

Journal of Religion & Society (JR&S)

Available Online:

<https://islamicreligious.com/index.php/Journal/index>

Print ISSN: 3006-1296 Online ISSN: 3006-130X

Platform & Workflow by: [Open Journal Systems](#)

<https://doi.org/10.5281/zenodo.17405692>

**Relocation of Corporate Hazards and Poor Working Conditions in
Transnational Context: Victimization in Pakistan**

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Abstract

This research paper describes the concept of contemporary issues of corporate crime with special focus on relocation of corporate hazards and poor working conditions in transnational context and its effects on people, making victimization vulnerable in Pakistan. There are different factors which become a major cause of such criminal activities of corporations in transnational context. Historically, the concept of social responsibility was very much prevalent among society men. Gradually corporations were made responsible towards society at large. With the passage of time, as man became increasingly inclined to his worldly profits, it remained more evident to find different business entities engaged in criminal activities to achieve their monetary goals even at the cost of innocent consumers and poor labour. In this dissertation, two aspects of transnational corporate crime have been described with their adverse effects on people in host developing countries. The logical conclusion of this research paper is that relocation of corporate hazards and poor working conditions cause victimization in developing countries including Pakistan which needs to be resolved by adopting strict and effective legal and regulatory measures.

Keywords: Corporate crime, transnational corporations, corporate hazards, poor working conditions, developing countries, Pakistan.

1. INTRODUCTION

1.1. Background of the Subject

Corporate crime is a type of white collar crime which is committed by corporations or by their employees on their behalf to meet the needs of an organization (Simpson, 2002). Multinational corporations in developed countries shift their subsidiaries and their corporate violence along with injurious effects in respect of food, environment, public health, and the like to the developing countries that arise in the space between the laws of host and home countries (Michalowski and Kramer, 1987). The growing issues

of relocation of corporate hazards and supply of poor working conditions to workers in transnational context is alarming and debatable in Pakistan and needs to be resolved by designing different effective legal and regulatory measures.

1.2 Structure of the Paper

In the discussion following this introduction, first, the essential elements of corporate crime in transnational context will be discussed followed by a clear picture of the legislative regime to control transnational corporate crime in Pakistan. The corresponding legislation of Pakistan consisting of substantive and procedural Laws and Regulations will be presented together with relevant transnational corporate criminal incidents and related judicial cases. In conclusion, suggestions will be made for improvement to deal with such elements to have a prosperous corporate crime free society in Pakistan.

1.3 Objective

The central objective of this paper is to address the fatal problem of transnational corporate crime in Pakistan because of the difference in the laws of developing and developed states through analysis of the legal regime of Pakistan a common law jurisdiction characterized by a combination of statute law and case law.

These will be explained briefly as the discussion proceeds. Also, the paper will critique the positive and negative aspects of the legal regime and make suggestions for improvement as and when necessary.

2. Jurisprudence and Scope of Corporate Crime

Corporate crime sounds more as a crime but the knowledge of law of corporate crime describes corporate crime as crime as well as a civil wrong. Corporate crime is largely seen in different disciplines of business, thus targeting a huge number of people in different fields of life. Corporate crime entails violation of consumer rights by all types of corporations when they deceive their consumers by playing with their health and safety (Clinard and Yeager, 2006). Intellectual property (Intellectual Property Rights Organization Ordinance of Pakistan, 2005) dealing with non-physical property is as important as physical property. The corporations if they are involved in illegal competitive practices like violation of trade mark (Trade Marks Ordinance, 2001), violation of copy right (The Copy Rights Ordinance, 1962) and of right of having patentable invention (The Patents Ordinance, 2000), they are likely to commit corporate crime as they violate federal laws (Clinard and Yeager, 2006).

Corporations in order to gain personal benefits and profits are used to adopt illegal and unfair ways of trading. There are many examples of their unfair trade practices like they provide bad working environment and poor working conditions to workers, thus avoid to spend money to make them equipped with basic precautionary measures (Clinard and Yeager, 2006).

2. Transnational Corporate Crime

2.1 Introduction to Transnational Corporate Crime

Transnational corporate crime is the outcome of differences between the laws of home and host countries. It signifies violation of not only criminal laws but also of civil and regulatory laws committed by multinational corporations while carrying on their manufacturing, administrative and marketing operations in host countries (Michalowski and Kramer, 1987). Transnational corporate crime is indicative of violation of laws by multinational corporations misusing their strong economic and political position in developing countries. Such dominating developed countries do in the developing countries what they are not allowed to do in their own countries (Clinard, and Yeager, 2006).

