

## **The Unlawful Acts of Commercial Corporations (With a Focus on Multinational Companies)**

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### **Abstract:**

The criminal responsibility of legal persons (in general) and commercial companies (in particular) has garnered attention from both jurisprudence and comparative legislation. This is due to the enormous number of legal entities, whether belonging to the public sector or the private sector, and their dominance over various social and economic activities through their extensive capabilities. This activity can be a source of crimes committed by the natural person managing the legal entity (the commercial company), including crimes such as money laundering, tax evasion, fraud, and even environmental crimes. Given the economic and social importance of commercial companies, especially with the emergence of multinational corporations whose economies exceed those of entire countries, their influence is significant at all political, economic, and social levels. This influence is due to their control of massive production means, capital, and monopolization of modern technology, which countries need at various levels, especially economically. This has turned them into tools of pressure and extortion against many countries and even a violation of their sovereignty.

**Keywords:** Legal Personality, Multinational Companies.

### **Introduction:**

At the beginning of the 19th century, five facilities emerged, then known as 'sovereignty facilities'. These included the judiciary, defense, foreign affairs, health, as they were closely tied to state

sovereignty and were managed directly by the state. Individuals were not interested in these facilities as they did not yield any profit.

However, following World War I and with societal developments and the emergence of new legal entities (economic, professional, social, and commercial facilities) due to industrial and technological advancements, there was an expansion in economic life, an increase in economic establishments, and intensified competition between them. Consequently, commercial companies proliferated and diversified their activities both domestically and internationally (i.e., multinational companies). This compelled comparative legislators to recognize these entities as legal persons to contribute to national economic development. However, on the flip side, they are used as fronts to engage in unlawful activities such as smuggling, speculation, fraud, and tax evasion. This prompted criminal jurisprudence to emphasize the necessity of holding these legal entities (commercial companies) accountable.

There is another type of company, distinguished by its extensive and diverse global activities, often having several subsidiaries under the parent company. These companies, known as multinational corporations, even influence the political decision-making of some countries.

Therefore, the problematic issue that can be raised in this context is the effectiveness of the methods established by the legislator to hold commercial companies accountable. What are the major crimes these companies can commit? What types of penalties can be imposed on such entities? And what mechanisms has the international legislator put in place to monitor multinational companies when they commit international crimes?

The importance of this topic is evident in the fact that most unlawful acts or crimes committed by commercial companies as legal entities are, in reality, a matter addressed by the Algerian legislator through the role these companies play in advancing economic development. Especially the giant companies or so-called multinational corporations, which have a significant impact on the global economic system and on state sovereignty, especially given the

increasing role these companies play, dividing the world into fully sovereign states and partially sovereign states, sometimes violating human rights through international crimes like war crimes and genocide.

The objectives that can be derived from this topic aim to understand the most significant criminal acts that can be committed by these entities and to propose a legal framework for punishing these companies, especially in light of the impossibility of imposing imprisonment penalties on them. To answer this problematic issue, we have divided the topic of this study into three axes: the first axis discusses the concept of commercial companies and the jurisprudential stance on criminal responsibility; the second axis deals with the foundations and rules of criminal responsibility in Algerian legislation. The third axis examines multinational companies in terms of their meaning, characteristics, and their impact on states, whether in terms of sovereignty or human rights violations.

### **Firstly: The Concept of Criminal Responsibility and the Jurisprudential Stance :**

In this topic, it is necessary to approach the definition of corporate crimes and identify their characteristics, and then address the jurisprudential stance on holding legal persons accountable.

#### **1- Definition of Corporate Crimes and their Characteristics:**

A part of modern jurisprudence, beginning from the end of the 19th century and throughout the 20th century, has acknowledged the principle of criminal responsibility for legal persons. This is due to their increased number, active in various aspects of life, whether in trade, industry, or economy, which has enhanced their activities and consequently their risks. Among these legal persons are commercial companies, which have been granted rights by the legislature to carry out legal transactions such as the right to contract, own, and litigate. However, they may exploit these rights to commit crimes, thus necessitating a definition of corporate crimes and identification of their characteristics.

