Organizational Illegal Behavior as an Unanticipated Consequence of Philanthropy: Explaining a Paradox

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We investigate how organizations engage in illegal behavior. We draw on institutional and signaling theory to suggest that corporate philanthropy creates legitimacy by signaling a positive organizational image. Additionally, we draw on key resources theories to suggest that individual resources create a positive reputation and create legitimacy by signaling a positive individual image. Based on these positive organizational and individual images, there may be an unanticipated consequence, whereby legitimacy becomes a catalyst to a process that could be potentially detrimental. Specifically, actors within the organization who engaged in corporate philanthropy may have done so with good intentions; however, other actors within the organization may capitalize on this increased legitimacy fueled by their individual and the organization's positive social engagements and take advantage of the opportunity to engage in corporate illegal behavior. Implications of the proposed relationship and their limitations are provided, as well as a discussion of future research opportunities.

INTRODUCTION

Corporate scandals from companies such as Enron, WorldCom, and Tyco have drawn attention to the prevalence of illegal behavior within organizations. We draw from previous definitions of corporate illegal behavior and define organizational illegal behavior (OIB) here as behavior that occurs within the context of an organization with the intent to financially benefit either the organization or the individuals within the organization while breaking existing laws (Baucus & Near, 1991; Zahra, Priem & Rasheed, 2005). When individuals or organizations engage in OIB, the negative consequences of the illegal acts can be detrimental to society by affecting groups (economy, local communities) or individuals (shareholders, debt holders, employees, managers) (Zahra et al., 2005). The significant economic cost of OIB negatively affects local communities. For example, OIB can increase community unemployment rates, reduce tax revenue to the community, and cause a loss of endowments to nonprofit organizations (Zahra et al., 2005). Researchers estimate that in 2002 alone $600 billion was lost due to managerial fraud (Schnatterly, 2003; Thomas & Gibson, 2003).

As significant the negative consequences that OIB are on society, individuals that have a vested interest in the focal organization are often hit the hardest (Zahra et al., 2005). For example, when news of an organization's fraud becomes public, shareholders may be most significantly affected by a decrease of the share value. Shareholders may also feel disgrace from their association with the organization. Increased holding debt by the focal organization may also be affected as the credit rating could decrease. A decreased credit rating could lead to a decrease in demand for the organization's bonds and subsequently to a decrease in the price for the bonds. It could also lead to an increase in coupon rates demanded by the exogenous investors. Finally, employees could potentially lose their jobs, pensions and their reputations (e.g., the stigma former Arthur Anderson employees carry) (Hamilton, 2006). The implementation of the Sarbanes-Oxley Act in 2002 requires the individuals who commit the illegal behavior to pay fines or serve jail time (Zahra et al., 2005); however, the families and stakeholders of these individuals may also face negative consequences, even though they are not directly involved with the illegal behavior.

The government has attempted to regulate OIB. For example, one mechanism that was developed in order to monitor the effectiveness of combating global commercial bribery is the Foreign Corrupt Practices Act (FCPA). This act, as well as other codes of conduct, emerged as a means to protect the public and to ensure responsible management (Hansen, McDonald, Messier, & Bell, 1996). Although there has been a sustained effort to minimize OIB, it has continued (Berenson, 2003; Zahra, et al., 2005). In light of the numerous corporate debacles, such as Enron, WorldCom, and Tyco, it's possible that political, legal, and economic forces may have contributed to the government's inability to minimize these illegal behaviors (Weismann, 2009). Thus, a recent research interest has emerged to understand factors that contribute to this type of behavior (e.g., Baucus & Near, 1991; Daboub, Rasheed, Priem, & Gray, 1995; Dalton & Kesner, 1987; Hill, Kelley, Agle, Hitt, & Hoskisson, 1992; Zahra, et al., 2005).

As a result, several scholars have attempted to identify antecedents of organizational illegal activity including: organizational size (Baucus & Near, 1991; Clinard, Yeager, Brisette, Petrashek, & Harries, 1979; Dalton & Kesner, 1987), top management team characteristics (Daboub, et al., 1995), and industry (Baucus & Near, 1991; Simpson, 1986).

