



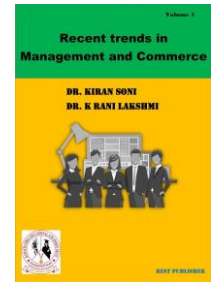
## Recent trends in Management and Commerce

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### Corporate crimes - is corporate veil to be pierced?

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#### Abstract

Corporate Crimes arise from business activities, which are committed against the provisions of various laws. Such type of crimes pervade every part of the world as well India. It arise as a result of corporate greed or human greed to amass wealth either by making use of loopholes in the existing laws or otherwise. This is being practiced, as businesses are very dynamic, which helps corporate to hide or conceal corporate crimes. It is ultimately being carried out “on behalf of and for the benefit of the company”. These crimes are committed by an individual or a group of individuals by using the gaps in the existing laws as well by using their corporate/professional competencies to reach their goals by using the corporate veil which acts as a scapegoat to hide their misdeeds. The perpetrators, under the veil, escape the clutches of laws. This article which makes an attempt to conceptually highlight such crimes which if un- controlled would spoil the economies including the Indian economy. This article just provides a preliminary understanding of corporate crimes.

**Keywords:** Corporate Crime, Corporate Entity, Corporate Veil and lifting the corporate veil.

#### Introduction

The worldwide scenario indicates wide spread of crimes of various nature including the crimes of recent origin i.e., the cybercrimes. The cybercrimes are being committed beyond boundaries escaping the tentacles of laws/punishments. Such crimes are transnational in nature; no uniform law exists worldwide to control such crimes. The legislations to regulate such crimes internally (within the country) and externally (worldwide) are inadequate, in nascent stage, need different procedures and require a thorough introspection to make them effective & implementable. In the context of India, the law relating to cybercrimes i.e., Information Technology Act, 2000, in spite of amendments, still needs a thorough calibration to curtail rampant spread of such cybercrimes. In the context of crimes, it is also to be remembered that an area of crime i.e., corporate crime which remains untouched or little discussed needs a lot of discussions and deliberations to see how such criminals/criminal acts are covered under laws and specifically under Indian laws. If we leave it untouched, the corporate entities/personalities will have no fear and escape the clutches of Indian laws. They normally escape under the cover of corporate entity or separate entity which acts as a curtain that should be pierced into, to see and punish such corporates and corporations. A street offender is treated differently whereas the corporate offenders escape the due process of law as they hide themselves under the purview of immunity as a separate entity. Today, there is a need to rehaul the scope of existing laws or even we could go for separate laws governing such corporate crimes. Corporate crimes of varied nature are being committed by various corporates and corporate personnel under the cover of corporate veil. They are being institutionalized and hard to detect. They are being protected indirectly under the erstwhile corporate or company laws as if they were all committed within the purview of existing laws. The feature “Corporate Veil” enshrined in the company laws were/are protecting or escaping them from the clutches of laws. However, with amendments in the company law specifically under the amended companies act etc, such crimes are being brought under the scrutiny of new provisions of laws. In spite, such crimes are being practiced widely, of course hiddenly, by taking shelter under the loopholes of laws. Whereas common man who commits petty offences is being treated cruelly whereas the corporate criminals are being treated as if they are beyond the law. They are also being protected by political interests since they fund such political wings. Unless the laws are strictly implemented without any fervor and favor, the Indian Economic growth will never reach two digit figure or at-least the growth rate being projected by Government in rule. Such corporate crimes results in embezzlement of several crores of rupees which resulted in drain of wealth of the nation. This widened the gap between haves and have-nots. Unless drastic measures are implemented against such crimes, it will result in daylight robbery of wealth of the nations.

#### 2. Corporate Crime

At the outset, corporate crimes include offences committed by corporations and their officials for the benefit of the corporations. It refers to situations where corporate officials commit criminal or harmful acts for the benefit of the corporation. In this context, it is to be noted that the persons/people committing the crimes are working on behalf of the company they work for. Their ultimate goal is to benefit the company or shareholders financially. In general, such individuals who work for the organization do not think of themselves as criminals, nor do they consider their acts as criminal. When we

trace-out what a corporate crime is, we could trace-out from criminology that it refers to crimes committed either by a corporation i.e., a business entity having a separate legal personality from the natural persons who manage its activities, or by individuals acting on behalf of a corporation or other business entity. Such corporate crimes cause financial, physical or environmental harm against individuals, workers, general public, environment, other corporations, Govt. and other countries. They are being committed by discrete individuals who act on behalf of corporations. They are in general, committed by people at higher levels or managerial levels or by those who occupy responsible positions. Such type of corporate crimes include manipulation of accounts, insider trading, misappropriation of funds, tax evasion, security violations, anticompetitive activities, cartel illegalities, Anti-Trust violations, Computer and Internet fraud, Credit Card fraud, Phone and Tele marketing fraud, Bankruptcy fraud, Health care fraud, Environmental law violations, Insurance fraud, Tax evasion, Financial and Securities fraud, Insider trading, False and Misleading advertising, Illegal exploitation of employees, Mislabeling of goods, Violation of weights and measures, Evading corporate taxes, Misappropriation of funds, Embezzlement, Black marketing, Profiteering and hoarding, Work place crimes, Smuggling and violation of foreign exchange and Data theft etc.