**A- Definition of Corporate Crimes:**

In its legal sense, a crime is any act or omission prohibited by law, with a penalty prescribed for its perpetrator. While it is true that most crimes consist of an active act, criminal law also punishes all forms of omission in cases where the law obliges the abstainer to perform a specific act under certain circumstances but fails to do so despite being able to (amer 2007, p. 35). As long as crime is a social phenomenon and a legal occurrence resulting from the violation of legal texts, whether by a natural person or a legal entity like a commercial company, which can commit economic crimes constituting an assault on the public interest by disrupting the economic policy set by public authorities. Corporate crimes fall under business crimes addressed by business criminal law, focusing primarily on crimes directly or indirectly related to business activities (Alia 2012, 316).

Regarding Algerian legislation, the scope of corporate crimes has expanded, as stated in the Penal Code, acknowledging their criminal prosecution and providing protection for certain rights and interests through special laws (safia 2015, 8) .

**B- Characteristics of Corporate Crimes:**

Corporate crimes have unique characteristics that distinguish them from other types of crimes. They are considered utilitarian crimes committed primarily for the purpose of achieving illegitimate profits and financial benefits for the company, whether committed during its management or liquidation. Even though these crimes may infringe upon rights in various forms that may not seem financial in nature, they aim to achieve illegitimate financial benefit or conceal such gains, such as evading taxes or falsifying commercial documents and papers (safia 2015, 9).

These crimes also have a special nature, as the legislator does not adhere to the same provisions established in general law for the mental element of economic crimes. The judiciary equates intention and negligence in economic crimes; the mere occurrence of a violation constitutes the crime, whether the perpetrator intended the violation or committed it due to negligence or lack of precaution. Some corporate

crimes are considered crimes of harm and others crimes of risk. The legislator treats the perpetrator as the principal actor or accomplice in the crime, and the principle of specialization is adopted, so these crimes are confined to the special section of the Penal Code and the provisions in supplementary laws, such as the law related to combating smuggling (aicha 2001-2002, 101).

## **2- Jurisprudential Stance on the Criminal Responsibility of Commercial Companies:**

The topic of criminal responsibility for commercial companies and legal persons in general has been a subject of scholarly debate. Opinions among scholars vary, with some denying any accountability for the natural person who manages and acts on behalf of the legal entity, while the prevailing opinion supports the necessity of holding legal persons accountable, including commercial companies. Below, we discuss these viewpoints.

### **A- The Viewpoint Denying Criminal Responsibility of Legal Persons:**

This perspective asserts that legal entities, including commercial companies, are not criminally liable for crimes committed by their representatives or subordinates acting on behalf of and for the benefit of the legal entity. Responsibility falls on the natural person representing the legal entity, as the crime is personally attributed to them. This view was prevalent in the 19th century (hazieth 2014, 51)

This approach is based on arguments such as the incompatibility of criminal liability with the nature of the legal person. The latter is merely a legal fiction, an assumption contrary to reality, and nothing more than a device used by the legislator to enable these entities, composed of a group of assets and people, to achieve their goals by assuming legal personality to acquire rights and bear obligations. Moreover, a legal person lacks mind and will (al- dhneiba 2003, 30).

Legal responsibility, both civil and criminal, should only be attributed to natural persons, not to imaginary or fictitious entities like legal persons. This was affirmed at the Seventh International Conference on Criminal Law held in Athens in 1957, emphasizing that only humans are capable of acquiring rights and bearing

obligations. In contrast, a legal person is just a presumption or legal metaphor created by the legislator (al- shafie 2007, 62-63).

Moreover, the liability of a legal person conflicts with the principle of personal punishment. A person should not be criminally liable for an act committed by another, as the essence of criminal responsibility and punishment is personal and only applies to the perpetrator. Imposing punishment would affect the natural persons who established the legal entity (such as founding a commercial company), including innocent individuals unaware of the crime (al-sawad 2017, 40).

Furthermore, most penalties, especially capital punishment and deprivation of liberty (imprisonment), are not applicable to legal persons (al- mahasenh 2015, 01).

