



## **CORPORATE CRIME – ITS UNDERESTIMATION AND BREACHING TO ETHICS AND HUMANITY FROM A CRIMINOLOGICAL PERSPECTIVE**

JAIME HERNÁNDEZ PALACIOS\*

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### **ABSTRACT**

This paper is the final result of a research that embraces the scope of Corporate Crime from a criminological perspective. Accordingly, it reviews the impacts of Corporate Crime and how to control it. This research states that Corporate Crime currently is underestimated on its effects and harm to society, as society conceives Street Crime as more injurious and harmful to it. It is the goal of this paper to prove that Corporate Crime is indeed more harmful to society than Street Crime and that infusing more and stronger ethical and human values in educational institutions, and more non-conventional sanctions could prevent and reduce it.

**Key words:** Corporation; Corporate Crime; Corporate Offence; Criminology; Criminal Law; Street Crime.

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\* Fifth year Law student at Pontificia Universidad Javeriana. First year student of the Diploma in Advanced Political, Economical and Social Studies at the University of Notre Dame du Lac, Indiana, USA. Correo: [jaimе-hernandez@javeriana.edu.co](mailto:jaimе-hernandez@javeriana.edu.co)

# **DELITOS CORPORATIVOS - SU SUBESTIMACIÓN E INCUMPLIMIENTOS A LA ÉTICA Y LA HUMANIDAD DESDE UNA PERSPECTIVA CRIMINOLÓGICA**

## **RESUMEN**

*Este artículo es el resultado final de una investigación que comprende el alcance del crimen corporativo desde una perspectiva criminológica. Respectivamente, examina los impactos del crimen corporativo y como controlarlo. Esta investigación establece que el crimen corporativo actualmente está subestimado en sus efectos y daño a la sociedad, ya que la sociedad concibe a la delincuencia callejera como más perjudicial y dañina para esta. Es el objetivo de este artículo probar que el crimen corporativo es ciertamente más nocivo para la sociedad que la delincuencia callejera y que infundiéndose más y más fuertes valores éticos y humanos en las instituciones educativas y más sanciones no convencionales, podría ser prevenido y reducido.*

**Palabras clave:** Empresa; Crimen Corporativo; Delito Corporativo; Criminología; Derecho Penal; Delincuencia Callejera.

## **INTRODUCTION**

It is a fact nowadays that criminal conducts that emerge from corporate environments can be consummated due to different reasons. On its analysis, identifying its causes and consequences, could be found possible solutions for this kind of offences. This means perhaps mitigating their chances to be committed, clearly raise the bar in what comes to its consequences, for offenders, which in this case are corporations, and finally propose new approaches and solutions for this criminological and social issue.

### **1. CRIMINOLOGICAL ANALYSIS ON CORPORATE CRIME**

For the purposes of this research corporate crime could be referred to, from Braithwaite's notion, as: "... the conduct of a corporation which is proscribed and punishable by law. The conduct could be punishable by imprisonment, probation, fine, revocation of license, community service order or other court-imposed penalties".<sup>1</sup>

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1 John Braithwaite, *Corporate Crime in the Pharmaceutical Industry*. Pg. 69. Ed., Routledge & Kegan Paul. (1984).

Therefore, it is important to mention that wrongdoing or crime for the aim of this investigation could be addressed as illegal behavior from proved activities that breach the criminal law, which are explicitly and forcefully prohibited and punishable by it.<sup>2</sup>

The enterprises that commit this kind of illegal conducts are usually well known and have a significant reputation in the corporate world, most of the times. Also, it is common that they are not experiencing any kind of financial liability, like dealing with bankruptcy. Usually, companies that incur in corporate breaching are the ones more prone to recidivism.<sup>3</sup>

A Corporation is an abstract and separate legal entity, regarded as a person for legal purposes, with legal capacity and responsibilities, which may conduct business and its main goal is to produce economic profit.<sup>4</sup>

From Clinard & Yeager's, we can have in mind as the most important and relevant types of Corporate Wrongdoing the following behaviors: "... administrative, environmental, financial, labor, manufacturing, and unfair trade practices".<sup>5</sup>

They could be briefly described as: (i) *Administrative*: noncompliance with the requirements of an agency or a court; (ii) *Environmental*: mainly incidents of air and water pollution; (iii) *Financial*: involve illegal payments or failure to disclose such violations; (iv) *Labor*: imply discrimination in employment,

2 D. Sutherland. *White-Collar Criminality*. Classics of Criminology. Pg. 17. Ed., Waveland Press. (1979).

3 M. Clinard & P. Yeager. *Corporate and governmental Deviance: Problems of Organizational Behavior in Contemporary Society*. Corporate Crime: Clarifying the Concept and Extending the Data. Pg. 83. Ed., Oxford University Press. (2002).

