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CORPORATE CRIMES: THE SPECTER OF GENOCIDE HAUNTS THE WORLD

Exploitation of workers, communities and resources has always occurred, although it is not a central topic in the history of management, whose main narrative is urgency in the pursuit of efficiency and the right solutions. However, crimes, misconduct, unethical behavior and corporate social irresponsibility have become increasingly common, thus calling for reflections on the relevance of addressing these issues in the academic field and in management practice. In this essay, we start from the premise that corporate crime must be understood according to its multidisciplinary nature, and we focus our efforts on discussing management issues to argue that corporate crime is part of companies' operations to support contemporary capitalism. We begin by addressing the power of corporations as the main force of contemporary capitalism in its form of extreme concentration of corporate wealth and ownership. Then we discuss the seriousness of corporate crimes and how they resemble genocide. We close with our considerations on why organizations become criminal and present a way to prevent corporate crime.

CORPORATIONS

The Industrial Revolution gave a new outline to the operation of companies, especially with the emergence of new forms of business organization, such as the modern corporation, whose distinctive feature is the separation between ownership, which is scattered among many shareholders, and the control exercised by directors who own a small fraction, if any, of the company's stocks (Berle & Means, 1932).

The emergence of corporations in the nineteenth century changed the ownership mechanisms of companies, including in legal terms, and rapidly, from 1840 to 1860, corporations became capitalists' preferred business organization model. In the 1870's, the major corporations in most industries sought to reduce competition and increase their profits through a horizontal combination that allowed them to control raw materials and the market, as well as other advantages. The main characteristic of this type of business organization is its capacity to exert influence and power over a large geographical area, including in cultural and social terms, in addition to the possibilities of making higher profits. By then, corporations were already being accused of fixing prices, exploitation and other abuses, thus resulting in a political reaction by the US government, which created new forms of regulation for this type of organization in the late 19th century (Clinard, Yager, Brissette, Petrashek, & Harries, 1979).

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The effects of the changes arising from the consolidation of corporations divide researchers' opinions. Advocates for the positive effects point to the development of new goods and services, lower prices, job creation, improved formal education of people, and prosperity for the lower-income classes. In turn, those who point out the negative effects criticize the influence that corporations have on people's lives, especially due to their ideological power, which legitimizes their *status quo* as the only, desirable one. Large businesses imply high economic power in the hands of few; employees have a limited bargaining power with their employers and are more vulnerable to economic downturns, in addition to being forced to accept precarious working conditions with long working hours and low wages (Pearce & Tombs, 1999).

Considering the social and economic influences, one cannot forget that the state, in part of the world, has abandoned its intervener role: state-owned companies were privatized, new financial and fiscal instruments facilitated more efficient forms of production, and free-trade policies on a global level brought about a globalized system that has undermined the negotiating power of regions and nations (Bauman, 1999). It is no exaggeration to say that the state has become an apparatus used by a power bloc, e.g., corporations in a particular industry, to secure, maintain and expand its dominance over the economy, politics and society, as well as regulatory agencies (Pearce & Tombs, 1999). Corporations thus acquired the power of mobility, which allowed them to choose the resources, labor and location of their operations so as to obtain advantageous production conditions while eliminating any kind of limitations and constraints.

As for the relationship between governments and corporations, the latter make use of political connections, such as donations to political campaigns and the inclusion of members with a political background into boards of directors (Camilo, Marcon, & Bandeira-de-Mello, 2012). In analyzing the American context, Barley (2007) shows the power of influence of corporations on social institutions, including in democracies, contradicting traditional assumptions of organizational theorists that only the external environment affects organizations and they affect each other. Barley (2007) maps lobbying connections in the United States, representing corporations with US politicians to intervene in the environment in order to secure corporate interests by influencing social institutions in three ways: (1) creating legislation that benefits corporate citizens ; (2) limiting the creation of regulatory agencies that protect the public good from corporations' acts and the externalities they create; and (3) privatizing roles that should be performed by local, state and federal governments.

