative impact worldwide (Bussmann 2003).

Much more important are the structural weaknesses in the economic criminal justice system that impede the implementation of the relevant law – especially regarding difficult questions of positive law and proof as well as insufficient resources in the justice system. The result is a high percentage of dropped prosecutions, lengthy proceedings and often relatively mild punishments.

2.2. The Weak Deterrent Effect of Severe Punishment

What is clear, however, is that the deterrent effect of severe punishment is overestimated. More than 20 years of international research confirm that earlier views on the effectiveness of criminal law were grossly overestimated. The

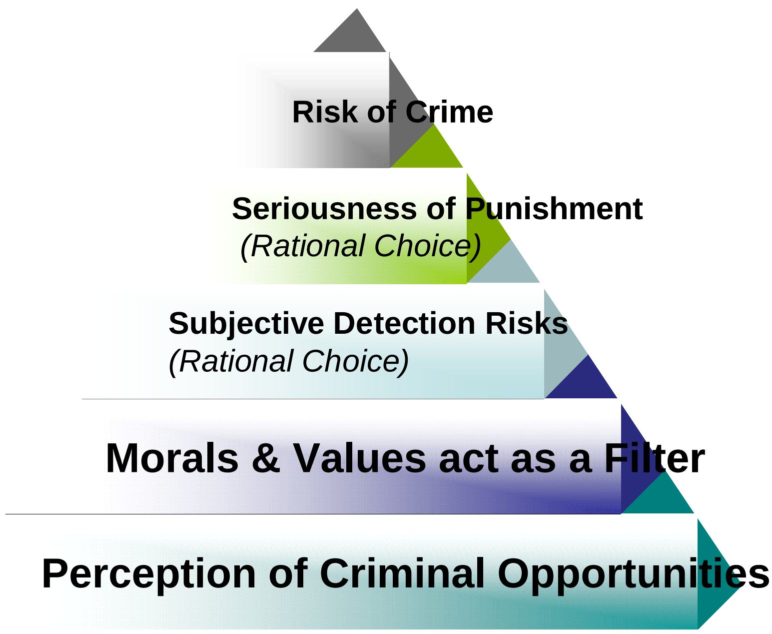
[3] With a not inconsiderable increase to 56% in 2003, according to PWC 2003, 1.

deterrence myth has only been able to safeguard its position so strongly in politics, the media and public opinion because of its apparent plausibility.

Severe punishment does not deter – anything other than minor offences!

The reason is that ethical orientations are of greater importance. They filter out considerations based on pure calculation. That crimes are committed depends less on pure cost-benefit calculations – like mild sanctions and relevant opportunities – than, above all, on a lack of moral and legal restraint.[5] Any potential criminal has to overcome this moral hurdle before the advantages of the criminal act will be weighed against the risks of detection and punishment. Homo oeconomicus, the human being who always acts to bring about a personal advantage, is in the context of crime, a myth.

Most people do not commit crimes simply because they consider it to be wrong and unacceptable. They generally do not even think about criminal options, and, as a result, they never come to balance opportunities against risks.



Criminological studies on, for example, insurance fraud have shown that the threat of severe legal or even social consequences is less powerful than the fact

4 6,7% PWC 2001, 19; Ernst & Young 2003, 25%.

5 Paternoster, Simpson 1992; concerning crimes of corporations and their executives, Simpson 2002; on the importance of values Karstedt 1999; Karstedt, Farrall 2003.

that customers simply prefer to avoid such behaviour because they believe that it is neither right nor acceptable (Fetchenhauer 1997, 1999).

Therefore, the severity of the penalty is only of relative importance. At most, it can increase the awareness of what is criminal in the population at large (Bussmann 2003). On the other hand, the subjective feeling of being at risk of detection has a stronger deterrent effect. What matters primarily is the reasons for moral justification and the subjective detection risk.

For these reasons, criminal charges are an overestimated strategy, whereas organisational vigilance and awareness combined with the communication of ethical values is the most effective way to deter crime.

