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LEGAL RESPONSIBILITY MNC's UNDER TRANSNATIONAL CRIMINAL JURISPRUDENCE

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ABSTRACT
The jurisprudence of transnational criminal law is that part of international law which prohibits specific forms of conduct that the international community deems to be grave infractions and holds offenders criminally accountable for their actions. The primary subjects discussed are genocide, war crimes, crimes against humanity, and aggression. Additionally, there are violations of international law that are not covered by international criminal law, such as the Rome Statute and ad hoc military tribunals. Prosecuting foreign crimes is an integral aspect of transforming societies into democratic, human rights-respecting ones. Victims of human rights violations demand investigations and punishment of leaders who have committed crimes and carried out political or military atrocities on a large scale. The prosecution of such perpetrators can play a crucial role in restoringself-respect of the victim as well as the societal trust.

KEY WORDS: International Criminal Justice System, Corporate Criminality, International Community, European Continental Law, Criminal Law.

Our system of criminal justice faces difficulties or irritations as a result of corporate wrongdoing. Because of this characteristic, policing criminal activity in corporations is an extremely challenging endeavour. The progression of corporate criminal liability has become an extremely important subject, particularly for the prosecutors and judges who are responsible for deciding criminal liability. In the realm of common law, the established concepts of tort law were the impetus for the English courts to acknowledge the criminal responsibility of corporations for statutory offences in the middle of the previous century, even though mensrea was not a prerequisite.

A significant number of countries that adhere to European Continental Law have been unable or unwilling to incorporate the concept of corporate criminal liability into their legal systems. In light of the fact that in recent years practically all criminal activity has been committed by corporate entities rather than individuals, we have been prompted to investigate the possibility of increasing the scope of certain aspects of criminal law. Another aspect of the criminal justice system that needs to be examined more closely is how it responds to newly emerging forms of criminality and the international scope of criminal enterprise. When one is working with artificial beings, resolving this issue becomes more challenging. At the same time, crime has become more transnational, with a worldwide influence, as the business sector has become more involved[1].

There has been a lot of discussion in the area of criminal law jurisprudence regarding the question of whether or not a corporation should be held criminally liable for crimes that are committed by its directors, managers, officers, and other personnel while the corporation is carrying out its business operations. The existence of a company's independent legal standing is essential to determining whether or not it may be held accountable for illegal activity. In the current context, the acts of corporations have a significant impact on society. Because of the way they go about their everyday lives, not only do they have a positive impact on the lives of other people, but they also have an adverse impact on the lives of other people, which places them in the category of criminals. For instance, the tragedy that occurred at the Uphar Cinema or multi-billion dollar scams and scandals, in particular white collar and organised crime, may fall into this category and require immediate attention. This was the case with the Uphar Cinema tragedy, which was just

[1]Akdeniz,Y,'Cybercrime',in*E-CommerceLaw&RegulationEncyclopaedia*(2003).

recently resolved by the Supreme Court after a number of years of deliberation.[2]

Large-scale organisations have been growing all across the world and attaining a dominant position during the past two centuries. These organisations have been in existence. They can be found in every conceivable location. They have an effect on almost every facet of the way we live our lives. In parallel to this covert or not-so-subtle control, firms can also become well-known criminals when they focus completely on financial gain while ignoring social responsibility. This is a parallel to the covert or not-so-subtle control described above. However, due to the fact that corporations are not human entities, it is challenging to relate criminal behaviour to them using the conceptions of responsibility that are now in use. As a direct consequence of this, additional referendums are needed in order to hold them accountable for the illegal purposes behind their activities and the actions themselves, according to the law.