#### **WHAT CHARACTERIZES CORPORATE CRIME?**

On the other hand, a corporate crime is the act, of corporate personnel, which need not be authorized or ratified by its personnel. At the outset, it is sufficient if the officials are exercising their customary powers on behalf of the corporation. Such crimes, to a substantial degree, the crimes of the corporations which, on the other hand are interwoven with the acts of such officials. Such Crimes/Acts reflect the character of the individuals who manage the corporations. Moreover, such personnel can be impeached if they are connected with such crimes. In spite of such crimes being punishable, they escape the clutches of laws because they are characterized by low visibility.

#### **WHAT ARE THE IMPACTS OF CORPORATE CRIMES?**

The corporate crimes have more adverse impact on social and economic lives of people. They affect mind and body on the one hand and property and environment on the other. These crimes affect the economy and destroy society's confidence particularly the shareholders' trust and confidence. It affects the growth and development of an economy, and paves the way for driving out the good money by bad money in due course.

They are difficult to prevent or deter because such crimes are committed by the so called elite group in the economy. They are threat to mankind and economy.

#### **WHAT IS THE URGENCY TO HAVE A SEPARATE LAW?**

It is the right time to see how the tentacles of law could be tightened so that the corporate crimes can be nipped in the bud and prevented before it explodes in a society where such crimes have been covered /hidden under the umbrella of separate legal entity/legal personality which leaves corporations/persons untouched among other crimes. It is observed by a noted American Criminologist Edwin Sutherland that "crime in the streets" captured the newspaper headlines whereas the "crime in the suites" continued to be unnoticed. Further, such crimes/cases were not even covered under the criminal laws leaving them as civil or administrative violations. Such crimes pervade and become an endemic to modern society.

#### **IS CORPORATE VEIL TO BE PIERCED?**

Though crime has always been committed in a quiet environment, it is being brought to light in recent times. Such crimes, in spite of laws, are being committed world over because they help them to enrich in terms of money. If the clutches of laws are tightened, they would change the scenario what we are witnessing today worldwide and in India. No cover or hide in the name of legal personality should be allowed to corporations. At the outset, in the name of legitimate business, no corporation shall be allowed to swindle the hard-earned money of unsuspecting investors.

### **3. Conclusion**

In the changing business scenario, the corporate crimes, involving organizations and individuals can be liable for their criminal acts through amendments to existing laws or by enacting a comprehensive new law or by incorporating stringent legal provisions in the existing company laws. If we implement harder punishment, the existing scenario would change for betterment of the people and economy. Let the laws ensure a better corporate governance that would protect the interest and welfare of all stakeholders. A good governance would also reduce the gaps between haves and have-nots or rich and poor. It will also lead to an inclusive economic growth where everybody will have their share of pie/fruits of labour. Such legal provisions will also result in socio-economic justice as well a socialistic pattern of society as enshrined in the Constitution of India. It will also ensure a fair play of law without any discrimination whatsoever. Ultimately, it results in socio-economic democracy where everyone will have an assurance of individual and societal welfare and thereby an equalitarian society which is the need of the day everywhere and anywhere in the globe.

#### **References**

1. [https://shodhganga.inflibnet.ac.in/bitstream/10603/200004/11/11\\_chapter%205.pdf](https://shodhganga.inflibnet.ac.in/bitstream/10603/200004/11/11_chapter%205.pdf)
2. <https://www.sociologygroup.com/corporate-crimes-definition/>
3. <https://www.definitions.net/definition/corporate+crime>
4. <https://blog.ipleaders.in/white-collar-crime/>
5. <http://www.kanthandassociates.com/corporate+crimes+litigation+attorneys+in+delhi+law+firm+in+india.html>
6. <https://www.legalbites.in/analysis-of-corporate-crime/>
7. <https://www.britannica.com/topic/corporate-crime>
8. <https://pdfs.semanticscholar.org/fc89/8687478b69aeea0059c3d21227c0ef46753b.pdf>