2.3. Risks and Disadvantages of Prosecution

In addition, businesses have only a limited interest in taking the initiative and prosecuting their own managers for many reasons.

Criminal charges are thus unnecessary to demonstrate that legal norms are being enforced. They are only a last resort and only appropriate when the suspect denies all guilt. In many cases, it is indeed scarcely advisable to prosecute a manager or employee, as this may expose a company to a considerable series of risks.

A prosecution may lead to reputation damage but, in particular, to considerable discord within the company due to official investigation activities. Furthermore, the company usually loses control over criminal proceedings: in particular, the prosecution may involve persons beyond the firm itself, leading to expanding circles of inquiries.

In the end, it is likely that prosecution will be dropped because of insufficient evidence and, at most, ends with the payment of caution money. As a result, it is rather unusual for the prosecution of a manager or an employee to be beneficial for the firm. It may make a good impression on the outside world as a sign of a strict policy, but it may also result in many new problems within the organisation itself. Not surprisingly, only a minority of companies reported that they were satisfied with police investigations (28%, Ernst & Young 2003, 7).

Nonetheless, there are effective alternatives. It is much better for the company to develop its own culture of internal investigation.[6]

[6] See, for details, Cole 1996.

The alternatives are the

1. implementation of own guidelines for proceeding in suspicious cases,
2. consultations with external lawyers and forensic investigation specialists
3. and recoveries from damage insurance.

In particular, almost 90% of the polled companies were satisfied with forensic investigations (Ernst & Young 2003, 7).

However, a case cannot be passed over in silence: The company must discuss it and react, but, as already said before, the deterrent effects of criminal sanctions are overestimated.

In contrast, *informal* sanctions in a community have a higher “deterrent impact” than any criminal sanctions. In this particular context, it is often overlooked that, practically speaking, the management has the whole range of possibilities provided by civil and labour law at its disposal, with only imprisonment being left aside.[7] Furthermore, such internal sanctions are generally more effective than criminal penalties, because reactions from colleagues who are directly involved trigger a highly beneficial shaming process (Braithwaite 1989; Braithwaite 1998).

For these reasons, many companies are better advised to develop self-regulating concepts and guidelines for dealing with punishable damaging offences (Hofmann 1997, 251ff.).

3. Causes of Economic Crime and Concepts of Prevention

3.1. Impact of criminal personality

Surveys have shown that almost two-thirds of offenders were persons who worked for the company, many of them from the ranks of management (e.g. Ernst & Young 2003, 11). Other studies have revealed that 53% of those responsible for economic crime were the managers of the firm itself, with 30% of such misdeeds attributed to other employees (Ernst & Young 2003, 11).[8]

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7 Berg 2001, 103f.; Homann 1997, 203f.; Meier 2001, 146, 152ff.

8 Varying definitions of management are probably responsible for these differences.

Hence, the risk group needs to be sought within the organisation rather than outside it.

Over 40% of companies reported that they check employees' profiles in order to prevent criminality (PWC 2003, 18).

White-collar offenders have been characterized by criminological research as risk seekers (Wheeler 1990) or as very determined, strongly career-, success- and publicity-oriented persons or psychologically extroverted personalities.[9] However, these are all characteristics of many successful managers as well!

The criteria for management recruitment and development place great value on the characteristics of a "successful man".[10] Managers must be creative and able to work particularly flexibly, with the result that they possess personality traits that are advantageous not only for the legal conduct of their business but also for its illegal variant (Coleman 1998, 180). This shows the dilemma and also why businesses are particularly threatened by such crimes.

To sum up, the effect on personnel selection procedures is very limited, with white-collar criminals being, to a great extent, not detectable in terms of their prospective social behaviour,[11] because

1. there are no criminal characteristics that serve as reliable indicators,
2. there is no typical economic crime offender,
3. the typical economic crime offender is socially unobtrusive.

Apart from clear indications, such as excessive debt, living beyond one's means or previous criminal records, it is very difficult to find a way to predict the risk of criminal behaviour. There can be no doubt that the typical economic crime offender is the normal manager. Of course, this does not imply that the majority of managers are economic crime offenders or latent suspects.