Common law nations such as England, the United States, and Canada were the ones that initiated the first attempts to impose criminal responsibility on corporations. These nations had been at the forefront of the industrial revolution and played a significant part in the development of the economy. In spite of an earlier aversion to punishing corporations, the English courts began to recognise corporate criminal culpability in the year 1842, when a corporation was punished for failing to perform a statutory duty. This marked the beginning of the modern era of corporate criminal responsibility in England.[3]This anxiety was founded on a number of different points of concern. First, the corporation was considered to be a legal fiction, and in accordance with the principle of ultra vires, it was only able to engage in activities that were expressly authorised by the corporation's charter. Two, what are the different ways that the company could be physically prosecuted and penalised in court? These are the kinds of considerations that are still important today. Although there have been advancements in the law in a variety of spheres, the peak of universal acknowledgment of criminal liability has not yet been reached. The relationships, rights, and obligations of states are defined by public international law, which is often commonly referred to as "Classical" international law. The field of criminal law is concerned with the prohibitions placed on individuals by individual governments, in addition to the consequences that are imposed for breaking such laws. In spite of the fact that its origins can be found in international law, the fact that its effects are the imposition of criminal sanctions on persons makes international criminal law a blend of the both.[4].

In both civil law and common law regimes, the enforcement of individual criminal culpability for the corporation's illicit acts gave rise to the concept of corporate criminal liability. That is to say, at the beginning, those responsible for wrongdoings committed by the corporation who carried the most responsibility were its directors, officials, and then its employees. Last but not least, as a direct consequence of this, the criminal culpability of the corporation has been increased. As concepts of punishment have developed over time, the possibility of criminal responsibility for legal entities other than individuals has emerged. It is of the utmost importance that holding businesses as a whole be held criminally accountable, not simply the individuals who make up the holding company's constituent members. To begin, it is possible for corporations to be established in a manner that allows them to evade legal responsibility. Because of the recognition of a corporation's distinct legal personality and the imposition of criminal liability on the body of the corporation, it is impossible for individuals to hide behind the activities of a corporation, and it is also impossible for a corporation as a whole to hide behind the criminal liability of its individual members. Second, acknowledging that the entire corporate entity is legally liable paves the way for more effective legal and moral punishment of unethical corporate behaviour. This is made possible by the fact that the entire corporate entity is criminally liable. As a consequence of this, the imposition of criminal culpability on corporations based on their status as separate legal entities encourages the adoption of better standards, more responsible business behaviour, and acts as a deterrence against future misconduct. Third, the recognition of the corporate body as a

[2]Tyler 2006 quoted in a "Psychological Perspective on Punishing Corporate Entities",Regulating Criminal Liability edited by DonminikBrodowsk, Manuel Espinoze de losMonterosdelaPana,KlansToedemannandJoachimVogelEditors–Springer2014.

[3]Alexander, L, 'Criminal Liability for Omissions: An Inventory ofIssues' in S Shute and A Simester (eds), *Criminal Law Theory:DoctrinesoftheGeneralPart*(2002).

[4]Allens Arthur Robinson, 'Corporate Culture' as a basis for the Criminal Liability of Corporations, Are port for the United Nations Special Representative of the Secretary General on Human Rights and BusinessFebruary2008.

persona legale for the purposes of the criminal law ensures the availability of adequate instruments for the imposition of punishment.

Despite the fact that in certain legal contexts, companies can be deemed "persons," this does not mean that they can easily be called criminals. It has proven challenging to bring criminal charges against corporations for offences requiring mensrea. The law has made an effort to establish a connection between the motivations of individuals working within an organisation and its potential criminal liability. The organisational theory of corporate decision-making, on the other hand, demonstrates that borrowing purpose from individual corporate actors may not be productive. This is due to the fact that many corporate behaviours may never be traced back to the goal of a single individual. This offers a framework to replace the common practise of attributing criminal intent to organisations based on the actions of individual employees.[5] To put it another way, it is necessary to develop a theory that, when applied to a specific set of facts, makes it possible to conclusively ascertain that the Corporation or legal person was guilty of having the criminal intent to commit the offence that was reported. This approach is consistent with the idea that businesses and other legal entities are not only vicariously accountable for criminal crimes done by its executives, but can also be judged culpable in their own right if they are found to have committed the act in question. In this chapter, we will devote some of our time to enumerating some of the criteria that can be used to determine a corporation's criminal responsibility depending on the "purpose" of the business. There is a huge range of standards for demonstrating guilt, both individually and within corporations. If both parties are going to be tried in the same court (for example, the International Criminal Court), then the criteria for assigning blame ought to be as clear and explicit as is humanly possible.