P. Grabosky & A. Sutton. *Stains on a White Collar: Fourteen studies in corporate crime or corporate harm*. Pg. 213. Ed., The Federation Press. (1989).

H. Glasbeek. *Corporate Deviance and Deviants: The Fancy Footwork of Criminal Law*. Wealth By Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy, Between the Lines. Pg. 130. Ed., Cambridge University Press, (2002): "An argument for the deferability of corporate crime is the nature of the offence. Corporate crimes are instrumental and strategic".

R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 125. Ed., Oxford University Press (2001).

4 H. Glasbeek. *The Corporation as an Invisible Friend*. Wealth By Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy, Between the Lines. Pg. 13. Ed., Cambridge University Press, (2002).

5 Classification done by: M. Clinard & P. Yeager. *Corporate and governmental Deviance: Problems of Organizational Behavior in Contemporary Society*. Corporate Crime: Clarifying the Concept and Extending the Data. Pg. 85. Ed., Oxford University Press. (2002).

occupational safety and health hazards, unfair labor practices, and wage and hour violations; (v) *Manufacturing*: relate to electric shock hazards, chemical and environmental hazards and fire and thermal burn hazards. *Unfair trade practices*: are various abuses of competition.<sup>6</sup>

It is easy to show how this kind of criminal behavior is harming societies in a really bad and particular way, the latter going against the typical approach of Criminology and humanities which almost all the time considers that the real harm that crime could perpetrate to society is done by regular offenders. People that commit robbery, mugging and homicide, which are commonly considered as working class offences or Street Crime.<sup>7</sup>

Of course, this leads to expect that Corporate Crime is always committed, at least, by people who are in the middle-upper class of the social and economic status, and/or by enterprises' executives. This statement is clearly overrated, because the persons that take part in corporate offences are not just the CEOs, the executives and the major capital owners. Colloquially speaking, anyone, within a Corporation, could be part of a Corporate Offence, even from the janitors to the secretaries, the problem is that it is harder to prove that a general worker was involved in a Corporate Offence whilst it is easier to prove the realization of that kind of conducts by the executives of a Corporation, as they are the ones in charge of taking decisions within such entity.

In that sense and synchronized with Sutherland's statement<sup>8</sup> it is a huge mistake to establish, at first instance, that Corporate Crime is always related to upper class offenders, as it is wrong to conclude that Street Crime is always committed by working class people.

6 M. Clinard & P. Yeager. *Corporate and governmental Deviance: Problems of Organizational Behavior in Contemporary Society*. Corporate Crime: Clarifying the Concept and Extending the Data. Pg. 90. Ed., Oxford University Press. (2002).

7 H. Glasbeek. *It's not a Crime: Reclassifying Corporate Deviance*. Wealth By Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy, Between the Lines. Pg. 150. Ed., Cambridge University Press, (2002): "... a 1987 study of FBI statistics, for instance, found that the economic costs of robbery, burglary, and motor vehicle and other theft were insignificant when compared to the costs imposed by corporate monopolistic and standard-breaching manufacturing. A conservative estimate is that the economic costs of corporate wrongdoing are ten times greater than the costs generated by street criminals".

8 D. Sutherland. *White-Collar Criminality*. Classics of Criminology. Pg. 18. Ed., Waveland Press. (1979): "Crime is in fact not closely correlated with poverty or with psychopathic and sociopathic conditions associated with poverty, and an adequate explanation of criminal behavior must proceed along quite different lines".

