

# A Study on Corporate Crime in India

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**Abstract-** White collar crimes like corporate crime are often referred to as administrative and economic crimes. The corporation is liable and responsible of the act when it was an entity distinct in law form an individual and committed the crime. Is a company employee responsible for the crime that was committed? According to the idea of vicariously liable in the preview of the question, the business was ruled liable, nor the employee. Companies have already assimilated into our society and with business growth; they will need to play a bigger role in our economy. However, this will put our society at risk of being exploited by these companies, thus it is also necessary to discourage them. Due to a number of factors, the first of which is the nature of the company form, the problem of corporate crime is unique and intricate. The occurrence of corporate criminal responsibility was triggered by the widening of negligence to individual actions. The current study discusses the history, nature, and types of corporate crime, liabilities, doctrine, and developments in the capital markets.

## I. INTRODUCTION

Only human beings may speak on behalf of or for the profit of a firm, and any individual who does so is personally responsible for their actions. The significance of incorporation is that it renders the corporation itself accountable in specific situations, in addition to the people.-Glanville Williams

A company is, simply put, an organization of people working together to run a business. a legally recognized company is a corporation. The judicial systems' development of the idea of corporate crime, which they used to solve the issue of criminally blaming made-up companies, is a good example of this. Based on the respondent superior doctrine, company crime's central tenet is. The most crucial segment of our society is business<sup>2</sup>. The corporation is managed by real people, and while occasionally these people's deeds may be considered criminal in nature, they can cause societal losses in terms of both money and people. The history, nature, and many types of corporate offences need to be understood so as to have a better grasp of corporate crime. White collar unlawful activity, often known as corporate crime in the age of technological innovation, has a negative effect on society.

## II. OBJECTIVES

- Investigate in depth the effects of corporate criminality on society.
- To evaluate corporate crime's position in the legal maze.
- To propose the applicable clause on the subject with decided legal precedents.

## III. RESEARCH METHODOLOGY

The current study uses a descriptive, conclusive methodology that is not based on empirical data. To check the validity of the research hypothesis, qualitative data was produced. An analysis tool has been created for collecting information on the research's dimensions. The study used secondary data from books, papers, journals, e-sources, theories, and the pertinent statutes and case laws.

## IV. HISTORY OF CORPORATE CRIME

The corporation is an organizational structure that dates back to the 14th century. The crown or the parliament alone might incorporate or grant a company. The crown made an effort to advance ideas and urged organizations to obtain legal authorization. The companies were developed as hospitals, universities, and other similar organizations that were modified to take on the corporate form during the 16 and seventeenth centuries. The corporation was expanding into a joint stock entity at the conclusion of that period. The growth for new industries received significant support through this collaborative equity firm. Initially, companies were formed as not-for-profit entities, although within the seventeenth century, the focus of the corporation shifted to profit.

A lot of organized firms emerged at the end on the 17th century, yet most of them had short lifespan due to the fact that they operated mainly to the benefit of the shareholders and the employees.<sup>4</sup>Because the investors lost money on the firm and committed deception. However, the British parliament passed unique acts for commercial activities.

The fundamental Latin adage "Acts non facitrem, non male sit reforms the basis for the criminal responsibility rule. It suggests that in order to hold someone accountable, it must be proven that they engaged in unlawful behavior and did so with remorse.

In many areas where social control would be impeded but not business accountability, the courts started holding corporations criminally accountable during the first two decades of the twentieth century. Indeed, courts had long since agreed to hold the corporation criminally responsible for all mistakes, with the exception of rape, murder, and other crimes.

#### V. NATURE AND TYPES OF CORPORATE CRIME :

Corporate crimes are considered to be generalized forms of white collar crimes, and this is also understood in terms of activity crimes. Corporate crimes and occupational crimes differ in that while corporate crimes pertain to criminal acts committed by corporate managers for the profit of the company, occupational crimes refer to individual personnel who are working against the company. For instance, stealing and money laundering are instances of professional crimes.

The wrongdoings committed by management or employees for the advantage of the business as well as for their own personal gain is considered "corporate crime" when discussing it.<sup>6</sup> Crime done by businesses is distinct from regular offences carried out by people. As a result, there is no separate branch for the offences the company committed. Corporate criminality comes in many different forms. The most prevalent business crimes are bribery, forgery, embezzlement, bank fraud, and blackmail, among others.

Two corporations were accused of committing fraud under the IPC in the case of *A. K. Khosla v. S. Venkatesa* 7. Process was granted by a judge against the corporations. In this instance, the court learned that there are two prerequisites for the prosecution of corporate bodies: the first is the requirement for provision, the second is the requirement on male Rea, and the third is the capacity to inflict the mandatory punishment of imprisonment.