Many people consider the postwar Nuremberg and control council trials to be the beginning of international criminal law; hence, the subject of whether or not corporations should be held accountable in international criminal law dates back to this time. The cases of Krupp 225 and I.G. Farben 226, both of which involved manufacturing companies, are of particular significance for the purposes of this discussion. The Krupp case involved the prosecution of Alfred Krupp and nine other leaders of the Krupp industrial corporation. All of the defendants in the case were found guilty of charges related to the use of slave labour during World War II, among other allegations. According to the prosecution, the company was an integral part of German policy against occupied nations like France, Norway, and Poland during World War II and played an important part in wartime activities. This made the company an inseparable part of German strategy for these countries. Especially, the tribunal ordered that all of Krupp's property, both public and private, be surrendered as part of the penalty[6].

Regardless of the fact that some precedents of international criminal law can be discovered before to the First World War, it was only after the war that a truly worldwide criminal tribunal was envisioned to trial perpetrators of crimes committed during that time. As a result, the Treaty of Versailles mandated the establishment of an international tribunal to try Wilhelm II of Germany. After the World War II, the Allies established an international tribunal to investigate not only war crimes, but also crimes against humanity committed by the Nazi dictatorship. The significance of "crimes against humanity" resides in the international community's acknowledgement of international crimes committed not just in physical war zones, but also in acts that infringe the collective sacrednessof humanity. [7]

International criminal law is derived from the same sources as international law. Treaties, customary international law, and general principles of law recognised by civilised nations are the primary sources of international law, according to Article 38(1) of the International Court of Justice's 1946 Statute; and, as a secondary measure, judicial decisions and the most highly qualified juristic writings. No. 166 Because the premise of individual criminal culpability and national criminal law are the bedrock of international criminal law, it is vital to note that it draws extensively from national criminal law systems. This is a problem that is effectively dealt with by

[5]Also see Alschuler Albert W, Two Ways to Think About the PunishmentofCorporations,AmericanCriminalLawReview46,2009,1366-1367

[6]Andrew Weissmann, A New Approach to Corporate CriminalLiability,AmericanCriminalLawReview[Vol.44:1319],2007.

[7]BealeSaraSun,IsCorporateCriminalLiabilityUnique?,AmericanCriminalLawReview44,2007,1503-1504

legal systems. For the sake of international law167, international criminal law has adopted the concept of criminality from local laws. On the other side, public international law is concerned with the rights of individual states.

The International Criminal Court (ICC), which is a permanent tribunal that prosecutes persons for genocide, crimes against humanity, war crimes, and aggression, is today's most important institution168 for the purposes of ICL. It was established on July 1, 2002, when its foundation treaty, the Rome Statute169 of the International Criminal Court, became effective, and it can only prosecute crimes committed after that date. The court can only exercise jurisdiction in circumstances where the accused is a national of a state party, the alleged crime occurred on the territory of a state party, or the UN Security Council refers a situation to the court. Its purpose is to supplement existing national judicial systems; it can only exercise jurisdiction when national courts refuse or are unable to investigate or prosecute such crimes. Individual states are thus given primary authority for investigating and punishing crimes170.