2.2 Essential Elements of Transnational Corporate Crime

Different elements of crime by transnational corporations are very important to study corporate criminal behaviour of transnational corporations. These elements include relocation of corporate hazards by transnational corporations and poor working conditions in transnational context.

2.2.1 Relocation of Corporate Hazards

Out of this global world, the offshore relationship among developed and developing countries of the world is abundantly seen now-a-days. That ultimate relationship is of financial, political and social activities between different countries of the world. This type of across border manufacturing and trading is debatable as it sometimes causes hazardous effects on people living in developing countries. Actually, ruling over third world countries is established by transnational corporations through the investments made by them in those countries (Baughen, S., 1995).

These investments are made not only in already running industries in developing countries but also relocate their industrial plants to these countries for in return monetary benefits. They shift such productive projects to third world countries that are prohibited to run in their own countries. Such shifting is accelerated by the wish of developing countries to get foreign investments at the expense of human lives.

2.2.1.1 Bhopal Case (1984)

This was a case of criminal negligence on the part of a multinational corporation. The facts of the case are as:

There was India based Union Carbide India Limited in collaboration with US based Union Carbide Subsidiary Corporation in the city of Bhopal. The chemical industry was working with its targets to produce concentrated fertilizers and pesticides at Bhopal plant. There occurred a lesson seeking incident as a result of poor working conditions. There was a blockage in the gas pipes which caused water back up which further exerted pressure in the gas pipes. This caused continuous leakage out for long resulting in thousands of death casualties and severe injuries to person and property existed in the vicinity of the production plant. This was ultimately due to criminal negligence of management exhibiting extremely non serious attitude of transnational corporations in developing countries (<http://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1004&content=edethicsinscience> 2015).

From the facts of the case, we conclude the following points to determine the relocation of corporate hazards by transnational corporations to developing countries.

- a. The transnational chemical industry relocated its operations to one of the developing countries India for making pesticides.
- b. Relocation of production plant to a small city of Bhopal.
- c. Workers to work at contaminated plant site.
- d. Less skilled labour to work under poor working conditions.
- e. Criminal negligence on the part of management of transnational industry
(<http://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1004&content=edethicsinscience> 2015).

The Indian government filed a law suit on behalf of victims against the US based company in US courts. The district court of New York decided: "The case is to be adjudicated and decided by the Indian Courts as hearings of the case is to be taken place at the place where the incident was taken place in pursuit of international rules of justice (Michalowski and Kramer, 1987).

With the relocation of such prohibited corporate production to developing countries, the corporate hazards are also relocated from developed to developing countries. Transnational corporations at times relocate their head offices after they have had relocated their subsidiary corporations. They do so in order to be in touch very closely with their unethical corporate practices (Birkinshaw, J., *et al.*, 2006). Here corporate hazards are illegal corporate activities and injurious waste. When it comes to relocation of corporate hazards, it extends to relocation by transnational corporations of illegal activities and dangerous waste to developing countries (Baughen, S., 1995). The relocated corporate hazards by

transnational entities result in all possible issues of transnational corporate crime including most importantly environmental hazards and failure to consumer health and safety (Michalowski and Kramer, 1987).

2.2.2 Environmental Hazards

Transnational corporations are abundantly seen to export environmental hazards along with their productive operations in less developed countries as they do not expend money on pollution control measures therein. They will have to follow the rigid laws in respect of environmental protection and will have to make efforts to meet the standards in respect of environmental safety set by legislative regime of their home countries if they have their all industrial procedures located in their nation states. Transnational corporations often expose the environment of developing host countries to hazardous waste materials while carrying on their corporate activities. They do not properly and safely dispose of the hazardous waste material in host nations. They not only pollute the air but also water, thus making the environment of developing countries no more worth living (Michalowski and Kramer, 1987).

The global corporations shift their capital and technology along with their all possible hazards to the places with poor economic conditions. It is worth stressing to know that these global enterprises have their subsidiaries in the countries with no legal restrictions in the respective field (Nayyar, D., 1983). It would be very true to state that such global enterprises are injurious to human health and lives. Green washing in developing nation states is abundantly seen to being caused by subsidiaries of multinational corporations, thereby making the corporate image as a producer and investor worse in the eye of common people at large. Their non-serious behaviour towards their social and ethical obligations is because of their greed for maximization of profits. (Babcock, H. M., 2010).

