

# Understanding Concept of Corporate Crime and Its Relation with Law

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## ABSTRACT

Corporate crime is a constant concern in today's globalised world, and it has reached pandemic proportions in the corporate sector, as it has in most other countries. Corporate crimes are frequently unlawful or socially harmful activities taken by companies or executives of financial entities with the intent of gaining more money, making illicit profit, creating monopolies, or improving the financial performance of the corporations. As a developing country, India is particularly vulnerable to corporate crime and has great challenges in prosecuting corporate offenders through the national criminal justice system. The study of corporate crime is sometimes hampered by a lack of demarcation between various criminal activities. Although the company commits specific criminal charges as a result of certain of its actions, criminal culpability of legal persons has long been absent from national law, particularly in the European nations from which the corporation originates. As a result, many nations have joined the effort to modernise criminal law and ensure that legal people are held accountable and punished for criminal actions.

**Keywords:** *Corporate, Liability, Crime, Offences, Legal.*

## I. INTRODUCTION

### Definition of Corporate Crime

Knowledge and understanding of the phenomena that is the focus of research requires a methodological approach that defines corporate crime. Furthermore, the proper definition of corporate crime is heavily reliant on the definition of preventive and punitive measures and actions in the fight against corporate crime, as well as the profiling of individual operational, investigative, and special investigations that have a unique meaning and application in combating this type of crime. Any meaningful investigation and analysis of a phenomena necessitates the definition of its idea. If we understand the definitions of "statement defining the content of an idea" and "thought about the essential characteristics of what we think," then the concept of corporate crime must imply the logical process that leads to a statement that contains the essence and all of the crime's essential features. However, the diversity of socio-economic and political systems in the contemporary world, which is undoubtedly the main cause of this situation at the international level, has resulted in many attempts to define the term, but no single, generally accepted definition that would apply to everyone in a given period of time has been reached. As a result, while defining corporate crime, begin with the term "etymological meaning of Corporate Crime," which is made up of terms and criminal businesses.

Corporation (Lat. corpus - the body, Eng. Corporation) is a legal entity made up of an organised group that is a separate legal subject from the articles of the corporation. The highest kind of joint stock company is a corporation. Corporation as a legal entity with the same rights as a person, including the ability to own property, borrow money, and sue or be sued. It is the most prevalent type of business association, with the objective of incorporating the grouping of corporate interests. This is a subjective business that works inside the confines of commercial law. The term criminality derives from the word crime, which meaning offence, or behaviours that are against the law and hazardous to society since they do not follow the rules and are labelled as criminal acts for which a specific crime is defined. The etymological meaning of the term "corporate crime" may be derived by simply connecting the words "corporation" and "crime". Of course, adding certain features of modern corporate crime, such as an area where drought is done (the realm of business, insurance, banking, stock exchanges), status offenders (members of the highest social class), and protected perpetrators from prosecution and punishment given to offenders who have influence due to their social status, may better define the concept of corporate crime.

Corporate crime frequently presents itself in the sphere of economic activity, such as tax evasion, embezzlement, money forging, bankruptcy abuse, bank fraud, fabricating business documents, money laundering, and so on. Corporate crime is defined as deliberate criminal activity carried out within a legitimate corporation with the goal of boosting profits through direct or indirect violations of the law. Such conditions, which are expertly handled by responsible individuals in the corporation or management and lead to numerous criminal activities, cannot be subsumed under current charges, as offenders use their standing to evade accountability. In reality, this sort of crime can be classified as a one-time crime, because criminal conduct Corporation is not their primary business, but rather businesses that, when given the chance, engage in a certain type of criminal activity that can be classified as a corporative crime. It's critical to distinguish between concepts like crime, white collar crime, fraud, and organised crime when defining the idea of corporate crime. Corporate crime, like the aforementioned criminal phenomena, shares a lot of traits, but the most important distinction is the issue of criminal liability. It is a legal entity in corporate crime, but it is purely an individual, as an individual or group of individuals, in other criminal phenomena.

Figure 1 depicts corporate crimes divided into main types, which include conservative / traditional crimes such as rape, battery, assault, robbery, and so on; whereas the behaviour in occupational or organisational structural crimes is observed as completely different, with crimes committed involving people from high societal backgrounds. Occupational crimes are defined as criminal behaviour in a legal setting that is sometimes referred to as "white colour crime" since it is performed by people doing their jobs. Occupational crimes are frequently crimes, unlawful or wrongdoings committed by persons in a legal business to attain a desired objective by whatever means possible. When we talk of organisational wrongdoings, we usually mean those done by people in positions of great power and responsibility.