The purpose of studying ICL principles is to analyse their relevance and applicability in determining a legal person's culpability under the international criminal law framework, such as criminal liability of a multinational business or entity liability. Another issue that needs to be addressed is the required standard for determining a corporation's culpability when it is not directly involved in an international crime, such as crimes against humanity or genocide, but is assisting and abetting the forces that are actually committing such crimes by providing material and logistical support. This'standard' would be included in the ICL principles if the ICL's jurisdiction was expanded to encompass prosecution of 'legal person.' It is critical to establish such a criterion because, under the existing ICL, which recognises only four basic crimes as international crimes, entity culpability in those crimes is more likely to be indirect than direct. Indictment for indirect participation in a crime would necessitate the establishment of an objective threshold beyond which it can be confidently inferred that the 'thing' had truly criminally participated in a 'crime.' A discussion of the study done by the International Commission of Jurists (located in Geneva) is particularly pertinent in this regard. The Commission's Report establishes the level that a corporation must adhere to, beyond which the corporation enters the danger zone, resulting in the inference that it has participated in the commission of an international crime. Later, the Report will be debated[8].

The concept of criminal liability for corporations can be traced back to ancient legal precedents, and doctrinal disputes on the topic began around the beginning of the twentieth century. The development of the idea that corporations can be held accountable for criminal activity has been strongly impacted by the traditions, legal systems, economic conditions, and political climates of each nation. As a consequence of this effect, a number of distinct types of criminal responsibility for corporations evolved. Under civil law regimes, the concept of corporate criminal liability has developed in a manner that is distinct from how it has progressed under common law systems. At the same time, the development of corporate criminal responsibility has differed depending on whether a country follows a civil law system or a common law system. This is because the historical and socio-economic circumstances of each country have been distinct. The evolution of the notion of corporate criminal liability over time reveals that it is compatible with the fundamental principles of criminal law and the characteristics of businesses. In addition, the development of theories on the criminal liability of corporations illustrates that the accountability of corporations for illegal behaviour is a vital "public policy bargain." The transaction evaluates the advantages of legal recognition of a corporation, such as limited liability for corporate shareholders and the capability of a group of investors to act through a single corporate form, in contrast to the pressures of law compliance and crime prevention that are placed on the managers of the corporate entity that is created as a result of the transaction. It is possible to trace the origin, development, and application of theories of corporate criminal liability all the way back to the Roman era, despite the fact that the idea of corporate criminal liability was not acceptable during that time.

When discussing criminal law, the concept of "corporate liability" relates to the extent to which a corporation can be held liable for the actions and inactions of the natural persons that it employs. In contrast to circumstances in which the language of a legislative offence directly binds the firm as the principal or joint principle with a human agent, corporate criminal responsibility has a pragmatic

[8]BealeSaraS.andSafwatAdamG.,WhatDevelopmentsinWestern Europe Tell us about American Critiques of CorporateCriminalLiability,BuffaloCriminalLawReview89,2004,113-115.

background. It is sometimes considered as a sort of criminal vicarious liability. The fundamental ruling that upheld the strange practise of holding corporations criminally accountable in the United States specifically reasoned that prohibiting the practise "would virtually take away the only method of effectively governing the subject matter and addressing the injustices targeted at." In other words, the prohibition of the practise "would virtually take away the only method of effectively governing the subject matter and addressing the injustices targeted at." Because there were no other viable options for correction, accepting criminal guilt on the part of corporations became an absolute necessity. After several decades had passed, a similar line of thinking inspired the rapid adoption of corporate criminal responsibility in Europe.

There may be different organisational types and command and control chains. The intricacy of the corporate structure presents challenging questions about who bears responsibility for the repercussions of illegal behaviour committed by persons acting on behalf of the organisation. This is especially true when the corporation and its stockholders stand to gain financially from the illicit activity. In the framework of criminal law, all modern systems share the core idea that individuals who commit a crime in the corporation's interest should be held criminally liable. Should the corporation as a legal entity be held legally liable for criminal activities undertaken to advance corporate purposes, and to what extent and in what ways?

