

**RESEARCH PAPER**

When Corporations Kill: Unmasking the Legal Immunity for Occupational Manslaughter in Pakistan

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ABSTRACT

This study examines the intersection of labour laws, corporate criminal liability and Shari'ah principles, with a view to ascertain how these frameworks protect human life at the workplaces. Particularly, this research explores the legal and moral obligations of corporate sector to ensure employee well-being and safety. Pakistan's labour laws and Shari'ah principles emphasize the importance of protecting human life, but gaps in legislation and enforcement hinder effective implementation. Corporate manslaughter, a crime that jeopardizes human life, is not adequately addressed in Pakistani law. This qualitative study involves a critical review of primary sources, including Quranic passages, Hadiths, and Pakistani labour laws, supplemented by secondary sources and comparative assessments with international standards. The findings highlight the need for clearer guidelines on corporate criminal liability, integration of Shari'ah principles into labour laws, and promotion of workplace safety and fairness. The study recommends incorporating Shari'ah principles into labour regulations, clarifying corporate criminal liability.

Keywords

Lobour Laws, Worker Rights, Employer's Duties

Introduction

A corporate manslaughter occurs when a corporation violates its duty of care by causing a death while an employee is on the job. Due to Pakistan's legislature's failure to acknowledge the crime of corporate manslaughter and offer a suitable remedy, businesses sometimes evade the law while victims in other circumstances receive insufficient or no compensation (Nyazee, 2016).

Article 9 of the 1973 Constitution of the Islamic Republic of Pakistan guarantees protection of life as a fundamental right for all citizens of Pakistan (Constitution of the Islamic Republic of Pakistan, 1973, Art.9). Corporate manslaughter, on the other hand, is the crime that jeopardizes the existence of this fundamental right. When a law grants someone a right, it also has to offer the means to support that right. Imagining a right without a remedy is a fruitless endeavor (Ashby vs white 1703).

The same crime is known as initial manslaughter, voluntary manslaughter, or intentional manslaughter when someone commits murder but is later found guilty of manslaughter due to extenuating circumstances like sufficient provocation or diminished capacity that resulted in the "heat of passion." (Garner, 2019) It is pertinent to mention that; same is the definition of Unintentional Murder. Such a crime turns into Corporate Manslaughter whenever a corporation or other fictional organization is held accountable for the careless death of a natural person as it failed to uphold the duty of care.

This subject of law is very complicated and dispersed in Pakistan. There isn't a single legislation in Pakistan that deals with this offense, and the laws that do exist are dispersed and complicated, making them insufficient.

Criminal law should hold the offender accountable for committing a crime. "Company" and "Association" are included in the meaning of "person" in Section 11 of the Pakistan Penal Code. (PPC,1860).

A corporation should automatically be subject to the Qatl-e-Khata clause. A single person's blood money is 30,630 grams of silver. The value of Diyat for the Financial Year 2020–21 is Rs. 27,77,353/-, which is more than \$17,000/-, according to a notification published in the Official Gazette on July 1, 2020 (Finance Division, 2020).

Consequently, it shouldn't be left up to. The legislation has already addressed it, but the issue is more complex than that. Section 5 of the same legislation states that the application of special law takes precedence over the application of general law, which creates a conflict when Pakistani law is examined attentively.

In Pakistan, corporations are subject to a number of unique laws that govern and penalize them. For this reason, corporations are able to evade the criminal law of Pakistan. The Companies Act of 2017 and the Fatal Accidents Act of 1855 are unique statutes that shield businesses from punishment under Pakistani criminal law.

According to the Workmen's Compensation Act of 1923, an employer is responsible as damages or compensation if an employee is killed or suffers injuries that result in temporary or permanent disability while working for the company. (The Workmen Compensation Act, 1923). This law offers a number of schedules for calculating the amount of money lost. The legislation provides $\frac{1}{2}$ of monthly income for a year or the duration of temporary disability, whichever is shorter. In the case of chronic lung disease, the law only provides $\frac{1}{3}$ of monthly wages for the duration of disability or for five years, whichever is shorter. According to this statute, the highest compensation for death and permanent total disability is two lacs, or two million rupees. This reward has been enhanced by 4,00,000/-, or 4 lacs, by the Punjab amendment. (Punjab Amendment Act,2013).