And so the state lost strength in its mediating role between the market and society, thus giving rise to a "new proliferation of weak and powerless sovereign states" (Bauman, 1999, p. 75), while multinationals consolidated their influence and the power to obtain concessions and settle in a business environment fostered by the abundance of low-cost, skilled labor, as well as the low regulation of working conditions. This influence and power grow as corporate forms of organization change, such as a general wave of mergers that began in the latter half of the twentieth century, particularly in the United Kingdom and the United States. Mergers, acquisitions, strategic alliances and joint ventures have become common strategies for corporations, since they allow them to share costs and risks as they increase their profits, market and power, and make politicians powerless to exercise any control over them.

In their struggle for survival in an environment of fierce competition for resources, corporations, whether intentionally or locally, indirectly or directly, conduct themselves in ways that can lead to crimes that are often dragged to the backstage of social life. Such conduct, decisions and actions within large corporations may constitute crimes against society, consumers, employees, the community, investors, governments and the environment. Such business actions came to be termed corporate crimes by journalistic texts and specialist websites, and the term became widely used in the last decade of the twentieth century (Erp, 2018).

Russell Mokhiber, a journalist and editor at the American weekly newsletter *Corporate Crime Reporter*, founded in 1987, compiled high-profile cases of crimes committed by companies in his 1988 book *Corporate Crime and Violence: Big Business Power and the Abuse of the Public Trust*. Mokhiber (1995) profiles 36 cases of corporate crime and violence that occurred until the 1980's, with details of violence against women, children, the environment and consumers, with an emphasis on the damaging consequences of business conduct. Corporate crimes have become increasingly common and are covered by the media under various denominations, being clearly described as a problem that transcends the individual level to lay its roots in corporate structures, processes and decisions (Erp, 2018).

Corporate crimes are widely discussed in sociology, law and economics, but approaches can vary, and their origins are not always associated with criminal conduct. Regarding the conceptualization of the term corporate crime, there is abundant terminology, including the term white collar crime (e. G. Sutherland, 1940), considered one of the first references to crimes committed in suits, in addition to the terms occupational crime and organizational crime.

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The specialist literature on corporate crime associates it with past business performance, pressures and barriers to achieving superior performance, structure, environment, technology, and other organizational variables. In addition, the principle of autonomy ensures that owners and shareholders will never bear the costs of social harm caused by corporations (Whyte, 2018). Nor do corporations bear the costs of preventing corporate crime from happening; instead, they prefer other practices that transfer these costs to society, which hardly ever associates the word crime with events in the corporate environment, even though they occur in pursuit of corporate profit and performance goals. However, "How to prevent corporate crimes?" is not a simple question to answer. It requires efforts to understand, firstly, the dimension in which they occur in society and, secondly, the interrelationships between the various actors involved in committing them.

CORPORATE CRIME SERIOUSNESS

In the literature on corporate crime, one aspect worth noting is the public opinion on the subject: ordinary crimes (or 'street crimes') are scarier than corporate crimes, even though the latter entail a set of damages that go beyond those entailed by the former, i.e., they reach invaluable proportions, since official statistics on their costs do not take into account diseases caused by environmental pollution, the sale of products that can harm consumers, potentially hazardous working conditions due to exposure to toxic products, among others, which make their costs underestimated. In addition to the contextual difficulties in identifying and measuring the costs and consequences of these crimes, in many of them the real damages are not reported in order to avoid embarrassment to the businesses involved.

Overall, without considering specific violence contexts, the financial costs of white collar crimes are as high as or higher than the costs of crimes considered "ordinary" or street crimes (Cohen, 2015). But the damage to social relations goes beyond the financial loss caused by that kind of crime. This is because white collar crime violates trust, thus generating low social moral and producing large-scale social disorganization, which is not the case with street crime, whose effects on social institutions and organizations are smaller.