It is very tempting and appealing to have big sized global corporations but their big size is one of the other causes public hatred for them because their enlargement is a symbol of huge power exercised by them to deny following the regulations relating to environment and protection set by the government.

The intuition of transnational corporate body of getting monetary benefits out of difference between the laws of developing host and developed home countries puts impediments in the way to comply with the environmental protection measures.

Another important thing is that their huge size and diverse corporate activities puts a big full stop to the regulating bodies. Transnational corporate entities being very powerful influence our lives as we use different products from a needle to an aeroplane made by these corporations. But they do not play their vital duty of not polluting the environment with dangerous fumes, harmful gases and vapours. Thus they manipulate the weak economic and poor legal circumstances of the host developing countries where they are relocating their environmentally harmful manufacturing plants.

Not only this, they also bribe the political environment of host nations to get favourable legislation in respect of environmental safety and protection. They spend money on relocation of green washing projects to developing nation states despite making expenditure on keeping environment clean and healthy for people at large (Babcock, H. M., 2010). These big industries relocate their hazards in the name of technology transfer to developing countries as is stated by a journalist in Dawn Newspaper on December 26, 2004 that: "Many environmentally hazardous technologies are dumped in developing countries including Pakistan under the garb of technology assistance or technology transfer" (2004, Dawn).

Non serious attitude and least concern of the policy makers in Pakistan towards environment is a big call to the multinational companies around the globe to relocate their plants along with environmental hazards to Pakistan. A clear example of their this attitude is that the government remains unaddressed as only one percent of Rs 38 billion Metro Bus project is spent on environment safety. Approval by the Sindh Environmental Protection Agency of nuclear power plants to be built near to the city of Karachi knowing the bitter fact of release of radiations causing environmental deterioration is another example of silly behaviour of government over environmental issues in Pakistan (2015, Nation). Imrana Tiwana, an environmentalist said that: "Environment is not a priority subject for the government and it is difficult to achieve social, cultural and economic progress if people do not have clean water to drink and fresh air to breathe" (2015, Dawn).

Criminal activity of many local and multinational industries of polluting drinking water in Lahore needs to be redressed in order to keep water reserves clean. Release of dangerous industrial waste into underground water channels cause many skin and bone diseases. A much published incident of the year 2000 displays a crucial situation when loads of resident of Kalanawala village in the suburbs of the city of Lahore got ill with bone diseases owing to pollutant underground water containing poisonous chemicals like Mercury, Zinc, Bacteria etc. This shows a complete failure of Punjab Environmental Protection Department to enforce Pakistan Environmental Protection Act, 1997 as local and transnational industries get permission to carry on with injecting untreated waste into drains by offering huge bribes to corrupt officers (2015, Dawn). An official in the Environmental Protection Commission Islamabad said: "Section 12 of the Pakistan Environmental Protection Act, 1997 by public authorities causes serious environmental issues that would otherwise be resolved upon its enforcement" (2015, Dawn).

The environmental problems are growing enormously in Pakistan due to different irresponsible actions of transnational corporations. Worst accidents in industrial sector in transnational corporations appear to happen in developing countries including Pakistan because of their desire to get huge investments through global enterprises which are always looking forward to maximum profits out of minimum investments.

According to Environmental Democracy Index presented by the World Resources Institute in the month of May, 2015, Pakistan stood 59th out of 70 countries in relation to strict legislation to protect environment and effective implementation measures. One of the reasons of weak enforcement of environmental laws in Pakistan is the influence of business class politicians and multinationals over provincial environmental protection agencies (2015, The Express Tribune). The rapidly growing deterioration of environmental safety by multinationals is widely seen in Pakistan. This is because of increasing trend of mergers of corporations. So, conglomerates are one of the other important reasons of worse environmental hazards because these massive enterprises heavily utilize natural resources in less developed countries but pay back very minute social betterment and security from corporate environmental hazards.

Also, where transnational corporations play a great part in enhancing latest developments and in making developing countries prosperous ones, one cannot deny the fact that the introduction of latest technology and generation of new variety of jobs also cause detriment in respect of consumer health and lives. In pursuance of their profit they not only produce but also export sub-standard products along with their harmful effects to developing countries (Monshipouri, M., *et al.* 2003).