Even with 4 lacs, the disparity between the sums specified under Pakistan's criminal law—20 lacs as blood money—is far from being made up. Additionally, only workers—that is, corporate employees—are eligible for this compensation. More significantly, the loss must have occurred within the course of the employee's employment.

A corporation's various actions can result in corporate manslaughter. It could include things like incorrect trash disposal, the manufacture of cars that generate smoke, paying doctors to promote their unproven medications, deceptive food advertising, sending imported food items without the necessary inspection, or even unfair labor practices. This type of corporate malfeasance not only results in injuries but also creates situations that make death unavoidable. (Hartley,2008)

Given a company's intricate and interconnected structure, the Court's largest challenge in determining whether the corporation is criminally liable or not is determining whether the organization had malafide intent. This is due to the fact that companies lack free will, limbs to act, bodies to kick, and souls to condemn. (Clarkson,1996)

The court must determine whether an individual used the Corporation's guise to escape punishment or if the Corporation truly intended to commit the offense with knowledge.

Different nations hold corporations accountable in different ways all across the world. Corporations may be held criminally accountable in certain nations, liable for tortious or civil wrongs in others, and liable under administrative law in still others. (Allen Arthur Robinson, 2006)

Businesses play a vital role in any society by boosting the economy, providing services, and giving people work. Since corporations now play a significant role in improving society, a lot of research has been done on how to create an atmosphere that is conducive to business success. (Hartley, 2008)

The judiciary can deter corporations, but it can only enforce existing laws and impose penalties to the extent that the law permits.

Laws that are insufficient can have a desperate effect on society and lead to anarchy. In order to hold corporations criminally responsible for corporate killings and to give victims the best possible treatment, Pakistan urgently needs appropriate laws against the crime of corporate manslaughter.

Literature Review

Corporate Criminal Liability is a thematic issues, compares organizational as well individual liability, discusses particular offenses, and then presents reports from 31 European nations on the changes in corporate criminal liability in each of those nations. This anthology is the result of the collaboration of 21 authors from different countries. (Gobert & Pascal, 2011)

The tactics employed by the US and the UK to combat the crime of corporate manslaughter are examined in the book *When Business Kills: The Emerging Crime about Corporate Manslaughter*. Prior to outlining the similarities and differences between the two approaches to occupational deaths, the book provides an explanation of the Common Law framework. The range of potential penalties is discussed after the criminal laws, with special focus given to the health and safety regulations governing corporate murder (Jones, 2019).

In addition to discussing the various forms of corporate crime, *Corporate Crime* examines the origins and history of corporate crime and traces the genesis of the terms corporate & white collar crime. He goes into length on the issues, disputes, and potential fixes for this crime. He provides a global viewpoint on how this crime affects nations worldwide. By providing a list of authors, data, documents, and resources that are useful for researching corporate and white-collar crime, he provides a roadmap for the theoretical study of corporate crime. (Hartley, 2008)

To determine the most effective strategy for addressing the issue of corporate misbehavior, she evaluates various deterrence models as well as civil, criminal, and regulatory regimes. She identifies the shortcomings of the severe deterrence strategy and suggests substitutes for criminalization. Using Braithwaite's pyramid as a guide, she wraps up her work and offers fresh ideas for "control" over unlawful corporate conduct. (Simpson, 2002)

Examining the essence of a corporation in the context of criminal law and the flexibility of criminal law in handling a fictional entity while attempting to determine the company's mind via the use of various models are the topics of *Revisiting the Question of Imputation in Corporate Criminal Law*. After researching many concepts, such as strict responsibility and the attribution model, he suggests the best methodology for determining criminal liability. (Nana, 2010)