Another relevant point is to acknowledge that the CEOs, big executives and big firms involved in anything related to Corporate Wrongdoing, in much of the cases (which does not mean always) do not receive tough punishments, in the case of being caught.<sup>9</sup>

The latter could be supported on multiple reasons. Firstly, big corporations have a large respect and social acknowledgement that would not lead to an easy task, for a justice, in order to judge and penalize their offences in a field in which they are highly respected; the corporate field. Secondly, they have a higher commercial, professional and experienced background, which lead them to being more able and skilled, than a small company, to run for their own personal interests the law and the corporate field. This means relied on their knowledge, expertise and tricks in this specific environment.<sup>10</sup>

Therefore, the last discussed point leads to say that big companies end up using the legal system, taking into account the other arguments mentioned before, as a tool to perpetrate their offences, and corporate wrongdoings, without being actually punished, avoiding the pain (punishment, in the utilitarian thesis)<sup>11</sup> of their offences and getting a significant gain, profit, or in the worst case scenario paying their outrages in alternative jurisdictions, such as the civil and the administrative jurisdictions.

That is why for large corporations - when “doing the right thing” is not in their interest, they can afford better legal advice and devise schemes to remain within the letter of the law whilst defying the spirit.<sup>12</sup> However, enterprises can end up manipulating the law in worse ways, inflicting more breaching behaviors to the Criminal Law by hiding their violations with other questionable and

9 D. Sutherland. *White-Collar Criminality*. Classics of Criminology. Pg. 19 Ed., Waveland Press. (1979).

10 What can really support this argument is a testimony about Criminal Law, quoted by Sutherland and pronounced by pious old fraud, Daniel Drew: “... law is like a cobweb; it’s made for flies and the smaller kinds of insects, so to speak, but lets the big bumbles break through. When technicalities of the law stood in my way, I have always been able to brush them aside easy as anything”. D. Sutherland. *White-Collar Criminality*. Classics of Criminology. Pg. 20. Ed., Waveland Press. (1979).

11 Jeremy Bentham. *An introduction to the principles of morals and legislation*. Classics of Criminology. Pg. 61–64. Ed., Waveland Press. (1979).

12 A. Sutton & F. Haines. *White-collar and corporate crime*. Crime and Justice: A Guide to Criminology. Pg. 164. Ed., Lawbook Co. (2006). (Paternoster & Simpson, 2001): “Corporate crimes are instrumental and strategic”.

unlawful practices as political payments, bribes and kickbacks, amongst other conducts.<sup>13</sup>

Corruption and lack of ethics and morality are important factors involved in Corporate Crime, and sadly that is why big offending corporations usually maintain a place of great respect in politics; being able to manipulate the social spheres of society. Unlike robbers, thieves, rapists, drug users, peddlers and vagrants, they do not get, in most of the cases, application of the full severity of the law.<sup>14</sup>

Accordingly, – official actions against corporations are probably only the top of the iceberg of total violations.<sup>15</sup> Perhaps the courts are more interested in issues like drug traffic and consumption, and the criminal prosecutors only focus on specific cases that are easy to investigate and accuse before a judge. It is a shame that due to this, the most of illegal corporate conducts do not result in actual criminal prosecution.<sup>16</sup>

Consequently and speaking in criminological terms, “Corporate Crime” could be explained, from a personal point of view, as the several types of wrongdoings<sup>17</sup> led by the abstract person of a Corporation, representing an individual or a conglomerate, searching for an even greater economical gain or profit than the one that could be accomplished with compliance of the law; or just to avoid its excessive costs.<sup>18</sup>

13 F. Brickey. *Part I: Chapter 1: Corporations and the Criminal Law*. Corporate Criminal Liability; *A Treatise on the Criminal Liability of Corporations, Their Officers and Agents*. Pg. 7. Ed., Callaghan. (1984).

14 H. Glasbeek. *It's not a Crime: Reclassifying Corporate Deviance*. Wealth By Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy, Between the Lines. Pg. 150. Ed., Cambridge University Press, (2002).

15 M. Clinard & P. Yeager. *Corporate and governmental Deviance: Problems of Organizational Behavior in Contemporary Society*. Corporate Crime: Clarifying the Concept and Extending the Data. Pg. 86. Ed., Oxford University Press. (2002).

16 M. Benson. *Crimes of Privilege: Readings in White-Collar Crime*. Prosecuting Corporate Crime: Problems and Constraints. Pg. 197. Ed., Oxford University Press. (2001).

17 Having in mind the categories described before.

18 R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 194–210. Ed., Oxford University Press (2001): “... the corporate crime literature has repeatedly suggested that many corporate crimes are committed not in direct anticipation of gain but to avoid what is perceived to be an avoidable expense of compliance”.