3. Poor Working Conditions

Transnational corporations are familiar for violation of their social and moral obligations towards workers as they provide poor working conditions to them. The employees in these corporations get to work with health killing materials which put their lives in danger as a large number of workers do not know how to use these life threatening substances. They are ignorant of all positives and negatives of these chemicals as they are not trained professionally to use them properly. Working in unhealthy environment they fight with life killing diseases.

They also suffer genetically as their upcoming generations are badly affected straight from their poor health. These workers are not only physically disturbed but also lack in good mental health thus are victims of mental distress as they are exposed to health and safety hazards at their work places in transnational corporations. Such poor working conditions drive these victims sick (<http://www.multinational corporation-essays-zoeyzyt-microsoft word, 2014>). Lack of awareness and less relevant education among employees about having safe and healthy working environment is prevailing in developing countries including Pakistan. Poor working conditions in different industries in Pakistan result in severe skin and lung diseases abundantly. Not only workers, the inhabitants of the nearby industrial area are also badly affected when it comes to their health and safety. Putting aside this issue of unawareness among workers, caution and reasonable diligence is not abundantly seen to be adopted by management in transnational entities in Pakistan. The result out of such breach of duty of care is very crucial and disappointing ([http://www.amrc.org.hk\(alu-article/occupational-health-safety/occupational-health-and-safety-in-pakistan, 2014\)](http://www.amrc.org.hk(alu-article/occupational-health-safety/occupational-health-and-safety-in-pakistan, 2014))).

The poor countries including Pakistan with weak labour laws are deemed to be heaven for transnational industries to get maximum benefits and incentives. So, where we see lots of blessings of globalization over human lives everywhere, there are increasing difficulties to be faced by developing countries in respect of occupational health and safety of employees.

It is widely seen in developing countries that labour rights movements resulted in intervention of federal government in the shape of enforcing legislation for protection of labour rights but Pakistan remains unable to promulgate such legislation due to huge pressure of giant transnational corporate entities to establish business friendly environment (2015, Dawn). Constitution based judicial decisions have played a great role in the administration of justice and accountability against corporations in respect of working conditions of workers is clearly and widely seen. The judgement in *Shehla Zia vs. Wapda (1994)* (PLD 1994 SC 693) seems to be a mile stone in the way to awareness about universal working standards. It puts emphasis on fair relation between all the society men.

4. Controlling Transnational Corporate Crime in Pakistan

The giant transnational corporations abundantly commit crimes in their host developing countries without fear of being punished. But it cannot be said in their favour and support that they do so just to fulfil the challenges of time or due to their particular corporate culture. The common corporate defence is that they commit criminal activities where ever they find easy to meet their economic needs (Clinard and Yeager, 2006). However, the most effective and best way to control corporate crime committed either in local areas or in foreign territories while doing business operations by transnational corporations seems to have properly framed legislation and effective enforcement ways (Simpson, 2002).

So, there is a great need to put emphasis on reformation of corporate internal environment. This reformation may be either voluntary by corporate officers or by strict governmental actions. Talking about voluntary change in corporate criminal culture and structure, the executives of corporate entities would have to perform a very responsible role to establish strong principles of corporate social responsibility encompassing fair ways to business (Clinard and Yeager, 2006).

When it comes to the role of the government fighting against the corporate crime, it must promote chartering the corporate reforms at federal level. A charter prescribes all the rules and regulations to run their business activities. Then the corporations will have to follow those certain prescribed rules as they will have no chance to say no to those rules and regulations. In case of violation of such chartered reforms these corporate bodies will be subject to criminal prosecutions resulting in severe criminal sanctions. In this way if the regulatory bodies will work by promoting federal rules and regulations, the corporate entities will work in the best interest of public at large (Clinard and Yeager, 2006).

The government should play its valuable role by legislating appropriately in the field of controlling corporate crime committed nationally and internationally. It seems very fruitless to litigate against the powerful transnational corporate entities without having proper relevant legislation. It becomes very essential to pass proper and precise legislation to have corporate crime free society as corporate crimes are frequently prevalent all around the globe and process of legislation to control such corporate crimes is on the way everywhere in the world.