The book *Safety Crimes*, written by Steve Tombs & Dave Whyte, focuses on the number of fatalities that happen in the UK each year, whether they are related to occupational illnesses, injuries that result in disability, or accidents that happen at work. The volume of common "mundane" or "routine" deaths and injuries that are concealed by social, legal, and political systems is assessed in the book. The book examines how safety crimes operate against the backdrop of theoretical and political arguments, and it ends with a sophisticated study of safety crimes and a suggestion that safety rules be made more practical rather than theoretical. (Tombs & whyte, 2013)

The two sections of fundamental Principles of Criminal Law (Islamic and Western) are Part I, which assesses the nature, intent, and function of criminal law, and Part II, which addresses the fundamental principles of criminal law. He provides readers with ideas of punishment, sentencing, and general defenses while presenting many forms of actus reus and mens rea in the most straightforward manner possible. He compares the perspectives of Islam and the West to finish each chapter. He explains a corporation's mental capacity by which it commits an offense, whether it be strict liability or vicarious culpability, while talking about the mental capacity necessary for committing an infraction (Nyazee, 2016).

Anca Iulia Pop's article "Criminal Liability of Corporations-Comparative Jurisprudence" outlines the process for figuring out a company's intention. The study primarily focuses on the theories or tenets that allow companies to be held criminally accountable. Identification, Aggregation, Fault, and Vicarious Liability are the theories she presents. She explains the tendencies of various jurisdictions relevant to various countries and compares all the theories. (Pop, 2006)

In her paper "Corporate Manslaughter & the Rule of Law," Dr. Warda Yaseen discusses the problem of workplace deaths and how the powerful people in a country that appears to be helping the victims are actually stealing money from one part of the country to another. She claims that the Pakistan Penal Code, which already exists, should be implemented instead of a new law being introduced to address corporate killing. She investigates that every company whether private or governmental cannot be spared from being accountable under Islamic law. (Courting the Law, 2017)

Namra Ifthikhar examines the history of corporate manslaughter in common law nations in her 2016 LLM dissertation, "Corporate Manslaughter & Regulatory Reforms in Pakistan," which she turned in to International Islamic University Islamabad. In order to provide the theoretical viewpoint of the concept, she elaborates on the doctrines for holding companies criminally accountable. She compared corporate manslaughter laws in Canada, Malaysia, and the United Kingdom before talking about Pakistan's two-mile stone instances to determine the country's needs.

Material and Methods

To comprehend the interaction of Shari'ah, labour law, and business law in Pakistan, this study adopts a research technique incorporating a careful review of primary materials, including Quranic passages and Hadiths. The industrial Relations Act of 2012 & the Companies Act of 2017 are being scrutinized as primary legal instruments. Secondary sources, such as scholarly publications and legal commentary, are used to add background. Comparative assessments with international standards aid in gaining a thorough knowledge.

Results and Discussion

Shari'ah On Protection of Life: Shari'ah guiding principles provide a unique expression for the sanctity of human life. Shari'ah not only gives immense importance to the value of human life but also give commandments to take precaution towards safety of life.

Islam, long before the concept of trade unions, laid out a clear path regarding the rights of workers. These rights and standards of fair treatment are cemented by the life of the final messenger, Hazrat Muhammad (PBUH). They are not just societal principles but a means of serving and respecting the Creator.

Respect for Life: The Islamic faith holds human life to be holy and highly valued. The Quran makes it clear that killing a "innocent" individual is the same as wiping off humanity. As a result, We commanded the Children of Israel that anyone who murders a soul, unless it is for a soul or for corruption [done] in the country, is considered to have killed all of humanity. And whoever saves one is considered to have saved all of humanity.

Workplace Safety: In the labor context, providing a safe working environment is crucial in Islam. Employers are encouraged to take measures to ensure the physical well-being of their employees. This includes maintaining safe working conditions, providing necessary safety equipment, and adhering to health standards. Employers have a duty to give workers a secure and healthy work environment. This includes measures to prevent accidents, injuries, and exposure to harmful substances. No explicit sunnah or Verse of Quran is found in this matter however following principle can be applied to the workplace, emphasizing the importance of preventing harm and ensuring safety."