Modern legal systems do not always include corporate criminal culpability. Brazil, Bulgaria, Luxembourg, and the Slovak Republic, for example, do not recognise any type of corporation criminal liability. While some nations, such as Germany, Greece, Hungary, Mexico, and Sweden, do not allow for criminal responsibility, they do have regimes in place that allow for administrative fines to be placed on corporations for illegal conduct committed by certain workers[9].

The countries that do impose some sort of criminal liability on companies take different approaches to the form and scope of that obligation. The most popular models involve 'derivative' responsibility, in which the organisation is held responsible for the actions of individual offenders. The vicarious culpability, or respondeat superior, model, which is used in federal criminal law in the United States and in South Africa, is one example. Individual workers or agents' crimes are imputed to the corporation under this model if they were committed in the course of their duties and were intended, at least in part, to benefit the corporation. Another variant is the 'identification' model, which is used in the United Kingdom and other British Commonwealth countries to impute individual senior officers and employees' crimes to the corporation on the basis that their state of mind (and their knowledge, intention, recklessness, or other culpable mindset) is the same as the corporation's[10].

There is also the 'extended identification' strategy, which is similar to the 'identification' approach. This model, which is mostly found in continental Europe, keeps the focus on the conduct of high-ranking officers and staff while also incorporating a duty of supervision, albeit whether that duty is due by the organisation or its officials individually differs by nation. Recently, there has been a greater emphasis on an alternative concept of liability that focuses on the corporation's own conduct or omissions. Rather than being accountable for the acts of individual perpetrators, a business is liable under this model38 because its 'culture,' policies, procedures, management, or other qualities encouraged or caused the offence to be committed. This organisational' liability paradigm is well-exemplified by Australia.

None of the conventional aims of criminal law allow the use of agency principles of vicarious responsibility in situations when a corporation has taken all reasonable steps to ensure that its workers' behaviour is lawful. The criminal law's purposes are met when a business can be expected to do nothing more than what it has already done.

This strategy makes sense and is supported by logic. Consider this: even if the Corporation is found to be prima facie guilty of a criminal violation by the DOJ, the Deferred Prosecution Agreement kicks in, which is essentially an offer to the Corporation to clean up the rot in its organisation. This is normally accomplished by requiring the Corporation to implement compliance processes and, in some cases, by imposing fines. Thus, if the Corporation has already implemented compliance processes or systemic checks to avoid illegal activities by its officers

[9]Cristina De Maglie, Centennial Universal Congress of LawyersConference-LawyersandJuristsinthe21stCentury:Paper:Models of Corporate Criminal Liability in Comparative Law, 4Wash.U.GlobalStud.L.Rev.547,552(2005).

[10]JamesGobert—TheCorporateManslaughterandCorporateHomicide Act 2007 – Thirteen years in the making but was itworththewait?‖(2008)71MLR.

and employees, there is little justification for continuing to prosecute the Corporation and forcing it to enter into a DPA[11].

Deterrence is generally divided into two parts: particular and general deterrence. The term "specific deterrence" refers to incapacitating a criminal in order to prevent future behaviour in that person. In the case of a real person, incapacitation usually takes the form of imprisonment, which may include limits on liberty or supervised release. Of course, a corporation does not have the choice of going to prison. Specific deterrence of a company, on the other hand, could take the form of the company being dissolved, the company being barred from engaging in certain businesses permanently or for a period of time, or the corporation, like an individual, being subjected to a probationary period during which its conduct is restricted and monitored by a court. The effect of a specific defendant's punishment on other members of society who might be enticed to engage in similar behaviour is referred to as general deterrence. When it comes to corporate criminal behaviour, general deterrence is especially effective. The criminal law also functions as a means of retribution. What behaviours are considered "criminal" is a cultural judgement of what is outside the confines of acceptable societal behaviour. A corporation that crosses that line may face the same repercussions as an individual. However, there is a distinction to be made between corporate and individual vengeance. When a corporation is judged criminally liable for an employee's criminal activities, punishment necessitates first determining what the corporation did or did not do that merits criminal penalties. When a company encourages an employee to commit a crime, the analysis is straightforward. But what about the corporation that done everything it could to avoid such behaviour? Imposing corporate liability where a company has taken all reasonable precautions to prevent and detect criminal behaviour by its employees advances none of the criminal law's purposes. If anything, the conviction sends the opposite message to companies with efficient compliance programmes: that no good deed goes unpunished[12].

