

CORPORATE COMPLIANCE AS A PROBLEM OF CULTURAL MOTION

EXTENSION OF REMARKS TO THE SYMPOSIUM ON NEW DIRECTIONS IN CORPORATE COMPLIANCE

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Abstract

The culture concept has taken on an explanatory role in popular media accounts of corporate misconduct, from Enron in the early 2000s to the recent Volkswagen emissions-cheating scandal. However, the concept, from its origins in the Enlightenment philosophy of Immanuel Kant at the end of the eighteenth century through its transformations within the discipline of anthropology during the twentieth century, has continued to undergo refinement. This Article outlines recent developments in culture theory, focusing on one novel approach to culture as a form of motion. This approach views culture as propelled, retarded, and altered in its movement through the world by four classes of force: inertial, entropic, metacultural, and interest-based. I argue that the approach illuminates the problem of corporate compliance. True compliance occurs when the force of an explicitly formulated regulation—a metacultural force—is brought to bear on conduct. Much of what appears to be compliance in this true sense is actually habitual cultural practice, driven by inertia. An important source of metacultural force inside the corporation is the coherence of its regulations and internal motivations, that is, its ethos. Correspondingly, the sources of non-compliance include ethos incoherence. The Article concludes with two corporation-external sources of ethos incoherence—legal theories regarding corporations as existing exclusively for the benefit of shareholders, and economic theories emphasizing the self-regulatory character of markets and the

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