Another aspect is far more important: If the company is a victim of crime committed internally, it is generally not advisable to seek a cause in the person concerned but rather to look for a failure of the system. I would therefore recommend a holistic approach to prevention that takes the firm as a whole into consideration.

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9 See, for overviews, Simon, Hagan 1999, 145ff.; Coleman 1998, 180f.
10 Steinmann, Schreyögg 200, 678f.; Staehle 1999, 866f.
11 Weisburd Waring 2001, 70f.

3.2. Impact of Opportunity Structures

So what can companies themselves do about criminal prevention?

Intensive controlling measures as recommended by a good number of consultancies may reduce criminal opportunities.[12] These strategies comply with the core of criminological research results: "The opportunity creates the offender."[13]

However, control measures necessarily lead to an increase in the complexity of the organisation and, further, from a certain point onward, they induce an increasing climate of mistrust. Internal controls inevitably cause a loss of flexibility and transparency – and this in an organisation whose strength relies precisely on its dynamism and rapid reaction capability (see, for details, Bussmann 2003). Moreover, control measures could even provoke offences, because they attract "risk seekers".

From a management theory viewpoint, this can be called a control paradox.[14] Increased awareness and a greater number of crime prevention measures lead to a better rate of detection – the first paradox effect – whereas, internal controls may also lead to an additional crime risk, which is the second paradox effect.

The decisive issue lays in the impact of values. Criminological research has revealed that an acceptance of values and norms counteracts the attraction and seduction of criminal options; and, in many cases, opportunities are even not perceived. For these reasons, intensive controlling measures should be handled cautiously and with awareness. They do not provide a sufficient solution to our problems.

[12] Hofmann 1997; Berg 2001, 101; Huntington, Davies 1999; KPMG 1999; Pallazzo 2001.

[13] Sessar 1997; see, for economic crimes, Weisburd, Waring 2001, 146f.; crit. Coleman 1998, 199ff.

[14] Steinmann, Olbrich, Klustermann 1998, 138f.; Berg 2001, 101; Wyss 1999, 132f.; Killias 1998.

3.3 Impact of Corporate Identity

A further cause of criminal behaviour may be seen in a lack of social integration. Interestingly, corporate Identity is often brought into the discussion as an independent means of business crime prevention (see e.g. Neuberger 2002, 373ff.).

Equivalent criminological theories to *social bond theories* also turn the question round, not asking why an individual turns to criminal activities, but rather why the majority of people do not. Such theories stress the importance of personal *attachment* to other individuals or institutions, and that their *commitment* to these institutions means that they try to comply with their expectations rather than risk their own social existence. Furthermore, *involvement* in the community concerned dampens criminal propensities. From this point of view, it follows that values and norms, in general described as *beliefs*, are well accepted.

From a criminological viewpoint, the concept of corporate identity represents an effective crime prevention strategy. An atmosphere of anonymity and distance within the organisation, in contrast, increases the likelihood of criminal behaviour. Strong social and emotional identification with the firm tends to protect it from internal damage, just as shared values and beliefs do. It is undoubtedly plausible that “People who can identify with their organisation do not damage it.” More precisely, the psychological barriers are higher.

Numerous social-psychological studies by the *Equity Research Group* all point in the same direction (Greenberg 1990; Marcus 2000, 107f.). One of the findings from psychological research in firms is a correlation between insufficient justification for pay cuts and an increase in theft from the company. Research on *Procedural Justice* confirms this: People consider how they are treated to be more important than what result they actually gain. “When people think about justice, what is most in their mind is their relationship with other people and with institutions.” (Lind 1994).

Our latest survey, carried out both in Germany and England, confirms these research results: the more people report being victimized, the more they themselves commit crimes against property. From the company’s perspective, the more its managers feel financially cheated, the stronger the probability that they will commit economic crime against their own firm.

In respect to this concept of corporate identity, however, it should be recognized that its impact is considerably limited by *personnel fluctuations*. An increasing loss of loyalty to the company has, especially in the case of managers, long since been registered worldwide.