Although scholars have made significant advances in identifying antecedents of OIB, they have primarily focused on identifying firm characteristics rather than identifying "how" these organizations (or the individuals within them) engage in OIB. Institutional theory (Selznick, 1948), signaling theory (Cohen & Dean, 2005; Sanders & Boivie, 2004; Spence, 1973) and key resources theory (e.g., Bandura, 1982; Hobfoll, 1989; Scheier & Carver, 1992) may provide a useful view that can enlighten OIB research. Specifically, we draw on these theories to suggest that organizations and individuals who gain legitimacy may be able to signal a positive image. That positive image, in turn, may act as a catalyst for individuals within the organization to engage in these types of behaviors. First, institutional theorists have suggested that organizations can maintain legitimacy by engaging in philanthropy (Galaskiewicz & Burt, 1991), defined as, "a discretionary responsibility of a firm that involves choosing how it will voluntarily allocate resources to charitable or social services activities in order to reach the market and other business related objectives for which there are no clear social expectations as to how the firm should perform" (Ricks, 2005: 122). Philanthropy signals to the community that the organization has a vested interest in the social welfare of society and it is often associated with positive outcomes, such as providing the organization with the opportunity to embed itself in the community (Eikenberry, 2006; Haley, 1991).

However, while philanthropy has the intended consequence to benefit society and organizational image, there may be an unanticipated consequence of philanthropy. Specifically, trusted and highly regarded organizations and individuals may be able to abuse the legitimacy and trust created by philanthropy. As such, the legitimacy may help serve as a catalyst to assist ill-willed individuals within the organization to engage in OIB. The logic follows that individuals and organizations may experience a relaxation of external supervision and control from others in society when organizational legitimacy increases. Thus, legitimacy may create a context with low levels of supervision, which could in turn, aid individuals to engage in illegal behavior. So, although individuals in the organization who contribute to philanthropy may intend to benefit society or the organization's image, the actors in the organizations who engage in OIB may have individualistic intentions. These individualistic intentions may include obtaining job security, gaining a promotion, or embezzling funds (Aguilera & Vadera, 2008). Thus, OIB may be an unanticipated consequence of corporate philanthropy.

This phenomenon could also occur at the individual level when individuals display high levels of social resources, which include social capabilities or competencies that enable the achievement of goals (Bakker & Demerouti, 2007). An individual with high levels of social resources may be able to gain legitimacy and a positive reputation within the organization (Suchman, 1995). For example, a manager with high levels of social resources may be able to develop a trusting relationship with board members, senior managers, subordinates, and other actors within the organization. This trusting relationship may then lead to a relaxation in supervision from other actors within the organization. Once supervision is relaxed, the individual may have the opportunity to abuse the trusting environment and engage in illegal behavior.

To sum, unanticipated consequences result even when the actor does not expect them to (or intend them to) in advance (Merton, 1936). These types of consequences differ from intended consequences in that intended consequences are the objectives and intentions of the action, the targets toward which the action is focused, and the motives that inspired the action (Merton, 1936). Although scholarly research that explores intended consequences is important, Merton (1936) urged scholars to investigate the unanticipated consequences of social action. As a result, several scholars have explored unanticipated consequences. For example, McKinley and Scherer (2000) studied unanticipated consequences of organizational restructuring. Additionally, Tenner (1996) investigated the unanticipated consequences of various types of technology. Finally, Winkel, Wyland, Shaffer, and Clason (2011) studied unanticipated consequences of individual social resources. In this paper, we suggest that forms of OIB may be unanticipated consequences of philanthropy and high levels of individual social resources. Therefore, our focus in this paper represents a unique contribution and adds a novel dimension to philanthropy and OIB. We suggest that enhanced legitimacy lowers monitoring and surveillance, thus creating an environment that could facilitate illegal behavior.