There is a strong argument in favour of amending the law. A standard of criminal responsibility for corporations that is based on whether the firm takes every reasonable measure to prevent and identify employee wrongdoing would strongly encourage considerable and required self-regulation. A company would have compelling reasons to implement an efficient compliance programme, both to reduce the likelihood of unethical behaviour occurring in the first place and to use as a defence mechanism in the event that unethical behaviour did take place. Even if a company has the most stringent internal compliance programme possible, under the rules of the current legal system, it will not earn any legal benefit if a crime is committed. It is an unjustified notion that companies may build solely "show" procedures in an attempt to fool courts and authorities in their industry. If the corporation made any attempt to pass off a fake programme as a real one, they would be putting themselves in danger of being charged with impeding the course of justice. In the context of delayed criminal proceedings, prosecutors and judges are now being required to examine the effectiveness of such compliance programmes.

The legal system in the United States was the first in the world to hold 'Legal Persons' accountable for their actions in a criminal court. Attaching criminal culpability means holding a juristic person or a corporation accountable for the actions of its officials. These officials may be Directors or any other officer tasked with overseeing the activities of the organisation, or they may even be an employee at a lower level.Corporations, as entities, can be prosecuted and convicted in the United States for crimes committed by individual directors, managers, and even low-level employees[13]. The United States' strategy to dealing with corporate misbehaviour is a reflection of their traditional concept of defending market economic freedom, which is reflected in virtually all laws dealing with corporate wrongdoing. The idea of convicting a company of a crime had been largely dismissed until the eighteenth century. Those sentiments began to soften in the United States during the nineteenth century, as companies in American society began to grow and their potential for harm

[11]JulianHarris—TheCorporateManslaughterandCorporateHomicideAct2007:unfinishedbusiness?‖ (2007)28CompLaw321at322.

[12]Markus D. Dubber, —The Promise of German Criminal Law: AScienceofCrimeandPunishment,‖6GermanLaw Journal1049(2005)

[13]VikramadityaKhanna —Corporate Crime Legislation: A PoliticalEconomyAnalysis‖(2004)82WashULQ95at101).

became apparent. As the Industrial Revolution dramatically transformed the role of huge corporations in American life by the turn of the twentieth century, the necessity for some mechanism to regulate and punish corporate misconduct became all the more apparent. The Industrial Revolution, the growth of the regulatory state, and the Supreme Court's seminal 1909 decision in New York Central & Hudson River Railroad v. United States270 are all mentioned in most histories of American corporate criminal responsibility. The Elkins Act, a federal regulation regulating railway rates that placed criminal culpability on corporations that violated the statute's demands, was affirmed by the Supreme Court in New York Central. The Supreme Court, by finding that a corporation might be tried for a crime under a theory of respondeat superior, sanctioned a technique that prosecutors had been using with growing frequency for more than fifty years. Recognizing that all federal criminal statutes apply to "any person" who breaches them, and that Congress had defined "person" to include "corporations" for the purposes of the US Code more broadly, federal prosecutors began applying the criminal code to corporate conduct. Federal prosecutors prosecuted corporations with individual offences such as intentionally mailing obscene materials, scheming to carry liquor onto Indian land, violating the Espionage Act, and manslaughter in the years following New York Central. Furthermore, as described in previous chapters, the United States' common law system played a crucial role in recognising the notion of corporate liability, in which attorneys and judges worked together to broaden the scope of offences. The importance of studying US criminal law in relation to corporate liability is based on how prosecutors (rather than courts) deal with the accused'corporation' or'company.' The threat of indictment alone is daunting: a criminal charge guarantees a rapid market reaction, the removal of leadership, millions of dollars in legal bills, and, of course, the chance of conviction. A conviction would result in not just any criminal fines imposed, but also "collateral consequences" – financial and reputational ramifications that can and do force businesses out of business. In addition to criminal laws, the US governs business behaviour primarily through administrative means. What makes American laws so distinctive is that, in addition to administrative and civil requirements, they inflict severe criminal culpability. It's also worth mentioning the US government's proactive strategy, which ensures that corporate governance plays a vital role in avoiding corporate crimes. Both aspects of the strategy taken by US law, namely Deferred Prosecution Agreements and the Sarbanes–Oxley Act of 2002, are described further below[14].