#### VI. CIVIL OR CRIMINAL PENALTIES FOR CORPORATE MISCONDUCT

Currently, the majority of nations concur that corporations can be penalized under both administrative and civil law. The controversy surrounding corporate crimes is greater nonetheless. In its 41st and 47th reports, the law commission of India made a recommendation that the business sector should be penalized, particularly for white collar crimes, as a form of punishment of criminal responsibility. These suggestions, sadly, were never accepted. Despite being true that several Indian laws include measures for civil punishment of crimes such as fraud, nepotism, corrupt practices, spying, etc., no punitive statutory provisions have been added to the Indian laws that would punish the firm. A company cannot be imprisoned and was not changed to prosecution for a crime that was solely punishable by death or imprisonment. However, the fact that the punishment for tearing a law consisted of a fine, imprisonment and either does not make that inapplicable to a corporation. A similar rule applies only in cases where the law that created the offence stipulates that if the

offered fine is not paid, the offender will be imprisoned. It was also important to note that back in 1972 our Parliament suggested amending the Indian Penal Code in this way to include fines for a substitute to jail when companies were involved. The Bill, however, did not pass; instead, it expired. The Bill lapsed rather than being passed, though. Since this modification of criminal law is a legislative function, the Parliament should carry it out as soon as possible. Sections 45, 63, 68, 70(5), 203, and other parts of the Indian Companies Act provide some penalties regarding corporate criminal responsibility. According to this Act, the firm itself isn't accountable; only the offender is.

#### VII. DOCTRINE OF DIRECT LIABILITY

The concept describes how the perpetrator of the crime was held legally responsible. As a result of its nature being conceptually identical to that of legal personality, a corporation in which a person acts and behaves within the bounds of their authority and on behalf of a corporate body is considered as a corporation function that is enforceable. Ironically though, it's rigid instead of complicated that an organization is liable for crimes. Whether the company acted with intent or knowledge that is implied or expressed in the following circumstances will determine whether it is liable:

1. Vicarious liability: When a corporate body's organs act on behalf of an individual, they are deemed legally responsible.
2. Offence that was purposefully committed: A corporation that knew or intentionally did anything that was indicated to be illegal based on the available evidence.
3. Corporate culture: when a company fails to establish a corporate culture and encourages it, unrelated to a violation of a pertinent law.

#### VIII. DOCTRINE OF MEN'S REA

Company does not intend to commit any crimes; only the individuals who work there will do so. A legal issue has been brought up: since corporations are made up, there is no need for the law to create similarly made-up corporate Men's Rea. Here, the penalties and fines imposed on the company have been subtracted. The subject of whether or not fictions are realistic as well was addressed in terms of the fictions' feature.

#### COPRATE PUNISHMENT

In India, various pertinent provisions in which a person will be punished under Indian Penal Code, sec. 53, which includes death, life imprisonment, simple and harsh imprisonment, forfeiture of property, and fine. It has been questioned whose law is applicable if a corporate crime has been committed.

#### RELEVANT STATUE IN INDIAN LAW

Indian companies Act – Sec 45, 63, 68, 70(5) and 203.  
Negotiable Instrument Act 1862- Sec 141 Essential Commodities Act – Sec 7

#### IX. DEVELOPING CAPITAL MARKETS

The nation's economy's accepted driving factor for growth in the era of globalization and liberty is the capital market. Through financial instruments like shares, bonds, and business liabilities, it offers potential investors a piece of the country's unique wealth. However, due to the cumulative effects of the capital market, this wealth will have an adverse impact on the natural world, that will ultimately have an effect on the economy. The market's regulating bodies should be conversant with this kind of criminality. Marketing will be used to distinguish between the effects of corporate criminality and the national economy.

The court determined that the appellant corporation would not be subject to prosecution for an offence under Section 56 of the FERA Act, 1973, in the case of Standard Chartered Bank, Ltd. ET ors v. Director of Compliance and ors.

#### X. ROLE OF ECONOMIC DEPRESSION

**Rapid urbanization and industrialization, along with technological advancements, have led to a surge in corporate criminality, which has led to false financial slump in the majority of developing countries. In the current situation, crime-causing should be diminished and prevented using the best designed policies. There are a number of dangerous risks within our nation, but these dangers put a focus on residential places that could potentially pose a significant risk. Regulations should be maintained in an efficient, prevalent manner because the law is not always static. The many forms of punishment that are used should comply with the law and deter illegal activity.**

#### XI. Suggestions

□ The legislature needs to take the lead on the ensuing actions. For example, new types of punishment for corporation criminality should be developed and therefore included.

- It is best to separate the different types of fines into those that are imposed for economic and social sanctions.
- Effective enforcement of penalties, such as direct reparation orders and mandatory winding, is required.
- There were no rights to prevent shareholders and directors from reincorporating when the court conducted the appropriate measures for the corporation's dissolution.
- When appropriate, the court will also take into account how to best accomplish the sentencing goals.
- Corporate crime is a global issue. There should be a global accord and law that is followed.

#### XI. CONCLUSION

Corporate crimes, in my opinion, are the social ills that occur least regularly. Gaps in corporate crime it will be the judicial strategy to be more effective impact on society. Corporate crime is any crime for which a corporation or an individual acting on its behalf is held legally responsible and subject to punishment. It makes sense to change laws in order for businesses better punished. The capital markets are negatively impacted by it. The society is currently endangered by it due to the current situation. Even if an employee acts on behalf of the company, the vicarious liability theory holds that both the employee and the company deserve substantial penalties for the crime. The worker may benefit under these circumstances.

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