In this manuscript, we first review the history of existing literature from two streams; illegal behavior that occurs in organizations, and philanthropy. Although we acknowledge that other antecedents may exist for social resources, philanthropy, and OIB, the scope of this paper is to examine the relationship between the three. Second, we propose a model and draw on institutional theory (Selznick, 1948) signaling theory (Cohen & Dean, 2005; Sanders & Boivie, 2004; Spence, 1973) and key resources theory (e.g., Bandura, 1982; Hobfoll, 1989; Scheier & Carver, 1992) as a theoretical foundation for our propositions. Finally, we provide a discussion of implications and future research possibilities.

HISTORY OF ORGANIZATIONAL ILLEGAL BEHAVIOR AND PHILANTHROPY

Organizational Illegal Behavior

Early studies focused on crimes that individuals committed for personal gain. These scholars used the term, *white collar crime* to describe behavior in which individuals bribed, manipulated stock exchanges, embezzled, or misappropriated funds (Sutherland, 1939). Researchers then began to focus on illegal acts that were committed to achieve corporate gain instead of individual gain (Sutherland, 1956).Recently, scholars have begun to distinguish between corporate illegality by determining whether the beneficiary is the organization, referred to as corporate crimes, the individual, referred to as occupational crimes, or both (Baucus, 1990; Clinard & Quinney, 1973; Daboub, et al., 1995; McKendall & Wagner, 1997; O'Connor, Priem, Coombs, Gilley, 2006; Schrager & Short, 1978). Occupational crimes include acts like padding expense accounts and receiving kickbacks, whereas corporate crimes include crimes like pollution control violations, bribery, tax fraud, and any other act that is encompassed by the definition, "conduct of the employees acting on behalf of a company, which is proscribed and punishable by law"

(Braithwaite, 1984: 6), while crimes that benefit both the individual and organization include acts like embezzlement and pilferage (Szwajkowski, 1985). For the purpose of this paper, we use the term organizational illegal behavior (OIB) as an overarching label to include behavior that is committed by actors within the organization for both company and individual gains. Individuals who engage in OIB typically have a self-interest motive in order to increase personal financial gains (Andreoli & Lefkowitz, 2009; Szwajkowski, 1985). According to Monks and Minow (1991) the acts of OIB are often, although not exclusively, committed by members of upper management such as the CEO or CFO (Monks & Minow, 1991; Zahra et al., 2005). Often these actors have access to or use the marketing, finance, engineering, and accounting departments (Daboub et al., 1995). However, managers are also the fiduciaries of their stakeholders, and as such have the legal and ethical obligation to act in the best interest of those who have bestowed their trust in them. As Zahra, et al., (2005) suggest, illegal behavior committed by members of the top management team is especially appalling to many people because it represents an extreme betrayal of the fiduciary trust by the individuals who were taught to possess leadership ability and character.

Philanthropy

Organizations have a social responsibility to display ethical management and enhance goodwill to society (Lee, Park, Moon, Yang, & Kim, 2009). Hence, organizations participate in philanthropy in order to establish and develop a favorable relationship with stakeholders (Campbell & Slack, 2007). Examples of philanthropy include organizations donating money, goods, time, or training to a charity in order to address a societal cause (Leisinger, 2007). For instance, in the 1990s, Avon donated $22 million to breast cancer awareness (Ricks, 2005) and DreamWorks SKG created a program to improve the working skills of low-income students in Los Angeles (Porter & Kramer, 2002). Researchers suggested that organizations engage in philanthropy to benefit society and to improve their image (Forehand & Grier, 2003; Lee et al., 2009; O'Keefe & Partners, 2002). Thus, the motives of philanthropy may be grouped into two categories: intrinsic (an organization's motive for the enhancement of individuals outside the organization) and extrinsic (an organization's motive that focuses on improving the image) (Forehand & Grier, 2003; Lee et al., 2009).

When an organization engages in philanthropy, the task of charitable giving is typically initiated by upper management (Siegfried, McElroy, & Bientot-Fawkes, 1983). However, organizations place a different emphasis on the importance of philanthropy; thus, the responsibility of philanthropy may reside at different levels within the organization. As such, philanthropic activities can be initiated by the CEO, individuals from the top management team, or individuals within any department (level) (Brammer, Millington, & Pavelin, 2006).