The second reservation arises from the identification of employees merely with their *own* company rather than with the economy as the whole: Attachment and commitment appear to be typically limited to one's own firm (Neuberger 2002, 384). Strategies for improving corporate identity are thus ineffective in preventing crime against other companies.

This means that economic crime is viewed from a particular perspective of the company and not as a risk for businesses in general, even though the economy as a whole benefits from the concept of business ethics. As a result, the danger of double moral standards cannot be counteracted in this way, given that, for example, it does not affect corruption of outside organisations.

Moreover, a further restriction results from the fact that social bond theories as well as sociological and criminological research additionally require the acceptance of "*beliefs*" in the form of values and social norms. Therefore, once again, it is the communication and acceptance of ethical values and moral orientations that play the decisive preventive role.

4. The Impact of Values on Crime

4.1. Research on the Meaning of Values

Many surveys point to unsatisfactory organisation structures in companies, such as insufficient controls, lean management or pressure to perform, as well as increasing internationalisation and technological change, as suspected causes of economic crime. Further causes include a lack of identification with the company on the part of employees, but also inadequate guidelines on business ethics (KPMG 1999; PWC 2003). Two-thirds of managers (67%, KPMG 1999) consider the main cause of economic crime within their own company to be the erosion of social values.

This widely held view hits the nail on the head:

Crime and its development are seen as an indicator of the moral state of society. A moral maze is emerging at the very centre of society. In particular, numerous criminological studies have shown continuously that no other causes are of comparable significance – neither personal characteristics nor criminal opportunities. People do not, in fact, behave according to calculations based simply on rational choice as I set out at the beginning of my paper.

Nonetheless, particular values may favour criminal behaviour. The free market economy has itself created those values that are responsible for the increase in economic crime. In his book "*Crime as an American way of life*", Daniel Bell (1953) pointed to the establishment of a culture of unrestricted and rigid competition to which ideas of solidarity and consideration for others are foreign, and that, on the contrary, propagates notions of Social Darwinism (statements like, "be number one, be smart, be clever, don't worry about others" etc.).[15]

For these reasons, individual companies, which constitute the driving force of the economy, are particularly at risk of falling victim to this orientation of *values* because they are exceptionally influential in this area. It is precisely on the basis of insufficient acceptance of ethical categories that criminological research has explained the misdoings of economic elites[16]. This is exactly the core of our problem. Companies face the highest risk. In our own study, carried out last year in England and Germany,[17] two things became clear:

1. The higher their income, the more often that people report crimes against property. This means, criminal motivation does not increase as a function of growing financial "need", but with prosperity – "Crime from greed rather than from need".
2. At the same time, the more people favour the values of a strictly free market economy, the less they necessarily feel bound to legal norms, tending instead towards cynicism about the law (statements like, "It feels

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15 See also Coleman 1987, Messner, Rosenfeld 1994.

16 Coleman 1998, 181ff.; Cole 1996, 8; Frehsee 1991; Green 1997, 248f.; Simon, Hagan 1999, 136f.; Karstedt 1999; Karstedt, Farrall 2003.

17 The comparative study is being conducted by Karstedt and Farrall (Dep. of Criminology, Keele University) and Bussmann, Hienzsch and England (Law Faculty, University of Halle-Wittenberg, Germany).

good to „bend“ the rules and get away with it.“ Or „Sometime you need to ignore the law and just do what you want.”).

A further phenomenon comes into play here: Long-term studies comparing different generations show that for the current generation, the validity of norms has typically undergone *fragmentation* and is sensitive to the particular context in which they are applied.[18] This means that norms are not applied and accepted absolutely but in a differentiated way depending on the situation and context. The result, is an increasing decline in the previous absolute value of moral or ethical considerations .

This fragmentation of the validity of norms cultivates a fertile ground for *sub-cultural milieus* in which specific legal and moral norms are scarcely acknowledged any more . In our context, this development means that what is clearly considered illegal in the world outside an organisation may be considered quite normal within the daily routines of a given company.