## 2. SERIOUS IMPACTS OF CORPORATE CRIME

It is a meaningful issue, as it was briefly mentioned before, all the severe consequences that are arising from Corporate Crime. Such consequences they are perhaps not embraced by every single member of society because of the filthy power and control of these offenders, of the media and the political and social spheres. Hence, there are other fields of criminal knowledge that should be embraced by everyone, not just criminological scholars.<sup>19</sup>

This particular kind of crime is devastating the environment, the respect and dignity of the consumers, the ethics and morals in society, as well as it is producing inequity and corruption all over the world, and as result turning impunity into an ordinary factor nowadays. Briefly saying, -these offences are extremely serious and may cause large financial losses or injuries to consumers, to workers, or to the general public.<sup>20</sup>

For instance, while in a hypothetical case a robber committing several assaults with sharp weapon, perhaps between two or three daily speaking, in a particular zone of the city can gain from stealing between 1000 and 1500 dollars; on the other side a Corporation that does not pay in a proper way its taxes could be stealing perhaps even millions of dollars to the government and the entire nation. So now imagine that the total economic profit of all street robbers in one year generally would be much less than a single embezzlement committed by a company.<sup>21</sup> However, this specific Corporation avoids punishment while common criminals pay tough penalties. Indeed, that is impunity and iniquity within society.

19 H. Glasbeek. *The Corporation as an Invisible Friend. Wealth By Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy, Between the Lines.* Pg. 8. Ed., Cambridge University Press, (2002): "... corporate misconduct is clearly treated differently than is misfeasance by the poor, the marginal, workers, and, in general, ordinary citizens".

20 M. Clinard & P. Yeager. *Corporate and governmental Deviance: Problems of Organizational Behavior in Contemporary Society.* Corporate Crime: Clarifying the Concept and Extending the Data. Pg. 90. Ed., Oxford University Press. (2002).

21 H. Glasbeek. *The Corporation as an Invisible Friend. Wealth By Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy, Between the Lines.* Pg. 10. Ed., Cambridge University Press, (2002).

Australian Institute of Criminology. *Entrepreneurial Crime: Impact, Detention and Regulation.* Corporate Crime. Pg. 22. Ed., The Spinney Press. (1996): "Comparison of Victorian police investigations in 1989 which involved alleged fraud totaling some \$335m, most of which relates to a single case, against a total of only \$2.8m for armed robbery. The cost of white-collar crime to the Australian community is believed to be much greater than all other forms of other crime combined".

Furthermore, the constant struggle to make money at all cost is devaluing the ethical and educational values that should be embraced in humanity, because for corporations harmful behavior suits their agenda.<sup>22</sup>

Today, success is more embraced in the concept of earning exaggerated amounts of money, not achieving real goals for the progress of society and humankind. For example, a person living in a posh suburb of the city, with an annual income higher than \$200.000 dollars (no matter what is his/her occupational activity) would be more respected and distinguished than a person focused on social activities as helping the homeless and addicts with their issues.

In what comes to nature, big companies are abusing of it, just to get big profits no matter what, and hiding it throughout distinct tricks. For instance, in a hypothetical scenario: a Corporation would prefer to pay low costs by developing its products in a rural zone deteriorating the ecosystem, rather than in the city where they have to incur in more expenses and be more controlled by their acts, and perhaps afterwards justifying the abuses that could come from production by hiring a respected attorney to defend them and excuse their acts, which are harmful for the environment. It would still be cheaper than following all the regulations and norms of producing carefulness in an urban area.

Indeed, pollution, destruction of the environment and pulverization of nature are kind of harms, which because of their great scale of damaging, their long-lasting effects<sup>23</sup> and consequences, are without a question way more destructive and graver for Earth and human life than common crime.

The worst threat in what comes to specific consequences of environmental abuse is that - all manufacturing corporations have the opportunity to violate environmental pollution standards and occupational safety and health regulations.<sup>24</sup>

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22 H. Glasbeek. *The Corporation as an Invisible Friend*. *Wealth By Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy, Between the Lines*. Pg. 6–14. Ed., Cambridge University Press, (2002): "... corporations engage in deviant, harmful behavior because it suits their agenda. They set out to maximize profits. They are legally created for that purpose. Indeed, they are legally constructed to facilitate the exercise. As part of that, corporate law, by creating incentives for both shareholder and managerial passivity -limited financial risk and personal immunity for responsibility- has emptied the corporation of moral and ethical constraints that might otherwise inhibit profiteering at any cost".