In the next section, we draw on three theoretical foundations (institutional theory, signaling theory and key resources theory) to develop the model, which suggests that philanthropy strategies can signal a positive image to the general public and consequently may increase legitimacy. Additionally, individuals who have high levels of social resources may signal a positive image to the organization which, in combination with the organization's legitimacy may provide an opportunity whereby unanticipated consequences (here: OIB) may result.

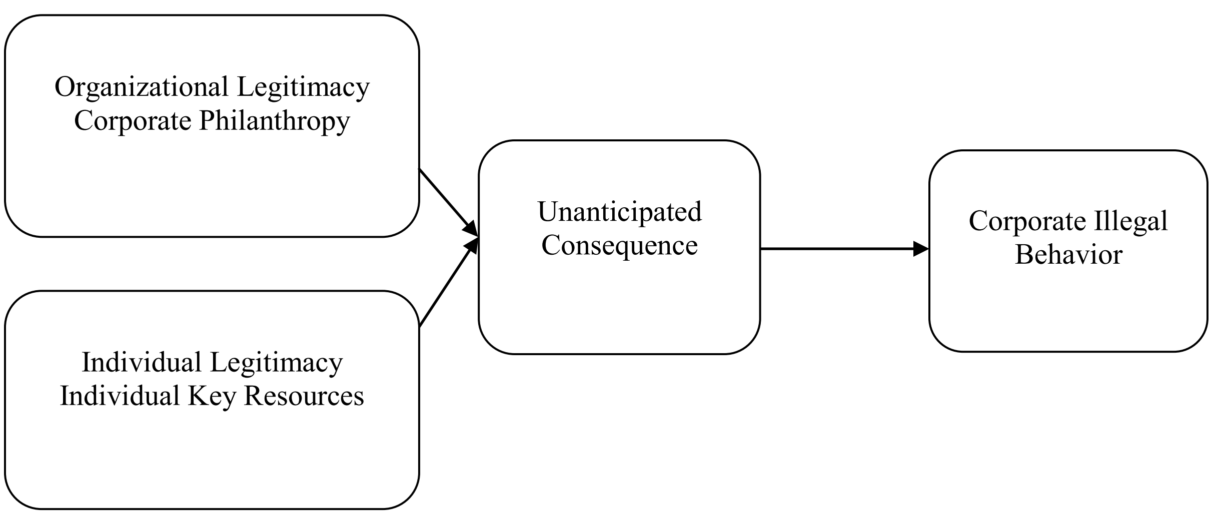
THEORETICAL PERSPECTIVES

One of institutional theory's central tenets suggests that legitimacy is critical for organizational survival and is achieved through isomorphism, whereby organizations become similar to other organizations within their field (DiMaggio & Powell, 1983; Kostova, Roth, & Dacin, 2008; Selznick, 1948). However, some scholars have challenged institutional theory's applicability to certain types of organizations like multinational corporations (Kostova et al., 2008). These scholars suggest that some types of organizations gain legitimacy through a process of political interaction (Kostova et al., 2008). The process of political interaction can create a perception about the organization without the organization having to implement practices that conform to industry expectations and norms (Kostova et al., 2008). This perspective views legitimacy as a process of social construction rather than a process of isomorphism. The organization's socially constructed reputation can be used to gain exemption status from regulatory expectations (Kostova et al., 2008). It can also be used to decrease the need for compliance (Kostova et al., 2008). Legitimacy can then be maintained by adopting designs that distract attention from the controversial activities that an organization may engage in (Elsbach & Sutton, 1992). For example, by adopting structures that are visible to the public and which conform to social norms, organizations may enhance legitimacy, even when their activities are unethical, illegal or conflict with others (Meyer & Rowan, 1977). Thus, organizations can maintain the impression that they are rational and legitimate by using acceptable procedures even when they participate in activities that clash with social norms (Scott, 1987).