4.1 Pakistan Penal Code, 1860

The word person used in Pakistan Penal Code includes any type of company or a group of individuals whether registered to do some business or not and there is no criminal liability upon corporate bodies either national or transnational (Pakistan Penal Code, 1860).

We are already facing a huge criticism on Pakistan to be the safest place for commission of corporate crime as a large number of crimes committed by transnational corporations have emerged in present times

(www.pakistanilaws.wordpress.com). So, there arose a dire need to come up with a model criminal law to deter corporate criminal activities in transnational context.

4.2 Companies Ordinance, 1984

There seems a dire need of some major amendments to be made in Companies Ordinance, 1984, by subjecting the corporations themselves to any form of punishments including heavy fine or otherwise to deter corporate crime either committed by a local corporation or transnational corporation.

4.3 Criminal Procedure Code, 1898

Although the Criminal Procedure Code, 1898, lays down certain provisions describing the detailed procedure to be adopted against accused in conventional crimes, there is a great need to incorporate some important amendments in Criminal Procedure Code, 1898, by subjecting the executives of transnational corporations to go through strict trials themselves. As the Code of Criminal Procedure, 1898, consists of different chapters and sub chapters (Preamble of the Criminal Procedure Code, 1898), a separate chapter in respect of contemporary issues of transnational corporate crime, procedure to be followed by the courts of law and forms of punishments and penalties in respect of transnational corporate crime need to be incorporated into the Criminal Procedure Code, 1898.

5. Other Allied Legislations

There are other allied legislations in Pakistan like Pakistan Environmental Protection Act, 1997 whose task is two-fold. Firstly, the person who plays an active role in and the other who exercises control over activities hazardous to the society at large, both shall be liable for such criminal activities after being prosecuted. But the transnational corporations put influence by using their strong economic and political position upon the relevant authorities to get clearance of the Environmental Impact Assessment finally to start their business operations in Pakistan.

It is very encouraging aspect that accountability courts have been established in Pakistan under the Accountability Ordinance of 1999. But the word person as described in section 5(O) of the Ordinance of 1999 does not elaborate whether the scope of person extends to transnational companies or not.

In case of huge transnational corporations, a proper procedure of prosecution is not laid down if they get involved into corrupt practices. So, the scope of corrupt practices in case of transnational corporate actors remains untouched. Securities and Exchange Commission of Pakistan has not placed strict rules and regulations regarding civil and criminal liabilities of transnational corporations. No specific legal frame work for execution of such liabilities in transnational context is laid down by the said commission.

Also, if there is some specialized anti money laundering agency or force in Pakistan for dealing money laundering crimes committed by

corporations both local and transnational, the Anti-Money Laundering Act of 2007 would be more practical and fruitful to deter money laundering crimes committed by corporations even in transnational context.

The rights and interests of workers working in both national and transnational corporations and industries need to be protected in order to have a well civilized social set up keeping in view the betterment of workers. The workers need to go through proper medical check-ups and updated information in respect of casualties should be provided by the executives of the business entities employing not less than twenty workers. (Preamble of the Factories Act, 1934).

Restitution of victims of corporate crime is very important in a civilized society as individuals of society become victims of corporate crime in different aspects. Somewhere they suffer from environmental pollution caused by the corporations both national and transnational. At the other time they being consumers get unhealthy and substandard products produced by manufacturing corporations pursuing their illegal goals. Moreover, the workers in poor countries become victims of inhuman behaviour of transnational corporations by exposing them to unsafe and dangerous working conditions and by getting them very low wages.

6 Conclusion

The legislators in Pakistan should legislate to secure the ends of justice without the fear of consequences to be faced in the international market. They must work for the betterment of society at large not at the expense of their being economically developing country. Regulatory authorities in Pakistan should address the criminal activities of transnational corporations by making effective rules so as to control the happening of corporate crimes including environmental crime, vulnerability of consumers and poor working conditions being given by transnational corporations. Proper surveys, equipment of environmental protection agencies with latest technology, a complete code of conduct regulating the behaviour of transnational corporations in case of vulnerability of consumers, attention of decision makers towards corporate social responsibility and the legislators in Pakistan need to add up global standards set by United Nations concerning activities of corporations in transnational context (Michalowski and Kramer, 1987) to the legal regime of Pakistan so as to take strict legal actions against criminal activities of transnational corporations in national jurisdiction.

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