### **B- The Viewpoint Supporting Criminal Responsibility of Legal Persons:**

Modern jurisprudence, predominantly since the mid-19th century, especially in Germany, has adopted the principle of the legal person as a real entity. Legal persons exist in legal life and operate independently without legislative intervention, which cannot control them or impose restrictions on their activities or rights beyond what is applicable to natural persons. Therefore, this view advocates for the criminal accountability of legal persons without exempting the natural person who committed the crime from punishment. This is justified by the nature of economic development, leading to an increase in legal persons in various aspects of life, including trade, industry, agriculture, and even social and environmental areas, as previously mentioned. Their expanding activities have increased their risks to individuals and society, necessitating their criminal accountability.

Proponents of this view refute the opposing opinion against the criminal accountability of legal persons due to the absence of a physical entity for penalty imposition. The absence of a physical entity does not exempt the legal person from criminal responsibility, as there are alternative penalties applicable to legal persons, such as financial penalties, fines, dissolution of the legal entity, and cessation of its activities (al-qatari s.d., 24).

As for the argument that penalties affect all shareholders, violating the principle of personal punishment, while this is partly true, a similar situation exists in the context of natural persons. For instance, imposing a deprivation of liberty penalty on a father negatively affects the entire family.

## **Secondly: Foundations and Rules of Criminal Responsibility**

To discuss the established criminal responsibility of commercial companies, it's necessary to review the stages of recognizing their criminal liability and the conditions for imposing accountability on them. Additionally, we will look at the penalties prescribed for them, both in the Penal Code and some supplementary laws.

### **1. Stages of Establishing Criminal Responsibility for Commercial Companies:**

The stance of the Algerian legislator regarding the acknowledgment of criminal liability has varied, from initial denial to subsequent modest recognition, and finally, to explicitly establishing this responsibility.

#### **A. Stage of Denial of Criminal Responsibility for Commercial Companies:**

The Algerian legislator explicitly refused to establish criminal liability for legal entities, as per Order No. 66-156 related to the Penal Code, which did not contain any text referring to legal penalties applicable to legal entities (safia 2015, 62).

Moreover, the legislator explicitly established the criminal responsibility of natural persons, not commercial companies, for bankruptcy crimes stipulated in Article 383 of the Penal Code. It attributed criminal responsibility for bankruptcy crimes to administrators, directors, and liquidators, not to the company itself as a legal entity, as per Article 378 of the Commercial Code. Additionally, for crimes outlined in Articles 800 to 840 of the Commercial Code, the legislator held the natural person responsible, not the legal entity, even though some of these crimes could be attributed to legal entities (hazieth 2014, 79).

**B. Stage of Partial Recognition of Criminal Responsibility:**

Although the Algerian legislator explicitly established the principle of non-liability of legal entities in the Penal Code issued in 1966, this responsibility is present in some specific laws, such as Order No. 95-06 (dated 25-01-1995) related to competition. Article 2 of this Order stipulates its scope, covering activities of production, distribution, and services undertaken by any natural or legal person. Articles 13 and 14 impose financial penalties on those committing collective practices contrary to legitimate competition, such as illegal agreements and market domination without a license (saleem s.d., p. 24).

Article 61 explicitly recognizes the criminal liability of commercial companies from Order No. 75-37 (saleem s.d., p. 24), stating, "When violations related to the provisions of this Order are committed by the administrators, managers, or directors of a legal entity on behalf of and for the account of the legal entity, the latter is prosecuted and subject to the financial penalties stipulated, in addition to prosecutions against these individuals in cases of intentional error."

The criminal liability of legal entities is also established under the law of direct taxes and similar fees (Law No. 90-36 dated December 31, 1990, as amended by Law No. 91-95 dated December 18, 1991). Article 303, Clause 9, states that "When the violation is committed by a company or another private legal entity, the sentence of imprisonment and supplementary penalties are issued against the administrators and legal representatives of the group." The second paragraph of the same article adds, "The financial criminal fines are imposed against the administrators, legal representatives, and against the legal entity..." This is also stated in Article 18 of Law No. 03-09 (dated 16-07-2003) (03-09 2003) regarding the prohibition of the use, production, storage, and disposal of chemical weapons (03-09 2003), explicitly establishing the criminal responsibility of commercial companies as legal entities for committing any of the crimes mentioned in Articles 9 to 17 of this law, punishable by a financial fine five times the amount set for a natural person.