Signaling theory has been applied by management scholars to suggest that investors rely on observable and credible signals from the organization (Cohen & Dean, 2005; Sanders & Boivie, 2004; Spence, 1973). We apply this theory to suggest that one reason that firms engage in philanthropy is to signal a favorable image to investors and the general public. This signaling process could build a positive reputation and image of the organization, which could then be used as a means for individuals within the organization to engage in OIB. In conjunction, we apply the underpinnings of institutional theory and signaling theory to suggest that organizations are able to build a positive reputation and gain legitimacy through philanthropic strategies. However, this increased legitimacy may result in a decreased need for compliance with regulatory bodies. For example, if an organization has gained legitimacy, they may not need to conform to regulatory expectations.

Additionally, we draw from key resources theories to suggest that there are some individual-level social resources that individuals may use to achieve desired outcomes (e.g., Bandura, 1982, Hobfoll, 1989; Scheier & Carver, 1992). Emotional intelligence, which is the ability to manage emotions in one's self and in others, is an example of a social resource (Mayor & Salovey, 1997). Some scholars suggest that deviant behaviors may be an unanticipated consequence of high levels of emotional intelligence (Winkel et al., 2011). The logic follows that emotional intelligence may signal a positive reputation or individual image. This positive image may then allow for decreased surveillance from other individuals within the organization (Winkel et al., 2011). We build upon this foundation and suggest that these types of social resources may lead to OIB because employees, colleagues, and the board of directors are less likely to monitor individuals who have positive reputations or have gained legitimacy. Thus, the positive reputation may serve as a catalyst in the process whereby philanthropy and individual social resources can create an unanticipated consequence of OIB.

FIGURE 1
PROPOSED MODEL



MODEL DEVELOPMENT AND PROPOSITIONS

Reputation and legitimacy are perceptions of approval of an organization's practices based on stakeholders' evaluations (Elsbach, 2006; Rao, 1994; Ruef & Scott 1998). Organizations can gain legitimacy when they comply and conform to the minimum social expectations in society (Deephouse & Carter, 2005). A positive reputation is a desirable and difficult-to-attain attribute in which organizations are viewed positively relative to the accepted standard for a particular societal identity (King & Whetten, 2008). Organizations participate in philanthropy in order to establish and develop a favorable relationship with stakeholders (Campbell & Slack, 2007). Thus, an organization's anticipated consequence of engaging in philanthropy is to enhance society (gain legitimacy) and improve corporate image (improve reputation). When organizations engage in philanthropy, they likely do so with good intentions. However, there could be unanticipated consequences of philanthropic strategies. For example, Ashforth and Anand (2003) suggest that when members of the top management team are charismatic, which is a quality that increases trust and obedience by subordinates, they may be able to develop coalitions of followers who do not question the leader's actions. These charismatic leaders may be able to use their personal charisma to engage in fraudulent schemes while misleading others in and outside of the company (Berenson, 2003). In other words, the individual is able to "signal" a positive image, which intentionally or unintentionally, serves as a distraction while they attempt to get away with an illegal act. In addition to using their own personal image as a distraction to engage in illegal behavior, these individuals may also draw on the positive corporate image and reputation that was signaled by philanthropic activities as a distraction for OIB. Thus, although philanthropy is intended to promote a positive organizational image, it can create an opportunity whereby an individual can take advantage of the positive image and engage in OIB.

P1: There is a direct positive relationship between philanthropy and OIB that is intended to benefit the individual

Schweitzer, Ordonez, and Douma (2004) conducted an experiment and found that individuals are more likely to intentionally overstate performance when goals are not met if the goals are specific hard goals rather than goals such as, "do your best." Zahra et al., (2005) argue that the experiment represents an approximation of the decisions that senior managers face when choosing to inflate the firms' earnings, an illegal action that is intended to benefit the organization. We argue that these actors can use the legitimacy that was increased by engagement in philanthropic activities to distract shareholders, board of directors, employees and the general public in an attempt to maintain legitimacy. If legitimacy is not maintained, stock price could decrease, jobs could be lost, and ultimately, organizational survival could be jeopardized; thus, managers may be motivated to do whatever is necessary to maintain legitimacy, regardless of the legal nature of the action. Therefore, although organizations engage in philanthropy to benefit stakeholders, the legitimacy that it creates may be later used to hurt these stakeholders.

