The 'Causes' of Corporate Crime

Steve Tombs describes some complex factors behind corporate crime.

In February this year, Jeff Skilling, the former chief executive of Enron, the global energy company and the seventh largest company on the Fortune 500 list, surrendered himself to the FBI to face 42 charges of fraud, insider trading and giving false statements to auditors' list. Since 1997, senior management across the company had been fraudulently managing and reporting its accounts, inflating revenue, hiding debt, and massively hiking up its share price. Skilling is the 28th individual to be charged so far.

In August 2001, Skilling had been voted the second best chief executive in the US, while Enron was the country's 'most innovative' company for six years (Fooks, 2003). Yet Enron stock had fallen from a $90 peak to 26 cents within fifteen months (Fooks, 2003); on December 2, 2001, it filed for bankruptcy. Though Enron's collapse was spectacular, it was immediately preceded, then followed, by a host of other massive corporate frauds, with the collapse of Worldcom quickly surpassing Enron as the largest bankruptcy in US history (Fooks, 2003). Throughout the 1980s, about six companies a year filed corrections to the Securities and Exchange Commission on the discovery of a 'mistake' in previously returned accounts; in 1999, 204 were reported, and after Enron and WorldCom, over 400 companies were expected to submit corrections for 2002 (Hetzler, 2003). It appeared that "corporate America had been laid waste by deception, false accounting and bankruptcy" (Fooks, 2003).

Enron may not be a typical example of corporate crime. Certainly, financial crimes may involve a degree of conscious planning absent from some other categories of corporate offending – against consumers, employees, and the environment (Tombs, forthcoming). However, Enron serves as a useful, concrete reference point to address the causes of corporate crime – these most usefully considered at four analytically (though not empirically) distinct 'levels'.

While early criminological theorising sought to explain crime in terms of a range of putative individual pathologies, what is striking about those involved in corporate offending is usually their 'normality' (Snider 1993). Even where corporate offenders do not appear 'normal', this is unlikely to be cast in terms of pathology, but as a form of distinctiveness, with these individuals held up as the type of people to be emulated – successful, wealthy, well-respected and connected pillars of their local community – figures precisely such as Skilling, the prize winning CEO of Enron and Kenneth Lay, its former chairman. But there are elements of an individually-based explanation that are useful in understanding the causes of corporate offending. We do need to take account of individual characteristics, not least in terms of the kinds of personalities that are recruited or promoted within the corporation. We also need to understand why certain voices warning against wrongdoing are more or less easily discounted on the basis of 'individual' factors that are socially constructed as relevant – such as ethnicity, sexual orientation, age, length of service, and gender. When Kenneth Lay received warnings of illegality by a management colleague, it was presumably somewhat easier to ignore these in the company's 'testosterone-and-espresso-steeped' culture (Bryce, 2002) given that they came from a woman, Sherron Watkins.

Shifting to the level of the sub-unit within the organisation we can see the utility of some of the claims of sociological positivism. Of interest here are not the manifestations of relative deprivation that pervade the texts of sociological positivism. More useful are the inter-personal dynamics amongst key groups of staff, the disciplining pressures that small-group cultures have on the otherwise law-abiding, and the techniques of neutralisation made available within workgroups – techniques which have social origins, such as the (seemingly accurate) belief that "we all do it" (Cohen, 2000). Indeed, Mertonian anomie – where buying into success measured in material wealth leads individuals to use illegitimate means to achieve socially valued ends – is of some relevance when thinking about corporate crime (Tombs, forthcoming). These latter issues also resonate at the level of the wider organisation. An organisational culture imbued with a belief in corporate dynamism, success, even exceptionalism, easily translates into a sense of 'untouchability'. Just such a culture seems to have emerged in Enron as Skilling turned the company from an "old, stodgy" pipeline-based energy entity into a trading company, with a new "screw you", "rape, pillage and plunder" trading culture in which "deal flow" became the driving forces behind everything Enron did (Bryce, 2002). Add a sense of legal insulation based upon poor regulatory oversight of finance capital in general, and long standing, intimate relationships between Enron's senior management and the Bush family, and this is a criminogenic mix.

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There are also key sets of material issues to be raised in relation to the organisation itself. In the case of Enron, organisation was the key to the crimes. Crucial in the false accounting offences was the creation of a myriad of companies through which

illegality became routinised and almost impossible to detect: at the time of its bankruptcy, the firm had 1,300 foreign entities on its books, some 80% of which were inactive shells (a third in the Cayman Islands). More generally, understanding the production of corporate crime means knowing something of a corporation's organisational structure, its internal lines of decision-making and accountability, its geographical scope of operations, and the nature, volume and complexity of internal transactions. Lastly, there are key questions to be broached regarding wider economic, political and social contexts. Amongst these are: the nature of the market(s) in which a company operates; the material and ideological state of regulation; the nature of state-business relationships; and the dominant form of political economy, and concomitant societal values, including the nature and degree of pro- or anti-business sentiment. Crucially, Enron can only be understood in the context of a particularly vicious form of capitalism, fostered by deregulatory, pro-business neo-liberal governments on both sides of the Atlantic. It is a form of capitalism captured in the persona of Gordon Gekko, the corporate criminal of sharp suits and loose morals portrayed by Michael Douglas in the 80s film *Wall Street*, a trader whose key-phrase was itself a *leitmotif* for the eras of Reaganite and Thatcherite indulgence – "greed is good".

Indeed, it is important to emphasise generalised corporate illegality here. For Enron could not have committed its crimes in isolation. Arthur Andersen, one of the so-called 'big-four' accountancy firms, went bust following disclosure of its systematic complicity in the commission then concealment of Enron's scams. Amongst what amounted to virtually all of Wall Street's leading investment banks, two so far, JP Morgan Chase and Citigroup, have agreed to financial settlements (a combined $255m) to offset charges that they conspired with Enron in its frauds. What is clear is that we are not talking here about a rogue company, or a bunch of maverick individuals at its head. Enron – and other Enron-style crimes – indicate not the existence of a few rotten apples, but tell of a systematically rotting barrel.

Even presented in outline here, the above represents an extensive and complexly related set of factors. Explaining corporate crime requires reference to a wide-ranging explanatory framework incorporating variables from micro, meso and macro levels. Moreover, to do so we need an approach that spans criminology, criminal justice and socio-legal studies, but extends beyond, from organisational and management studies through to political economy. In short, corporate crime defies simple causal explanation – a characteristic it shares with conventional crime.

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