### **C. Stage of Consolidating Criminal Responsibility of Legal Entities:**

The Algerian legislator recognized and consolidated the criminal liability of legal entities in Article 51 bis of Law 04-15 dated 10-11-2004, amending and supplementing the Penal Code, stating that legal entities are criminally liable for crimes committed on their behalf by their organs or legal representatives when the law specifies so.

Therefore, the characteristics that distinguish the criminal responsibility of commercial companies and legal entities in general in Algerian law are that this responsibility is confined only to legal entities subject to private law, regardless of their purpose, whether for profit like commercial companies (irrespective of whether their capital is privately or state-owned, like public economic institutions) or charitable in nature like social, cultural, or sports associations (hazieth 2014, 84).

The legislator exempted the state, local communities, and legal entities subject to public law, such as ministries, their external services, local communities like provinces and municipalities, universities, and hospital institutions (rouabh 2018, 123), from criminal liability.

Moreover, the criminal liability of commercial companies as legal entities does not exclude the liability of natural persons who act or partner in the same crime if the legislator does not exempt the natural person from criminal responsibility for this crime. Even the criminal liability of commercial companies is conditional, meaning that it must be committed by a person representing its will as a legal entity and is limited by the legislator to its organs and legal representatives. On the other hand, it must be committed on its account, as expressed in Article 51 bis of the Penal Code, stating "committed on its behalf by its organs or legal representatives, who are granted delegation by the legal entity's statute to represent it" (Order No. 66-156 dated June 8, 1966, containing the amended and supplemented Penal Code) (66 1966).

### **3- Conditions for Establishing the Criminal Liability of Commercial Companies:**

For the criminal liability of commercial companies to arise, it is required that the crime is committed either by the legal representative or one of the company's organs, and the crime must be committed for the benefit of the commercial company.

#### **A. Committing the Crime by the Legal Representative or One of the Company's Organs:**

Algerian law stipulates that for establishing the criminal liability of a commercial company, there must be a natural person acting on its behalf who commits the crime in their capacity as a legal representative or as one of its organs. Legal representatives are natural persons who have legal authority sourced either directly from the law or from the company's founding contract. This authority, in both cases, allows them to act for and on behalf of the company. The legal representative of the company is considered one of its management organs, as management and administrative organs represent the company.

Therefore, the term "legal representatives" used by the legislator specifically refers to natural persons who are authorized by the law or the company's charter to represent it.

This is indicated in Article 65 bis 2 of the Code of Criminal Procedure, which states, "The legal entity is represented in the proceedings by its legal representative who had this status at the time of prosecution; the legal representative of the legal entity is the natural person who is authorized by the law or the charter of the legal entity to represent it..." (Order No. 66-155 dated June 8, 1966, containing the Code of Criminal Procedure, amended and supplemented) (66 1966).

The natural persons authorized by law to represent the company are determined by the provisions of commercial law based on the company's structure, including the director in a partnership limited by shares, the chairman of the board, or the CEO and general managers in the case of a joint-stock company managed by a board of directors (hazieth 2014, 208).

The chairman of the board of directors and a member or members of the board of directors who are delegated by the supervisory board

to represent the company if its charter empowers the supervisory board to grant representation authority, as per paragraph 2 of Article 652 of the Commercial Law; this is in the case of a company managed by a board of directors and the liquidator in case of the company's dissolution, and the temporary administrative manager who obtains a judicial decision to manage and represent the company (al- shafie 2007, 77).

The term "organs of the company" refers to any entity qualified to make or implement decisions, where they are authorized by the law or the company's charter to manage and act on its behalf, typically representing significant importance in the institution due to their roles, which qualify them to manage its affairs and to speak, act, and contract on its behalf (hazieth 2014, p. 200).