23 These lasting effects could be appreciated, for example in to the Grassy Narrows and White Dog reserves because of Reed Paper's merciless dumping of poisonous mercury.

24 M. Clinard & P. Yeager. *Corporate and governmental Deviance: Problems of Organizational Behavior in Contemporary Society*. *Corporate Crime: Clarifying the Concept and Extending the Data*. Pg. 88. Ed., Oxford University Press. (2002).

That is why corporate crime always injures several spheres, environments and people. On the other hand issues as alcohol, tobacco and drug abuse are just related to self-abuse of its perpetrators,<sup>25</sup> which is less harming for society,<sup>26</sup> than an enterprise executing a wrongdoing. Notwithstanding, these self-abuses are more important under the eyes of the media and judges.

Moreover, deceiving consumers is in fact an unfair practice in the corporate world, but there are not such repercussions of it because of the difficulties of investigating and prosecuting this kind of manufacturing procedures. But also because when it comes to obtain profit everything counts, even disrespecting and disregarding the clients.

This could be explained from a utilitarian point of view,<sup>27</sup> where for some hypothetical tire producer that failed to accomplish its quality standards it would be cheaper and easier to not stop production and sell this specific poor quality wheels as regular ones. After a while it would be less expensive to remedy the injuries caused to consumers rather than having loosed the money invested in the irregular production line and investing some more for another new high standard line of tires.

That is the approach that companies have in mind in what comes to errors and irregularities of their production; most of them are just concerned about the best way to invest and avoid losses, but what if perhaps someone ends up dying by a tire failure? Even though, the company has the money to repair this situation, would not it be a crime? A negligence excused in using the least corporate funds to get profit?

That is the reason why just providing a certain amount of money would not remedy the whole issue, and definitely the companies should re-evaluate their practices in what comes to the possible threat of human integrity and welfare. That is a concern that must be a standard to have in mind before looking for profits.

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25 H. Glasbeek. *It's not a Crime: Reclassifying Corporate Deviance*. Wealth By Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy, Between the Lines. Pg. 150. Ed., Cambridge University Press, (2002).

26 D. Sutherland. *White-Collar Criminality*. Classics of Criminology. Pg. 16. Ed., Waveland Press. (1979): "... corporate and white-collar activities cause considerable harms, far more than conventional offences".

27 Jeremy Bentham. *An introduction to the principles of morals and legislation*. Classics of Criminology. Pg. 63. Ed., Waveland Press. (1979).

In this way, conviction for moral and ethic values as integrity, honesty and fair competition should be strengthened in all societies to start quantifying the actual dimensions of the corporate deviancy;<sup>28</sup> perhaps because "... nowadays the full dimensions of the problem are hard to quantify, in part because of our policymakers and politicians".

As a reflexion; what type of crime is being more harmful, damaging, detrimental, injurious and prejudicial to society and the world? It is time for Criminology scholars to get more involved and concentrate more efforts on other issues, rather than just focusing "... on the evils of street crime".<sup>29</sup>

### 3. BEST CONTROL ON CORPORATE CRIME

As it is clearly demonstrated at this point, the concern to control and diminish the effects of corporate crime indeed is a compulsory labor for society. Criminology scholars, educational institutions, professional oversight institutions and governments should start focusing in a more proper way on this task, to prevent the reign of corruption, inequity and emergence of a crime of privilege.

As corporations are legal entities their decisions and behaviors emanate from the reasoning of persons. This kind of process sometimes implies discussion of affairs within a board of directors or can just rely on the decisions of its legal representatives. In any case, people who have an important role in a company and have the ability of being heard play an important part in it. Perhaps, - there are corporations that have developed an atmosphere favorable to unethical and illegal behavior.<sup>30</sup> A possibility to avert that could be focusing on future people who can compose corporations and their criteria, individually speaking.