Figure 1: Categories of Corporate Crimes

## II. VARIETIES OF CORPORATE CRIME

Corporate crimes are widespread, and certain cases of commercial fraud cannot be avoided. These offences would include any illegal corporate action that is punished by law. Corporate tax avoidance, fraudulent advertising, consumer fraud, manufacturing bogus products, selling goods at inflated prices, commercial bribery, trading with illegal medicines, embezzlement of funds, stock market manipulation, corporate manslaughter, and environmental destruction are all examples of corporate crimes reported in the country's newspapers on a daily basis. A new example of corporate crime has emerged, such as corporate manslaughter and the use of low-quality materials in erecting structures that would eventually collapse, killing nearby inhabitants or worried workers.

### *Fraudulent Marketing*

Fraud is defined as obtaining something valuable through fraud. When a vendor sells things that are either faulty or do not exist, this is known as marketing fraud. Because of technological advancements, fraudulent business transactions and marketing across national lines are now increasingly common. Consumers in both the domestic and international arenas are harmed by internet buying methods that frequently provide substandard items with no legal recourse available. For millennia, people have traded in dangerous substances and illegal goods. The internet has greatly aided the international trade of such illicit narcotics and items.

### ***Bribery***

Bribery has been seen as a major problem in both developed and developing nations' economic and corporate sectors. It refers to giving anything as a present in order to control the conduct of government officials. Bribery can take the form of cash, products, property, privileges, or anything else of value. Bribery is used in international trade to gain contracts or regulate local market competition. Bribery is considered a state-corporate crime by some academics.

### ***Corporate Manslaughter***

Corporate Manslaughter is a relatively recent problem. There have been several incidents of workers dying as a result of employer carelessness and failure to implement safety precautions. Construction and mining employees, in particular, are exposed to hazards such as heights, machines, cranes, heavy equipment, chemicals, and dust, all of which can result in tragic deaths. Apart from that, corporate carelessness might result in significant damage or death to the general public as well as foreign nationals. Many industrialised countries created laws against corporate killing in response to public outcry about the lack of legislation to prosecute businesses for manslaughter while the general people were harmed. Corporate crime includes indiscriminately failing to maintain occupational safety measures and failing to comply with international labour norms.

### ***Laundering of Funds***

Money laundering has become a worldwide corporate crime as communication technology has advanced. It refers to the methods used by wrongdoers to disguise the source of their ill-gotten gains and turn filthy money into clean money. Money transfers across borders and the usage of foreign credit cards have enabled quick monetary transactions in a number of nations. As a result, such a complicated financial transaction is seen to be a point of entry for money laundering.

### ***Environmental Pollution***

Environmental pollution is defined as anything that has the potential to harm the environment or endangers the safety of humans or wildlife. Both local and multinational corporations are frequently accused of discharging poisonous compounds throughout the production process, which is harmful to the global ecological balance to varying degrees. Toxic pollutants released during manufacturing processes typically move by air or water and can cause severe harm downstream or downwind. Many companies are located near coastal locations across the world, and they dump their hazardous waste into the sea, contaminating both territorial and international seas.

### ***Market Manipulation***

Another type of corporate fraud is share market manipulation. Influential investors have cleverly coerced ordinary individuals to spread false rumours and profit from the obvious momentum in the majority of share trading by exploiting their online trade policies. Thus, market abuse is defined as a deliberate attempt to obstruct the free and fair operation of the market by making artificial, false, or misleading statements about the price of any commodity, asset, or currency.

### ***Tax Avoidance***

Tax evasion is an unlawful method of avoiding paying taxes. It is a common criticism levelled against many multinational firms and MNCs that they use a variety of policies and loans to avoid paying taxes to the government. Corporations, in partnership with auditors, attempt deceptive accounting by declaring lower profits and monetary losses.

### ***Fixing Prices***

When two or more merchants agree to coordinate their product prices, this is known as price fixing. This increases the product's market value by providing sellers an edge and forcing prospective purchasers to lose money. Such a market downturn might occur on a national level or among producers from different nations.

### **Industrial Espionage**

Industrial espionage is a corporate misbehaviour committed in today's global economy to get sensitive business policies of international or local competitors. National corporations may be interested in stealing foreign trade secrets, and open-source data mining can provide valuable business insight. However, both public and private investigative agencies may engage in illegal activity in order to get proprietary information from their market competitors.

### **III. RELATION BETWEEN LAW AND CORPORATE CRIME**

The influence of corporate activity on society in today's world is enormous. They not only have a bad impact on people's lives in their daily activities, but they also engage in dangerous, irresponsible, and destructive acts that might be classified as criminal behaviour. For example, the Uphar Cinema catastrophe, the oleum gas leak event, the Bhopal gas leak case, mine explosions, the Chernobyl nuclear accident, and hundreds of other scandals may fall under this category. "Despite several tragedies, the law has historically been unwilling to hold businesses criminally liable. This was for primarily two reasons:

- Because corporations cannot have the mens-rea, or guilty mind, to commit an offence; and because corporations cannot be imprisoned, the only other remedy available is a fine, which combines criminal and civil liability.
- Addressing corporate crimes in the court of law and determining sanctions and punishments has always been difficult because it is never clear whether to pursue the case under the civil or criminal law.