#### **B. Committing the Crime for the Benefit of the Commercial Company:**

The law requires that for a commercial company to be liable for the actions of its members, representatives, or employees, the crime must be committed for its benefit. It is not enough for the crime to be materially realized; there must also be an element of attribution, meaning that the criminal behavior and its consequences should be directed towards the legal entity itself (Belasliouiza 2014, 209).

Therefore, for commercial companies to incur criminal liability, the crime must be committed for their benefit, as specified in Article 51 bis of the Penal Code. The term "for the account of the legal entity" means that the crime is committed to realize the interest of the latter; this interest could be an actual or potential economic profit, and may be material or immaterial, direct or indirect, or to avoid harm to it or to secure a deal.

#### **4- Penalties Imposed on Commercial Companies:**

The Algerian legislator has established a range of penalties for commercial companies. These penalties vary and include those affecting the company's financial integrity, existence, activity, reputation, and freedom. These penalties are stipulated in both the Penal Code and certain specific laws.

## **A. Primary Penalties in the Penal Code and Certain Specific Laws (Fine Penalty):**

When amending the Penal Code through Law No. 04-15, the Algerian legislator dedicated a separate section for penalties imposed on legal entities, specifically in Articles 18 bis to 18 ter. The fine is the only primary penalty that can be imposed on commercial companies. Other penalties for legal entities and commercial companies following the amendment of the Penal Code by Law No. 06-23 are considered supplementary (Order No. 66-156, containing the aforementioned Penal Code) (66 1966).

The legislator specified the amount of the fine for legal entities according to Article 18 bis of the Penal Code, which states, "Penalties applicable to legal entities in felonies and misdemeanors are 1) a fine equal to one (1) to five times the maximum fine prescribed for natural persons in the law punishing the crime." The amount of the fine for commercial companies in violations is one to five times the maximum fine prescribed for natural persons. For example, if a commercial company commits the crime of breach of trust under Article 376 of the Penal Code, where the fine for a natural person is set between 20,000 and 100,000 DZD, then applying this to a commercial company as per Article 18 bis, the minimum fine becomes 100,000 DZD, and the maximum is 500,000 DZD.

For crimes of criminal associations punishable under Article 177/1 bis of the Penal Code for legal entities, the legislator has set a specific amount for the fine for commercial companies, with no minimum or maximum limit; however, Article 177/1 bis stipulates a fine for legal entities at five times the maximum fine prescribed for natural persons. Refer to Article 177 bis 1 of the Penal Code.

Regarding financial crimes punishable under Article 389 bis 7 of the Penal Code for legal entities, the legislator has set a minimum according to Articles 389 bis 1 and 389 bis 2, where the fine should not be less than four times the minimum fine related to natural persons. However, the maximum limit was not specified by the legislator, and according to Dr. Mohamed Hazeet, reference should be made to Article 18 bis (safia 2015, 149).

For certain crimes stipulated in specific laws, such as currency crimes stated in Order No. 96-22 issued on 09-07-1996 concerning the

suppression of violations of legislation and regulations regarding foreign exchange and capital movement, Article 5 thereof sets the fine for commercial companies committing a foreign exchange crime at no less than four times the value of the violation or attempted violation, only specifying the minimum limit. The maximum limit for these crimes was not set by the legislator, and according to the special provision in Article 1 bis of Order No. 96-22, the fine imposed on natural persons should not be less than double the value of the violation or attempted violation, thus leaving it to the judge's discretion to determine the fine exceeding four times the value of the violation (safia 2015, 151).

For drug crimes, Article 25 of Law No. 04-18 dated 25-12-2004 regarding the prevention of drugs and psychotropic substances and suppression of illegal use and trafficking (OJ No. 83, 2004) specifies the amount of the fine as a penalty for crimes listed in Articles 13 to 21 of the same law.

Thus, the legislator divided drug crimes committed by a company into two categories: misdemeanors stipulated in Articles 13 to 17, and felonies in Articles 18 to 21. For felonies, the fine penalty is mandatorily accompanied by another supplementary penalty, either dissolution of the company or closure for a period not exceeding 5 years.

### **B. Supplementary Penalties:**

The Algerian legislator did not distinguish between primary and supplementary penalties in Law No. 04-15, amending the Penal Code for legal entities. However, through Law No. 06-23, an amendment was introduced to Article 4 of the Penal Code defining supplementary penalties (safia 2015, 157).