Indeed, the high costs of corporate crime exceed by far the costs of individual crime, since in the former a single, simple act can result in thousands of victims. Violation of occupational safety standards can lead to many deaths and accidents; environmental contamination and pollution can affect many families and communities; the use of hazardous materials in the production of goods can increase the risk of health problems for many workers and consumers. In addition, victims are not just individuals, but also small businesses that can be led to insolvency.

The discussion of corporations' liability and culpability for damage caused by their activities comes down to three main points: the first concerns the fact that a corporation can never be arrested; the second is that one must recognize that if corporations are subject to criminal law just like individuals, then this could mean that they have the same rights and responsibilities; and the third refers to the tolerant attitudes or reactions of society to organizations' conduct. This third aspect stems mainly from the exaltation of the market and private enterprise as responsible for the progress and economic development of nations, which has led to a sanctifying stance towards corporations.

Sutherland (1940) argued that the small number of corporate crime convictions in the US criminal justice system was partly due to the absence of effective criminal sanctions for this type of crime. He explains this absence by referring to the impossibility of sentencing a corporation to death or imprisonment, the only possible penalty being fines, which, in fact, are paid by the shareholders in the form of reduced dividends. Sutherland also argues that white collar crime has found room to grow due to public tolerance to it, which has been changing over the years.

It is a fact that public opinion plays a key role in the debate on corporate culpability, given its influence on the control of illegal conduct in the business world. The population in general considers corporate offenses to be serious only when their consequences are physical, substantial, and relatively immediate. However, white collar crime is a real crime, and even if it is not commonly referred to as such, that does not make it smaller. Public opinion also plays a relevant role in regulating and controlling corporate crimes, so much so that the ambiguity of public opinion regarding illegal corporate behavior causes the law to be ambiguous too.

This issue was explored in a survey (Unnever, Benson, & Cullen, 2008) conducted with Americans to find out whether they wished to see stricter stock market regulations enacted and advocate more punishing criminal sanctions for executives who hide the company's true financial condition. As these authors reinforce, the public's feelings are potentially important in shaping crime control policies, especially if they occur when the message from the public is that something must be done to curb corporate crime.

In the US context, since the 1980's, street crime has received increased attention from the government, thus resulting in the adoption of more punishing public control policies against crime. However, with regard to corporate crime, despite the wave

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of corporate scandals in the country, the subject has not been treated with the necessary attention, which resulted in a gap to be filled. Most corporate violations were dealt with through civil and regulatory procedures rather than by the criminal justice system, which gives these violations the character of an accidental event.

A few reasons justify this treatment of corporate violations of the law. The first of these is the belief among economists and policymakers that the free market is self-regulating and there is no need for criminal law to control harmful corporate behavior. From an opposite viewpoint, authors like Snider (1990) believe that government controls, in the form of criminal regulations or laws, are necessary and appropriate.

The movement against corporate crime in the US has taken place since 1970, resulting in an increase in the use of criminal law against corporations. Unnever et al. (2008) analyze the evolution of criminal legislation and regulation directed at the corporate world, in the United States, in three steps: (1) a particular type of scandal is uncovered and (2) public outcry calls for action by government, which reacts (3) by making a formal accusation or creating new laws and regulations.

Reactions by the population to corporate conduct are relevant to establishing public policies for criminalizing corporate crime, since the legitimacy of a country's criminal justice system can be challenged if the government fails to respond to high-profile corporate crimes that result in damage to a significant number of victims.

The institutions and corporations present in society reflect economic and social inequalities, thus producing transgressive practices and patterns, which in turn result in the economic and political normative processes in this society. Therefore, a critical view of corporate crime can recognize that crime, like social processes, is shaped by those who enjoy political and economic power and influence to ensure that the denomination of what crime is reflects their worldview and interests, in the case of corporations, economic, social and political power.

CAN WE SPEAK OF GENOCIDES?

