

# IN ALL FAIRNESS

## Stop Capitalist Punishment

If Washington's ruling class really wants to help turn around America's lagging economy, it can start by curtailing the peculiar tendency to criminalize free-enterprise capitalism.

Honest business owners and employees face a swarm of agency bureaucrats who draft, interpret, and enforce mind-numbingly complex rules. In recent years, too many overzealous prosecutors have embarked on a shortsighted campaign to criminalize a growing array of business conduct, including minor regulatory offenses that are best remedied with administrative fines or civil penalties.

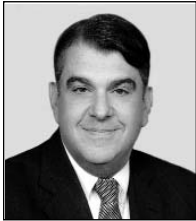
When companies are unnecessarily subjected to unfair criminal sanctions, everyone suffers—employees and shareholders, as well as customers and pensioners.

The legal nightmare for American businesses begins with a staggering and often ambiguous assortment of over 4,000 federal criminal laws. Pile on top of that approximately 300,000 regulations, many of which can be applied either civilly or criminally in the agency's or prosecutor's sole discretion, along with the laws and regulations of the fifty states. Any misstep, even as minor as failing to file the right paperwork, could, at the whim of unelected bureaucrats, result in penalties ranging anywhere from an administrative fine to sweeping criminal prosecution. The mere threat of absurdly high prison sentences and virtually limitless subpoenas force most business targets, despite their innocence, to eventually settle. Tellingly, prosecutors often decide that what was once a crime has suddenly become a civil offense, with large financial civil settlement penalties conveniently filling government coffers.

Just like everyone else in America, the business community wants a legal system that is accountable, fair, and predictable. It's one thing to insist that business misconduct be scrutinized or that truly egregious individual wrongdoers be punished, but it's quite another thing to brand entire companies, their workers, and management as felons for non-criminal regulatory infractions. The fear of abusive prosecution discourages talented, honest people from serving as managers or directors, chills the creation of new enterprises, and paralyzes entrepreneurial risk-taking. In such a hostile climate, is it any wonder that American businesses are increasingly looking for opportunities overseas?

The Washington Legal Foundation (WLF) has long called for a national discussion on the enormous costs of criminalizing free enterprise. The victims are Americans who will lose jobs and pay more ***Killing Commerce*** for their goods

and services due to the costs exacted by a legal regime that is hostile to free markets. That's why WLF has just published the second edition of its *SPECIAL REPORT: FEDERAL EROSION OF BUSINESS CIVIL LIBERTIES*, a 150-page, up-to-date critical analysis of key legal, judicial, and regulatory developments. Unfortunately, the evidence reveals a growing trend at the federal level to criminalize normal business activities at the expense of common sense and fairness. A true economic recovery won't begin until U.S. business leaders and entrepreneurs are entitled to the same civil liberties currently being extended to terrorists and enemy combatants.



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*In All Fairness* is produced through WLF's Civic Communications Program.

WLF's Civic Communications Program publishes "In All Fairness" in the national edition of the New York Times. The op-ed feature reaches over 5 million readers in 70 major markets, as well as a diverse group of thought leaders, decision makers, and the public.

THE NEW YORK TIMES OP-ED MONDAY, March 29, 2010