Moreover, our latest study was particularly, able to show that the frequency of crimes against property correlates very significantly with the support from social networks . The more people can rely on support from other people in their social environment, be it in the form of acceptance or active help, the more often they will commit the relevant crimes.

It is therefore of the greatest importance to prevent such moral subcultures from taking root in a company.

4.2. The Impact of Business Ethics

For numerous reasons, the communication of values and norms is decisive in crime prevention. From a criminological and general social science viewpoint, business ethics are considered to be especially effective in this regard.[19] It is therefore appropriate that companies have developed a growing awareness of the need to implement business ethics since the 1980s (Schlegelmilch 1990, Ulrich, Wieland 1999).

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[18] Nunner-Winkler 2000, 332; Karstedt 1999; Karstedt, Farral 2003.

[19] See, for corruption: Kerner, Rixen 1996, 377; Palazzo 2001, crit. Coleman 1999, 224f.; Shover 1998, 154f.

To sum up, business ethics …

- Ø stimulate communication and discussion about ethical limits,
- Ø sensitise for ethical values,
- Ø communicate legal limits,[20]
- Ø evoke effects of self-bonding.[21]

Surveys have shown that one-half of American corporations consider such ethics programs to be effective in preventing crime.[22]

However, the potential of business ethics is not fully exploited when ethical guidelines only take *abstract values* into account like responsibility, integrity, compliance, sustainability, transparency, human rights, equal treatment, fairness or personal respect – as has been shown for many companies (see, also, Palazzo 2001, 212fff.).

When the explicit norms of a criminal law are incorporated into the guidelines, the effectiveness of business ethics definitely increases. Only specific reference to norms of criminal law can counteract the observed fragmentation of values.[23]

A further requirement is the implementation of business ethic guidelines into the everyday routines of a company if they are to become more than a "*law in the books*". Norms, and that includes business ethics, can act as a channel to encourage communication about values and concrete legal limits. They need to be "referred to" constantly in all appropriate contexts – they need to be "lived" and become part of the corporate culture if they are to be incorporated into the management's consciousness. The inclusion of such topics in management training programmes is especially effective , as required explicitly by the sentencing guidelines in the US.[24]

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20 Drumm 2001, 750; Neuberger 2002, 754.
21 Homann, Blome-Drees 1992; Kreikebaum 1996; Steinmann, Löhr 1991; Lay 1989.
22 Steinherr, Steinmann und Olbricht 1998, 199.
23 Cole 1996, 111ff.; Drumm 2000, 748ff.; Neuberger 2002, 750ff.; Palazzo 2001.
24 Steinherr, Steinmann, Olbrich 1998; Steinmann/ Schreyögg 2000, 115f.

5. Conclusion

On the basis of criminological research, we are driven to the conclusion that economic crime is, from an empirical viewpoint, quite normal and perhaps even showing a tendency to spread. Whereas the risk can be reduced, it cannot be eliminated entirely.

I would therefore plead for a paradigm change in the analysis of the problem.

Whereas economic crime is basically a normal phenomenon, corporate cultures with ineffective prevention strategies and bad crisis management are not. Every company can constantly be hit by such criminal activities, although, in itself, this is no indication of management failure.

Covering up or avoiding to talk about such cases is therefore a false policy, also because it is precisely the underlying taboo that cultivates the fertile ground for further criminal acts. Open communication about the problem is needed within the company, because this is the only way to achieve the necessary sensitisation. This means that each and every criminal offence offers an opportunity to continue working on the company's corporate identity and moral integrity.

Normative and ethical management plays an especially significant role. In particular, business ethics restrict the impact of …

1. seductive opportunities
2. techniques of neutralisation
3. sub-cultural networks
4. legal cynicism

They strengthen …

5. the preventive effect of corporate identity.

They sensitise people …

6. to the meaning of social values and ethical limits.

To sum up, a holistic approach to economic crime prevention is recommended. Numerous aspects need to be taken into consideration, but business ethics are, in many respects, the core of any effective economic crime prevention.

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