Corporate criminal actions have gained the status of genocides (Brook, 1998; Kelly, 2013, 2016; Medeiros & Alcadipani, 2018; Stokes & Gabriel, 2010), and organizations and their instrumental rationality have also been associated with the Holocaust (Bauman, 1998; Black, 2001). Despite the different meanings that the term has acquired throughout history, as well as the controversies about it, it is no exaggeration to make such associations because genocide is defined as the mass murder committed in an organized manner, and even though it is done by the State and militias, corporations are accomplices to it (Stel, 2014) in that they provide weapons and other resources. Although mass killings occurred earlier, it was not until the twentieth century that the term genocide was coined by Polish Jewish jurist Raphael Lemkin, in 1943, then a refugee in the United States, in an effort to denounce Nazi atrocities. Undoubtedly, Lemkin was influenced by the Holocaust, which victimized many members of his family, to define, in his book Axis Rule in Occupied Europe (1944), genocide as the murder of ethnic, religious, and national groups (Naimark, 2015).

Apart from corporate crimes that directly cause the death of hundreds of people, financial companies act as accomplices to governments and other organizations that commit genocide, such as BNP Paribas, which is accused of financing the purchase of weapons used in the genocide in Rwanda, in 1994 (BBC NEW, 2014). Another example is the collaboration of IBM and Ford with the Holocaust (Lima, 2016). Complicity to genocide, which can be characterized in different ways, is an act punishable under Article 3 of the Convention on the Prevention and Punishment of the Crime of Genocide, an international document prepared after World War II to protect the human person from Nazi genocides. In the same document, genocide is defined by acts committed to destroy a national, ethnic, racial or religious group, whether in part or as a whole. This concept is controversial because it does not include political, economic and cultural groups, which are deliberately excluded from the definition (Schabas, 2009). It also excludes the lives dismissed by contemporary capitalism, such as the deaths caused by the unbridled pursuit of economic profit, which Banerjee (2008) calls necrocapitalism.

Thus, the destruction caused by corporate crimes also occurs on a large scale as with genocide. The No Business with Genocide campaign was created in 2017 to prevent corporations from doing business with regimes that engage in genocide or crimes against humanity. Mokhiber (1995), in arguing that corporate crime is more violent than street crime, supports his arguments by presenting worldwide and US statistics about people murdered in the streets in the United States and around the world and about those who die in same period due to occupational illnesses and lack of safety at work, as well as victims of products that are harmful to health.

Union Carbide caused more than 3,000 deaths and left more than 50,000 people unable to work, in the case of Bhopal, India, in 1984. The mining industry impacts human rights and the environment, destroying lives. In Brazil, a mining company was convicted to pay a compensation for environmental and social damages as a result of contamination by lead which

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affected more than 18,000 people in the city of Santo Amaro da Purificacao, in the state of Bahia. Forty-six million people live in contemporary slavery. The war industry continues to supply weapons for conflicts, producing billions of bullets and millions of increasingly sophisticated weapons, with a trillion and a half dollars spent on weaponry, while one person is hit by a bullet each second. And hundreds of garment workers in Bangladesh, Dhaka and Chittagong died in the collapsed buildings where they worked for suppliers to major brands.

One cannot precisely count the number of lives lost or the material and social losses, which are difficult to identify and measure in corporate crime. In addition to all the physical deaths of people, rivers, fauna and flora, we must consider the psychological death of those who survive and the insecurity of the population about information that has surfaced about the fragile operating systems of companies that commit corporate crimes, which was formerly kept secret.

WHY ORGANIZATIONS BECOME CRIMINAL

Criminal behavior within corporations should not be analyzed as a personal deviation, but rather as the product of human relationships and interactions in specific contexts, depending on their economic, legal, organizational and normative characteristics, because regardless of the degree of personal motivation of those involved, corporate crime is a legitimate activity in the context in which it emerges.

It is not simple to say why organizations become criminal. Perhaps this answer will arise from studies with inter and multidisciplinary approaches, in their different perspectives and disciplines. In addition to the findings of previous research on the causes of corporate crime, which point to organizational and institutional factors, organizational culture, pressure for results and economic constraints, among others, we address reflections on how corporate crimes are organized by corporations.