According to this, it would be easier to analyze and control the causes that make an individual consider offending in corporate contexts, instead of

28 For the purposes of this statement within this research, white-collar crime could be equated to corporate crime: "... the financial loss from white-collar crime, great as it is, is less important than the damage to social relations. White-collar crimes violate trust and therefore create distrust, which lowers social morale and produces social disorganization on a large scale. Other crimes produce relatively little effect on social institutions or social organization. White-collar crime is real crime". A. Sutton & F. Haines. *White-collar and corporate crime*. Crime and Justice: A Guide to Criminology. Pg. 162. Ed., Lawbook Co. (2006).

29 H. Glasbeck. *Corporate Deviance and Deviants: The Fancy Footwork of Criminal Law*. Wealth By Stealth: Corporate Crime, Corporate Law, and the Perversion of Democracy, Between the Lines. Pg. 127. Ed., Cambridge University Press, (2002).

30 M. Clinard & P. Yeager. *Corporate and governmental Deviance: Problems of Organizational Behavior in Contemporary Society*. Corporate Crime: Clarifying the Concept and Extending the Data. Pg. 83. Ed., Oxford University Press. (2002).

leading a huge and exhausting research of the reasons that make an enterprise (a conglomerate of several persons) offend.<sup>31</sup>

In that order, one of the possible approaches that could arise to control and decrease corporate crime rates is analyzing its subjectivity, the individuals that are prone to it, to commit it or more likely to induce it.<sup>32</sup> For instance, if there is a dysfunctional family that is causing harm to the neighborhood and the reason for that is that they have a lot of issues between each other; it would be easier to sort the problem by analyzing the personal matters that are driving the family members to crush with each other, rather than finding causes for every single dispute. A way of resolving a problem could simply be found at its roots.

It has been scientifically proved that people who have boundaries are less prone to violate the Criminal Law.<sup>33</sup> In that sense it is obvious to recognize how difficult it would be to impose values and right manners to someone who has developed his/her own personality and way of behaving his/her entire life and now has to face a new sense of ethics as a result of entering for the first time in the corporate world.

Here is where education should play an important role, teaching from young ages, at the lowest grades, the embracement of humanities and importance of following the law in society; because as Langdale found that "... rising the standards of commercial education have, arguably, increased the level of skill required by directors",<sup>34</sup> the standards of honesty and compliance with the law could rise too with the support of ethical education.

31 R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 197. Ed., Oxford University Press (2001): "... many personal costs and benefits may accrue to the individual though the act ostensibly serves organizational ends".

32 R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 199. Ed., Oxford University Press (2001).

33 R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 201. Ed., Oxford University Press (2001): "... moral beliefs refer to the extent to which persons perceive a particular criminal act to be morally offensive. It is presumed that those who view an act with opprobrium will be less likely to commit the offence than those who are more morally tolerant. In criminological research with ordinary street crimes, moral inhibitions have consistently been found to be strong correlates of offending".

34 R. Langdale. *Case Studies in Corporate Crime*. NSW Bureau of Crime Statistics and Research. Pg. 115. (1990)

Hence, it is important that all the professions, but specifically the ones related with the corporate field, focus more in ethics, good manners, consciousness and human integrity,<sup>35</sup> not just about earning money.<sup>36</sup> That is of course the role that universities, colleges and higher education institutions ought to adopt.

Hopefully one day all the persons involved in the corporate sphere would care more about respect<sup>37</sup> and good reputation, not just accomplishing economical goals,<sup>38</sup> what would just simply not allow anything alike the hypothetical case of the tire manufacturer happen, because "... *an officer of a corporation shall at all times act honestly in the exercise of his powers and the discharge of the duties of his office*",<sup>39</sup> never being able to load on his conscience harm or even death for profit.

Relating to ways of deterrence, it is proved that formal threats are not the most frightening way to stop corporations,<sup>40</sup> on the contrary informal methods are way more helpful to prevent offences, for examples social control and the loss of prestige:<sup>41</sup> This would lead other companies and people not to contract

35 The Sydney Morning Herald. *Integrity: The Fight to Stop the Rot*. Corporate Crime. Pg. 33. Ed., The Spinney Press. (1996): "... the dictionary definition of "integrity" is soundness of character, uprightness or honesty, characteristics which have been sadly overtaken in the 20<sup>th</sup> century rat-race".

