

Corporate Killing as a Corporate Governance Issue

Alice Belcher*

In May 2000 the government proposed the introduction of a new offence of corporate killing founded on the concept of "management failure". Two specific corporate risks are investigated: the risk that the company's operations will kill one of its employees or a member of the public and the risk that the company will be convicted of an offence indicating corporate responsibility for that killing. The article demonstrates, firstly, that the risks associated with corporate killing fall within the ambit of the Turnbull Guidance. More importantly, it uses this particular, not directly financial, example to illustrate the proposition that Turnbull should not be associated with closure; rather it should be associated with the opening of a new level of corporate governance debate that will focus on corporate behaviour rather than corporate policy.

Keywords: Corporate governance, criminal law, manslaughter, corporate responsibility, risk management, health and safety

Introduction

At the time of its publication in 1999, the Turnbull guidance on the internal control provision of the Combined Code was described in *Accountancy* as "the last piece in the corporate governance jigsaw". This description suggests that the UK corporate governance picture should now be clear. However, this article argues that it is wrong to associate Turnbull with closure. Rather it should be associated with the opening of a new level of corporate governance debate that will focus on corporate behaviour rather than corporate policy. During the year 2000, listed companies had to consider how to implement the risk-based approach to designing, operating and maintaining a sound system of internal control described in Turnbull.

In this paper two specific corporate risks are investigated: the risk that the company's operations will kill one of its employees or a member of the public and the risk that the company will be convicted of an offence indicating corporate responsibility for that killing. In England and Wales, it is possible to

convict a company of manslaughter, but successful prosecutions are rare. Under the "identification principle", before a company can be convicted of manslaughter, an individual who can be "identified as the embodiment of the company itself" must first be shown him or herself to have been guilty of manslaughter (*Attorney General's Reference (No 2 of 1999)* [2000] 3 All ER 182). In 1996 a Law Commission Report recommended the introduction of a new offence of corporate killing that does not depend on the identification principle. The proposed new offence is founded instead on the concept of "management failure". This is explained in terms of a failure in the way in which the company's activities are managed or organised. In May 2000 the government took the Law Commission's Report off the shelf and proposed to introduce the offence of corporate killing. Legislation on the proposed new offence was not included in the November 2000 Queen's speech, but pressure for change strengthened in the latter part of 2000 with the Hatfield rail crash and the resulting public pre-occupation with railway safety. The introduction of the

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Corporate Killing

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Corporate Killing:

Corporate Manslaughter and Corporate Homicide Act: Special Report (hard copy) Alex Davies, 2008 **Draft Corporate Manslaughter Bill** Great Britain: Parliament: House of Commons: Home Affairs Committee, Great Britain: Parliament. House of Commons Work and Pensions Committee, 2005-12-20 This joint report by the Home Affairs Committee and the Work and Pensions Committee examines the Government's proposals to reform the law on corporate manslaughter as set out in the draft Bill Cm 6497 ISBN 010164972X published in March 2005 for consultation The report supports the introduction of the draft Bill to address the need for a statutory offence to shift the basis of liability for corporate manslaughter away from the requirement of identifying a directing mind of a guilty company since this identification principle has made prosecutions of large companies almost impossible under the current common law Issues discussed include the application of the offence of corporate manslaughter in relation to corporations government departments and police forces issue of causation the law of negligence relevant duty of care and contractual relationships management failure the role of senior managers and gross breach the removal of Crown immunity territorial application of the offence corporate sanctions individual liability for directors powers of investigation and prosecution including the requirement to obtain the consent of the Director of Public Prosecutions before a private prosecution can be brought and cost issues **Corporate Manslaughter and Regulatory Reform** P. Almond, 2013-01-17 This book provides an account of the international emergence of corporate manslaughter offences to criminalise deaths in the workplace during the last twenty years identifying the limitations of health and safety regulation that have prompted this development **Corporate Manslaughter and Corporate Homicide** Shivam Goel, 2015-06-26 A corporation is an artificial legal person existing only in the contemplation of law having perpetual succession and common seal Can a corporation commit crime for its inability to form mens rea If yes then can it be accused of crimes as grave as homicide Even post the Bhopal Gas Tragedy and the Uphaar Cinema Tragedy absence of legislation such as the Corporate Manslaughter and Corporate Homicide Act 2007 UK is no less a pity Absolute liability theory coupled with deep pocket theory though is an improvisation over the strict liability theory but has failed to ensure corporate criminal deterrence This book is an attempt to ponder over issues relating to corporate criminal behaviour in particular corporate homicide and corporate manslaughter Rethinking Corporate Crime James Gobert, Maurice Punch, 2003-03 Critiques the application of the current criminal law system to corporate wrongdoing and assesses the potential for legal control of corporate criminality **Corporate Manslaughter in the Maritime and Aviation Industries** Simon Daniels, 2016-08-12 This book provides expert analysis of the application of the evolving law in Corporate Manslaughter as it relates to the Maritime and Aviation industries It will prove to be a useful tool for practitioners and students in this specialised area as well as those working in the maritime and aviation industries such as those who will be accountable under the Corporate Manslaughter Act 2007 the Masters and Pilots who manage the risks and the insurers