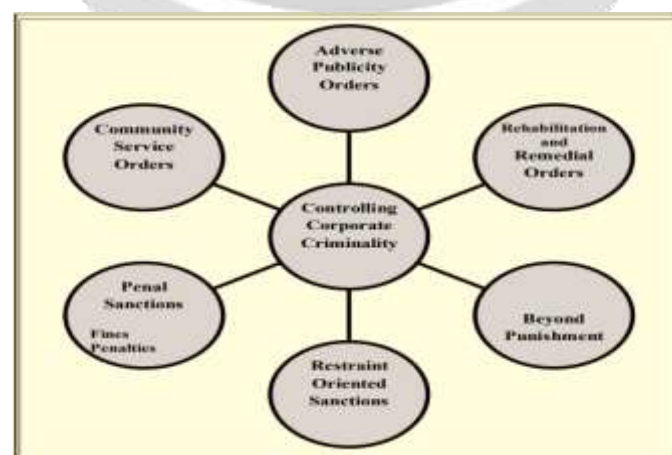
Civil actions entail:

1. immoral acts by one person against another;
2. reimbursement for the loss or harm caused.
3. Proof of evidence is required for processes and strategies.

Criminal actions involve:

1. An act of the state or one of its agencies against an individual;
2. The loss of life and liberty may be the only penalty.
3. To show the implications, a large amount of evidence and proof is necessary.

Criminal law jurisprudence has mostly failed to impose criminal liabilities on companies and to reach a clear resolution on the question of whether corporations may commit crimes and thus be held criminally accountable. The recent financial fraud at Satyam Computers in India, which included a sum of Rs. 7000 crores, has damaged the faith of internal and external stakeholders, resulting in severe consequences for Indian businesses. Even four months after his open admission, the court has unable to prove allegations against Ramalinga Raju, the founder and chairman of Satyam Computers, the main culprit in the scheme. This demonstrates a crisis in corporate governance, law enforcement, and audit system inefficiencies.



**Figure 2: Controlling Corporate Criminality**

Figure 2 above depicts a clear grasp of how and in what manner companies may be regulated, held accountable, and crimes proven, followed by detection, check, control, strict actions, and penalties against corporations that can be held strictly liable under specified legislation.

#### IV. CONCLUSION

Historically, the criminal justice system has failed to adequately punish corporate wrongdoings. Corporate crimes have a greater impact on individuals, society, and the environment than street crimes. There should be proper legal mechanisms in place to cater for and handle the problem of corporate criminal liability. To avoid corporate crimes, enough study must be conducted, and relevant legislation and regulations must be enacted with the active participation of government, court, and other agencies. The criminal justice system faces a problem in determining and identifying the instances in which misconduct, misbehaviour, and corporations cooperate for mutual advantage. To eliminate the possibility of new corporate crimes, appropriate adjustments must be established, effectively implemented, and enforced. Corporations must adopt the philosophy of global corporate citizenship, followed by corporate philanthropy that provides value to the company, and take affirmative action with society as a whole.

#### V. REFERENCES: -

- [1] Albanese, J. (2004). *Organized Crime in Our Times*. Cincinnati: Anderson Publishing Co.
- [2] Strader, J.K. (2002). *Understanding White Collar Crime*. Newark: University School of Law, MatthewBender & Company, Inc.
- [3] Singhvi Angira, 2006, "Corporate Crime and Sentencing in India: Required Amendments in Law", *International Journal of Criminal Justice Sciences*, Vol 1, Issue 2 July 2006
- [4] Geeta Narula, "Corporate Criminal Liability In India: An Information Technology Perspective", [www.naavi.org](http://www.naavi.org)
- [5] Etzioni, A. & Mitchell, D. (2007). *Corporate Crime*. International Handbook of WhiteCollar and Corporate Crime, Springer, USA
- [6] Erp, J. V. (2018). The Organization of Corporate Crime: Introduction to Special Issue of Administrative Science. *Administrative sciences*, 08(36), 03-12
- [7] Huan, L. K. & Singh, M. (2019). *Malaysia: Business Crime Laws and Regulations 2020*. Available at <http://iclg.com/practice-areas/business-crime-laws-and-regulations/malaysia>
- [8] Thansum, M. A. & Kannappan, M. (2018). A Critical Study on Corporate Criminal Liability with Reference to Indian Case Laws. *International Journal of Pure and Applied Mathematics*, 119(17), 681-692
- [9] Tiwari, Gyan. (2020). *CORPORATE CRIMINAL LIABILITY: AN ANALYTICAL STUDY*. Volume 1. 1-19.