36 Education should embrace that "... companies do need to be a bit more conscious about the society in which they operate and more concerned about business ethics and social responsibility". The Sydney Morning Herald. *Putting the Case for Company Morals*. Corporate Crime. Pg. 28. Ed., The Spinney Press. (1996).

37 R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 194–210. Ed., Oxford University Press (2001): "They wish to avoid losing self-respect in their own eyes".

38 P. Grabosky & A. Sutton. *Stains on a White Collar: Fourteen studies in corporate crime or corporate harm*. Pg. 213. Ed., The Federation Press. (1989): "... the price of effective corporate crime control is some limitation of freedom to do business. Similarly the price of public safety in traditional arenas of criminal justice has been some limitation of personal freedom".

39 R. Langdale. *Case Studies in Corporate Crime*. NSW Bureau of Crime Statistics and Research. Pg. 115. (1990).

40 R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 197. Ed., Oxford University Press (2001): "... among conventional offenders, data show that informal sanctions are a more effective means of social control than the threat of formal sanctions". As well there should be considered graver practices as political payments, bribes and kickbacks, as mentioned before.

41 R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 203. Ed., Oxford University Press (2001): "... another element in our rational choice model of corporate crime, then, would include the perceived certainty and severity of a loss of self-respect for breaking rules".

with offending enterprises and consumers being apathetic to the products/ services of these companies.<sup>42</sup>

This could be better explained with a hypothetical case. Some famous beer brewers produced their main product, a light beer, with a secret ingredient that was completely harmless. It gave their drink a non-descriptive taste really prone to like and a faster incursion of its alcohol into the veins.<sup>43</sup> Somehow the company lost control of this ingredient's production and became unable to add it as usual to their main product. However, the research department of the Corporation found that the secret ingredient could be replaced with antiseptic alcohol, providing the same effects and with the same taste; nevertheless, it gave serious secondary effects as loss of sight. A minor employee of the company disclosed this situation before the production batch that was made with antiseptic alcohol reached the market, providing evidence of this. The Corporation did not face any legal sanctions, but people reacted to this outrage and repressed consume of company's products, which led the company to bankruptcy, plus its main executives lost any kind of opportunity to re-enter to the corporate world once again in their lives.

However, traditional deterrence approaches like auditing and internal controls should be maintained.<sup>44</sup> The matter is improving their strength in a way that when corporate offences reach high levels, they do not pass unnoticed by courts and in that way all the evidence would not be lost and perpetrators would be effectively punished.

## CONCLUSION

Finally, it shall be cleared that operating the Criminal Law is the furthest step in the breaching sequence of a Corporate Offence, because certainty of punishment must be a fact, a rigid and inevitable one, as well as an important cost<sup>45</sup> and

42 The Sydney Morning Herald. *Principles Before Profit*. Corporate Crime. Pg. 30. Ed., The Spinney Press. (1996): "Matters of how we want to be perceived by others, what we want them to think of us, and how we want to perceive ourselves".

43 Which accelerates and expands the drunkenness effects incurring in no health risks for consumers.

44 P. Grabosky & A. Sutton. *Stains on a White Collar: Fourteen studies in corporate crime or corporate harm*. Pg. 213. Ed., The Federation Press. (1989): "... another condition of probation might require the mobilization of a company's internal disciplinary processes, to investigate misconduct, discipline responsible officers, and report to the court on the outcome".

45 R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 208. Ed., Oxford University Press (2001): "... one type of cost is the perceived certainty and severity of formal sanctions".

deterrent to have in mind for corporate professionals before even considering wrongdoing.<sup>46</sup> That, according to the classical school is the main dissuasive to counteract Corporate Crime, certainty of punishment.<sup>47</sup>

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46 R. Paternoster & S. Simpson. *Crimes of Privilege: Readings in White-Collar Crime*. A Rational Choice Theory of Corporate Crime. Pg. 196. Ed., Oxford University Press (2001): "... perceptions of the certainty and severity of formal legal sanctions should, therefore, inhibit corporate employees from committing business crimes".

47 As Beccaria mentioned, in what comes to Criminal Law its important role in society is to assure its main values, and this task is not accomplished by the severity and strength of the punishments to illegal behavior. On the contrary, it is in the certainty of being punished by offending. Cesare Beccaria. *On crimes and Punishments*. Classics of Criminology. Pg. 23. Ed., Waveland Press. (1979).

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