who underwrite the cost of the risks The author will discuss areas such as The liability towards passengers and employees The Prosecution of offenders Comparative analysis of corporate manslaughter in the wider global industry

Corporate Governance Robert A. G. Monks, Nell Minow, 2011-08-15 In the wake of the recent global financial collapse the timely new edition of this successful text provides students and business professionals with a welcome update of the key issues facing managers boards of directors investors and shareholders In addition to its authoritative overview of the history the myth and the reality of corporate governance this new edition has been updated to include analysis of the financial crisis the reasons for the global scale of the recession the failure of international risk management An overview of corporate governance guidelines and codes of practice new cases Once again in the new edition of their textbook Robert A G Monks and Nell Minow show clearly the role of corporate governance in making sure the right questions are asked and the necessary checks and balances in place to protect the long term sustainable value of the enterprise Features 18 case studies of institutions and corporations in crisis and analyses the reasons for their fall Cases include Lehman Brothers General Motors American Express Time Warner IBM and Premier Oil

Corporate Risk Management Tony Merna, Faisal F. Al-Thani, 2011-03-10 The book analyzes compares and contrasts tools and techniques used in risk management at corporate strategic business and project level and develops a risk management mechanism for the sequencing of risk assessment through corporate strategic and project stages of an investment in order to meet the requirements of the 1999 Turnbull report By classifying and categorizing risk within these levels it is possible to drill down and roll up to any level of the organizational structure and to establish the risks that each project is most sensitive to so that appropriate risk response strategies may be implemented to benefit all stakeholders The new edition of this book provides a clear insight into the intricacies of corporate risk management and the addition of the case study exemplars aids understanding of the management of multiple projects in the real world Professor Nigel Smith Head of the School of Civil Engineering University of Leeds

Bourne on Company Law Nicholas Bourne, 2013-03-05 An ideal introductory textbook Bourne on Company Law offers a succinct overview of the fundamental areas covered in LLB and GDL courses Clear and easy to follow the book is presented in short sub headed sections for ease of navigation and is thoroughly cross referenced to highlight connections across topics This sixth edition expands on emerging areas such as directors duties and corporate governance as well as offering increased discussion of EU Company Law Written for both law and non law students it offers full case citations and straightforward explanations of all key cases as well as chapter summaries and end of chapter questions to aid student understanding The sixth edition is also supported by a companion website offering self test questions a useful glossary and annotated web links