To conclude we could say that in today's globalized world, the existence of corporations and the activities they engage in are no longer restricted to national bodies. The proliferation of large firms in the form of multinational corporations is a direct consequence of policies that encourage acquisitions and mergers but are otherwise lax. In this situation, it is difficult to manage and avoid criminal liability on the part of corporations, particularly if the legal structure that is widespread in numerous nations varies from one another or has holes in it. The prevalence of large-scale transnational organised crime is on the rise, and there is a possibility that corporations are involved, either directly or indirectly. As a consequence of this, there is a requirement for the establishment of uniformity on the international level, both in terms of substantive and procedural law, as well as the promotion of mutual cooperation in the areas of detection, investigation, establishing guilt, and treatment, among other areas of concern. Even while enormous efforts are being made to combat a wide variety of worldwide crimes, circumstances concerning the criminal responsibility of corporations nevertheless deserve special attention.

RESEARCH METHODOLOGY

The current investigation is both diagnostic and analytical in nature. The research was conducted using a number of primary and secondary sources, including statutes, commentary, text, books, law journals, periodicals, newspapers, magazines, and websites, among others. The majority of this research is of an analytical nature, employing both pure and applied research to better comprehend the concepts and underlying challenges in assessing corporate criminal liability. The researcher has examined and analysed criminal law principles through investigating the origins and evolution of corporate responsibility. In addition, the paper includes a comparison of similar developments in other nations. Case law review and case analysis were crucial components of this research undertaking. Various international documents relating to the topic and its study, as well as legal documents adopted at the national and international levels, have been reviewed in order to determine the necessary amendments to India's existing legal framework for developing principles for identifying corporate criminal liability, as well as the

[14]RohitJaiswal,CriminalLiabilityofCorporateBodies-AreportsubmittedbySinghaniaandPartners,LLP,2012,published by International Law Office,available.

means and methods for addressing the problem.

HYPOTHESIS

A company has the capability to commit a crime. Depending on the circumstances, money or power may be the driving force. For a long time, the law has been split over whether or not a company without a soul or a physical body should be held accountable for its actions. A wide range of crimes can be committed by businesses, from financial irregularities to more serious offences, in today's global economy. Accepting corporations' involvement in criminal activity, some governments have devised liability principles that place corporations at the centre of their own crimes. Defining corporate criminality and imposing criminal sanctions that view corporations as wrongdoers are still unfulfilled objectives. Corporate nefarious crimes are becoming more prevalent in today's society, and the criminal justice system has to deal with this trend. Corporate crime poses an entirely new set of problems for law enforcement, as does corporate involvement in organised crime. Currently, the criminal justice system is ill-equipped to deal with situations of this nature. Multinational corporations are becoming increasingly commonplace, which needs the establishment of effective international procedures. Illegal activities endanger both human life and the environment by destroying industrial facilities and polluting the environment. Criminal justice must be rethought in light of current business practises, notably in terms of criminology and pyschology. To combat corporate criminal acts and operations, special and separate policies must be implemented.

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