P2: There is a direct relationship between corporate philanthropy and corporate illegal behavior that is intended to benefit the organization

Although we have suggested that philanthropy may provide opportunities for individuals to engage in OIB, it is important to understand which actors may engage in these types of behavior. When individuals within the organization obtain legitimacy or a positive reputation, they are likely to have less surveillance and monitoring by stakeholders. One way to signal a positive reputation is by displaying high levels of social resources such as emotional intelligence. Although most scholars study the positive outcomes of emotional intelligence, some scholars have suggested that emotional intelligence has a "dark side," which could increase negative outcomes and behaviors (e.g., Austin, Farrelly, Black, & Moore, 2007). This perspective suggests that possessing too high of a level of a given resource may result in negative behavior or outcome (e.g., Ryan & Deci, 2000). For example, scholars have found a positive relationship between emotional intelligence and deviant behavior (Winkel et al., 2011). This relationship may result because individuals with high emotional intelligence are able to adjust to their surroundings and their environment to achieve valued outcomes (e.g., Mayor & Salovey, 1997). These individuals are also able to understand situations and develop networks through high levels of social awareness and influence, which may manifest itself in deviant behavior (Winkel et al., 2011), or in this context, OIB.

P3: There is a direct positive relationship between top management individual social resources and corporate illegal behavior that is intended to benefit the individual and the organization

DISCUSSION

This manuscript has discussed philanthropy and its association with OIB. When organizations participate in philanthropic activities, it shows that they are responding to the public's desire to have an active involvement towards enhancing society (Lee et al., 2009), thus, improving the organization's image. However, we speculate that there may be an unanticipated consequence of philanthropy, whereby legitimacy becomes a means to a process that could be detrimental. Specifically, actors within the organization may capitalize on this increased organizational legitimacy and take advantage of it by engaging in OIB. The actors in the organization who take advantage of the opportunity may have individualistic intentions such as obtaining job security, promotions, or funds (Aguilera & Vadera, 2008). Additionally, these actors may have high levels of social resources, which signal a positive reputation and decrease surveillance. These individuals may use their individual legitimacy as well as the organization's legitimacy, which is gained from philanthropy, as a distraction or a signal that diverts attention from their illegal intentions and/or actions. However, if legitimacy is not maintained in the organization, organizational survival could be jeopardized. Managers may be motivated to do whatever is necessary to maintain legitimacy, regardless of the possible consequences. Thus, OIB may be an unanticipated consequence of philanthropy.

We suggest that organizations that engage in philanthropy to motivate and enhance society and gain legitimacy must be aware of potential unanticipated consequences. The purpose of our propositions is to give scholars and practitioners insights into how legitimacy could be later used by ill-willed actors to facilitate illegal behavior. Organizations should be aware that individuals may use their own personal image and/or the legitimacy that was increased by participating in philanthropic activities as a distraction to engage in OIB. Thus, organizations and boards of directors should closely monitor corporate and occupational crimes when an organization has reached a state of legitimacy by engaging in philanthropy.

CONCLUSION AND FUTURE RESEARCH

Scandals like Enron, WorldCom, Tyco, and Bernard L. Madoff Investment Securities LLC have drawn a lot of public and academic attention recently, yet our understanding of OIB is underdeveloped. The literature reviewed in this paper suggests that researchers have made substantial progress in understanding this phenomenon. However, there are still several opportunities for scholars to make significant contributions to knowledge, such as examining how OIB occurs.

Thus, in this paper, we drew on previous scholars' findings as well as institutional theory and signaling theory to introduce a model whereby, OIB is an unanticipated consequence of philanthropy. Similar to previous scholars (Daboub, et al., 1995), we suggest that the decision to engage in OIB is not an isolated incident but rather, a sequence of events that leads to an eventual outcome. Specifically, individuals who have high levels of social resources, such as emotional intelligence, may be able to use their positive reputation to reduce surveillance and engage in OIB.

For future research, we suggest that tests of the Figure 1 model focus first on the links between philanthropy, social resources and OIB. We also suggest that more theoretical development is needed to identify antecedents of philanthropy. Finally, we recommend that future research focus on a typology of philanthropy as a framework to determine consequences of these types of behaviors.

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