Business Environment John Kew, John Stredwick, 2008-05-16 A solid understanding of the social economic and legal environment in which a business operates is crucial to developing a successful business strategy With a unique balance between theory and practice Business Environment is a broad ranging and easy to use guide that looks at how factors such as the world economy

government policy regulation and demography and social trends affect day to day strategy and decision making in practice The text is ideal for students taking undergraduate and postgraduate modules in the Business Environment or Business Context areas of an HR or business degree and also caters for students studying the CIPD Leadership and Management module Managing in a Strategic Business Context This fully updated 2nd edition includes new content addressing the needs of migrant workers further international case studies and real world examples and lots of new research from the CIPD and elsewhere Online you will find a comprehensive tutor and student support site to complement the practical material within the text Packed with engaging features such as chapter objectives student and seminar activities self assessment questions case studies key learning points and further reading Business Environment is guaranteed to develop the skills knowledge and key understanding of business strategy that is required at every level

Crime and Regulation Fiona Haines, 2017-11-30

This volume brings together key articles in the burgeoning field of regulation The collection is interdisciplinary in keeping with study of regulation itself yet the book arranges and explores these articles to make the bewildering array of issues and concepts that comprise the study of regulation comprehensible to a criminological audience It will be of interest to all scholars and students of criminology and criminal justice as well as those concerned with reducing the crimes and harms of the powerful

Complete Criminal Law Misch Allen, 2025

Corporate Liability: A Study in Principles of

Attribution Cheong-Ann Png, 2001-08-03 When infringement or wrongdoing is alleged against a corporation where are we to look for the imputed reprehensible conduct or knowledge on which the case must depend This is a question that is asked and asked again as each expansion and intensification of corporate activity gives rise to ever more complex issues of accountability and responsibility This major new theoretical study builds on classic and recent work in the field to provide a systematic and coherent analysis of corporate liability in its current context Focusing on rules of attribution developed in a notable series of English cases the author explains in detail the various ways in which these rules may be applied in civil criminal and regulatory proceedings against corporate defendants The book exposes the circumstances in which corporations as legal persons may incur personal liability for the acts or omissions of their servants or agents that were carried out in the course of their employment defining the means through which corporate liability must be determined It focuses on the personal liability of corporations incorporating common law principles of vicarious liability and agency as well as exceptions arising from the Companies Act 1985 and other legislation The study covers such important areas as the following the problem of many hands in which individual servants or agents may be aware of only a portion of a corporate transaction or undertaking the traditional directing mind theory as one of the means of identifying the relevant individuals whose conduct or state of knowledge may result in corporate liability the development of principles of attribution as a framework for approaching different situations where liability may be established against corporations a new concept of aggregation which allows under particular circumstances the collective knowledge of various individuals to be attributed to the corporation the

relevance of Chinese Walls in limiting the extent to which principles of attribution apply a comprehensive survey of the different circumstances in which corporations including holding corporations in corporate groups and their servants and agents may incur liability Corporate Liability A Study in Principles of Attribution is far more than a mere legal device for practical purposes It is in every way a groundbreaking work in the field of absorbing interest to scholars jurists and lawyers alike

When Business Kills Sarah Field, Lucy Jones, 2017-11-21 This book aims to explain in clear accessible language the approach taken by government to corporate offending resulting in a fatality in both the United Kingdom and the United States The key provisions of the statutory offense of corporate manslaughter introduced into the United Kingdom in 2008 are examined and set in context through a consideration of their relationship with prosecution for fatalities at work via the Health and Safety at Work etc Act 1974 Further contextualization is made through comparison with the current position in the United States highlighting both similarities and differences in approach to occupational fatalities The range of potential penalties is discussed with particular focus on the sentencing guidelines that apply after February 2016 Concluded corporate homicide cases are reviewed in order to assess the current regime in terms of financial penalties and to shine light on the evolving approach of the prosecuting authorities and the courts to these offenses

Corporate Manslaughter and Corporate Homicide Act: Special Report , **Corporate Governance** John Hynes Farrar, 2005 Corporate Governance in Australia and New Zealand 2e is a fully updated comprehensive study of the law and practice of corporate governance in an international setting but with particular reference to Australia and New Zealand