The first of these concerns the participation of government agencies in two ways: when government-contracted corporations engage in deviant practices or have government approval to do so; and when government regulatory institutions fail to restrict deviant business activities. This is the so-called state-corporate crime, a type that comprises the intersection between governments and corporations to produce social harm, and the term was first presented by Richard Kramer in 1990, during the annual meeting of the Society for the Study of Social Problems.

Another reflection concerns the willingness that corporations naturally have to commit crimes or break the law in the interest of maximizing profits (Tombs & Whyte, 2015). Organizations provide opportunities for mobilizing the knowledge needed to commit crimes, for example, by keeping secrets, disguising illegal acts, omitting illegal profits, destroying evidence, paying lawmakers, politicians and authorities not to apply the law to them. It is therefore possible to conclude that organizations are a weapon for committing corporate crimes, and that organizations collaborate with each other to commit corporate crimes, either through joint ventures or other strategic alliances.

One must also consider the conduct of organization leaders who are responsible for decisions that lead to corporate crimes in the pursuit of corporate goals. Thus, motives related to economic factors, the decisions of managers/executives and the relations established with the State interconnect so that organizations commit crimes and subsequently become repeat offenders.

Corporations, then, do not become criminals. If they are the engine of contemporary capitalism, and profit is the main goal, some crime will potentially occur. If indemnities are paid, they do not impact profits. In most cases, even though the stocks of a company that committed corporate crime have dropped, and despite its losses, after a while the company is able to pick up its profits and pay generous bonuses to its executives.

BASES FOR REFLECTIONS ON CORPORATE CRIME CONTROL

This scenario is daunting: the dominance of corporations over our lives makes it impossible to dismantle the potentiality of corporate crimes whose lethality can be compared to that of genocide. We do not have an answer to the simple question "what to do?". Perhaps one thing to bear in mind is that corporate crimes should not gain the status of corporate malpractice and be prosecuted as such, that is, under civil law. In such cases, court decisions result in fines that are paid to the government or, in some cases, compensation to the injured parties. We reject the idea that the State should not intervene by means of regulations, prohibitions and severe punishment to corporations and their leaders. And yes, we agree with intervention that implies the loss of autonomy by this business model, which also means the removal of privileges that exempt owners from all the damage they cause (Whyte, 2018).

Change is needed in the types of political leadership, especially concerning the funding of or donations to political campaigns by corporations and companies. Controlling abuse by corporations requires emancipating politicians from these bonds, the price of which is often high and paid with lives.

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The connections between corporations and legislators are hindrances to a state of things where we no longer have to mourn corporate crime victims. Almost 30 years ago, Sargent (1990) already warned about the need to problematize the criminalization of corporate violations, while also calling for efforts to be directed at exploring other avenues for controlling corporate crime. Thus, society, represented by its citizens, is expected to question the practices and conduct of corporations that affect its current and future way of life. The social change required to prevent corporate crimes, or rather, to keep us from bearing the brunt and harm caused by them, which are profitable for corporations, has its genesis in questioning the dominance of corporations in contemporary society, as well as their responsibilities for corporate transgression.

The corporation as a business model is the greatest force in contemporary capitalism. The principle of corporate separation, under which corporate responsibilities and asset ownership are exclusively the corporation's, so shareholders have no responsibility for its crimes and misconduct, is an encouragement for corporate decisions to be made without considering their harmful consequences. No society wants to mourn lost lives or claim compensation for its material losses anymore, or shed tears for the destruction of its built identities, or even relive traumatic memories. What society wants is for corporate crimes to no longer happen. And in our view, dissolving this form of organizing business, the corporation, as well as others that facilitate the extreme accumulation of wealth and power, would be a way to prevent corporate crime.

We close this essay with a few points to be considered as a basis for our reflections on corporate crime control, since in our view they cause immeasurable damage and incalculable costs, including lives, which are priceless. It is not a matter of proposing solutions to a complex social problem such as the criminal activity of corporations, but rather providing the basis for an analytical reflection on corporate crimes as genocides.

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