Healthcare Benefits Employee healthcare benefits are considered as a way to protect their life in Shari'ah. Access to medical treatment is seen as critical to the maintenance and enhancement of human life. Islam encourages just and fair treatment in employer-employee relations. Providing healthcare benefits can be seen as part of fulfilling the responsibility towards employees' welfare and is consistent with the broader ethical framework of Islam.

Prophet Muhammad (PBUH) as an Employer and Employee; The Prophet (PBUH) himself worked as both an employer and an employee, setting high standards of discipline and trust. The Prophet's behaviour as an employer is notable. Despite his position, he would sit on the floor with his servant boy, Hazrat Anas ibn Malik (R.A.) and shared meals. According to Anas (R.A.), the Prophet's good-natured demeanor extended to his managerial style, displaying a partnership characterized by friendliness and understanding. The Holy Prophet (PBUH) was strictly against holding anyone's right which infringed even his standard to life and he (PBUH) said: On the Day of Resurrection, Allah would be the adversary of three people, one of them would be the one who hired someone for a certain amount of money, exploited him completely, and then failed to pay him what he owed.

Labour Jurisdiction of Pakistan; Labour laws of Pakistan are complete and comprehensive in protecting the life of a blue collar. Labour law of Pakistan is not limited to just health standards and fair treatment but also gives protection against temporary and permanent injury. Moreover, it also provides compensation in case a worker dies in course of employment. Wrongful termination of services, safety and health regulations, child labour, right of association, trade unions and wages are few of many rights which are sheltered under the umbrella of Labour jurisdiction of Pakistan.

Conclusion

In conclusion, the preservation of human life is given the utmost priority by *Shari'ah* and modern legal systems. This is especially clear in the complex web of labour regulations and corporate criminal culpability. The sacredness and intrinsic value of human life are at the basis of *Shari'ah* principles, which emphasise the moral duty of businesses to protect their employees' well-being. This involves offering a secure workplace, reasonable pay, and decent treatment.

These *Shari'ah* principles are supplemented by labour regulations, which set minimum requirements for working conditions and are influenced by both national and international factors. Vital focuses including workplace health and safety, fair pay, working hours, and the abolition of forced labour and exploitation are all covered by these laws. By doing thus, they serve as a legal framework in line with *Shari'ah*'s tenets, striving to safeguard human life in the workplace.

The theory of corporate criminal liability supports the notion that businesses have a responsibility to protect the lives and well-being of its stakeholders and workers. It acts as a deterrent against behaviors that endanger workers' health and safety at work by placing a focus on corporate misconduct and accountability.

The administration of federal labour and business legislation is complicated by issues like the characterization of death as a permanent disability and the rejection of corporate criminal culpability. It is necessary to handle these problems practically, combining the application of *Shari'ah* principles with current corporate criminal responsibility rules. This interplay can produce a strong legal framework that respects *Shari'ah*'s moral and ethical standards while also filling up the gaps in other legal frameworks.

The convergence of *Shari'ah* and legal systems in safeguarding human life within labor and corporate laws highlights a shared objective — the promotion of well-being and safety within the workplace. By adhering to labor regulations and respecting *Shari'ah* principles, firms can actively help to create a fair and just workplace that puts life protection first. Fundamentally, the adherence to *Shari'ah* principles and the harmony between blue-collar & white-collar jobs strengthens the pledge to protect human life in the context of hiring processes, encouraging a culture of accountability and responsibility.

Recommendations

- Integrate *Shari'ah* principles with modern labour laws: Encourage policymakers to incorporate *Shari'ah* principles into labour regulations to strengthen the protection of human life and well-being in the workplace.
- Clarify corporate criminal liability: Develop clearer guidelines on corporate criminal liability to ensure businesses are held accountable for actions that endanger workers' health and safety.
- Address gaps in labour laws: Identify and address gaps in labour laws, such as the characterization of death as a permanent disability, to ensure comprehensive protection for workers.
- Promote workplace safety and fairness: Encourage businesses to prioritize workplace safety, fair compensation, and decent treatment of employees, aligning with *Shari'ah* principles and labour regulations.
- Foster a culture of accountability: Encourage a culture of accountability and responsibility among businesses, emphasizing the importance of protecting human life and well-being in the workplace.

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