Corporate Governance , 2002 Critically addresses the issues and controversies surrounding the practice of corporate governance in the Asia Pacific region Includes country specific studies from Australia China Hong Kong Malaysia New Zealand Singapore the UK and the USA

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Research Handbook on Corporate Legal Responsibility Stephen Tully, 2005 The ever important topic of corporate legal responsibility is deconstructed into many multifaceted components in this fascinating Handbook which systematically examines each in turn and describes the contemporary legal position The Research Handbook on Corporate Legal Responsibility considers general theory and basic concepts such as corporate legal personality the doctrine of attribution corporate governance and directors duties and reviews the range of individuals to which corporations may be held responsible particularly employees suppliers shareholders stakeholders and women The substantive grounds for corporate responsibility under civil and criminal law within the North American and Commonwealth jurisdictions are evaluated and mechanisms of accountability such as novel regulatory processes interactive regulation codes of conduct and social reporting risk management and the significant role of non governmental organisations are identified The thought provoking chapters contained within this Handbook go on to present perspectives on topical international

questions corruption labour standards human rights environmental protection and sustainable development including an analysis of recent initiatives from several international organisations Bringing together the work of around thirty leading academics practitioners campaigners and policymakers from North America Europe and Australia each chapter locates these issues within a theoretical context giving an overview of its historical evolution providing an accurate account of the current legal position and identifying policy issues likely to influence future developments

This book delves into Corporate Killing. Corporate Killing is a crucial topic that must be grasped by everyone, from students and scholars to the general public. This book will furnish comprehensive and in-depth insights into Corporate Killing, encompassing both the fundamentals and more intricate discussions.

1. This book is structured into several chapters, namely:

- Chapter 1: Introduction to Corporate Killing
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- Chapter 3: Corporate Killing in Everyday Life
- Chapter 4: Corporate Killing in Specific Contexts
- Chapter 5: Conclusion

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4. In chapter 3, the author will examine the practical applications of Corporate Killing in daily life. The third chapter will showcase real-world examples of how Corporate Killing can be effectively utilized in everyday scenarios.
5. In chapter 4, the author will scrutinize the relevance of Corporate Killing in specific contexts. This chapter will explore how Corporate Killing is applied in specialized fields, such as education, business, and technology.
6. In chapter 5, this book will draw a conclusion about Corporate Killing. The final chapter will summarize the key points that have been discussed throughout the book.

This book is crafted in an easy-to-understand language and is complemented by engaging illustrations. It is highly recommended for anyone seeking to gain a comprehensive understanding of Corporate Killing.

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Table of Contents Corporate Killing

1. Understanding the eBook Corporate Killing

- The Rise of Digital Reading Corporate Killing
- Advantages of eBooks Over Traditional Books
- 2. Identifying Corporate Killing
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
- 3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Corporate Killing
 - User-Friendly Interface
- 4. Exploring eBook Recommendations from Corporate Killing
 - Personalized Recommendations
 - Corporate Killing User Reviews and Ratings
 - Corporate Killing and Bestseller Lists
- 5. Accessing Corporate Killing Free and Paid eBooks
 - Corporate Killing Public Domain eBooks
 - Corporate Killing eBook Subscription Services
 - Corporate Killing Budget-Friendly Options
- 6. Navigating Corporate Killing eBook Formats
 - ePub, PDF, MOBI, and More
 - Corporate Killing Compatibility with Devices
 - Corporate Killing Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Corporate Killing
 - Highlighting and Note-Taking Corporate Killing
 - Interactive Elements Corporate Killing
- 8. Staying Engaged with Corporate Killing
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Corporate Killing

9. Balancing eBooks and Physical Books Corporate Killing
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Corporate Killing
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Corporate Killing
 - Setting Reading Goals Corporate Killing
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Corporate Killing
 - Fact-Checking eBook Content of Corporate Killing
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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