The second paragraph of Article 18 bis of the Penal Code lists supplementary penalties, making the fine the only primary penalty for commercial companies, with other penalties being supplementary for both felonies and misdemeanors. As for Article 18 bis 1 of the Penal Code, paragraph 2 refers to confiscation, even though it is not mentioned among the supplementary penalties, for violations as per Order No. 66-156, containing the aforementioned Penal Code.

The supplementary penalties prescribed for commercial companies in Algerian law can affect their financial integrity, such as confiscation (which is the compulsory transfer of property ownership from the owner to the state without compensation by judicial decree), or their existence, such as dissolution (which means legally erasing its existence and removing it from the list of companies, effectively serving as an execution of the legal entity). They may also affect the company's activities, such as closure or suspension of activities, its reputation, such as publishing the conviction judgment, or other rights, such as exclusion from public contracts and being placed under judicial supervision.

### **Troisième: Multinational Corporations :**

Multinational corporations are among the most powerful economic entities with significant influence in many fields, attracting special attention from many countries. Therefore, we will discuss the historical background of their emergence, define their characteristics, and then address their impact on state sovereignty, human rights, and tax evasion.

#### **1- Historical Background of the Emergence of Multinational Corporations:**

Multinational corporations are defined as companies established by individuals or shareholders and have a specific legal form in a founding contract in a certain country, known as the home country, where the company's headquarters are located. These companies are established and created according to their national law, take the nationality of this country, and are subject to all laws of the home country or the host country for their activities, branches, and subsidiaries (al- homsi s.d., p. 02).

Legal scholars have different views on the origin of these corporations. Some trace their origins back to about six thousand years ago, while some economists link their emergence to the beginning of the Industrial Revolution in the late 18th century. During this period, some countries resorted to occupying other nations to obtain raw materials needed for their factories and to find markets for their surplus products. This task was undertaken by their major companies, which exploited and plundered the resources of the subdued peoples and traded in them. These countries granted these companies all privileges and even delegated some aspects of public

authority to them, such as the power to impose taxes and issue currency (ali 2009, p. 39).

Among these companies established by colonial powers was the East India Company, which was created to exploit the resources and wealth of the colonized countries (melindi s.d., 12). They created monopolies backed by political and military force to obtain raw materials and food, and send them to the mother country for manufacturing and re-export in the form of products. For example, Britain established a large colonial company in its colonies in America called the "Hudson's Bay Company" to monopolize trade between Britain and some of its colonies in North America (lotfy 2014, p.36).

These companies are characterized by features that distinguish them and define their role and impact on the global economic system. Among the most important of these characteristics is that they are giant companies in terms of the breadth of their sales, investment size, diversity of production, and the benefits they achieve. Their economic influence often exceeds the budgets of some developing countries (ali 2009, p. 40).

## **2- Characteristics of Multinational Corporations:**

These companies give practical considerations to research and development, as they are the primary driver for research and development projects globally. In 2002, the financial figure for these companies' global expenditure on research and development reached about 677 billion dollars. The spending of some major companies on research and development exceeds what many countries spend; for example, companies like "Ford, Motors, and Toyota" spent more than 5 billion dollars in 2003 on research and development (al- aid 2017, p. 13).

These companies are also characterized by their geographical spread, i.e., the large market area they cover and their geographic extension outside the home country, with their vast marketing capabilities, branches, and subsidiaries worldwide. This spread has been facilitated by significant technological advancement, especially in the fields of information and communications (al- homsi s.d., p. 7).

## **3- Impact of Multinational Corporations on State Sovereignty, Human Rights, and Tax Evasion and Their Control Mechanisms:**

The impact of multinational corporations on state sovereignty is evident through the nature of their work, which transcends the geographical boundaries of states. These companies contribute to 75% of global trade, and a third of this trade is internal between the parent

companies and their branches, effectively impacting state sovereignty (ajil 2007-2008, p. 183).

The global market, which is subject to the influence of multinational corporations' interests more than state directives, has also influenced economic life (ajil 2007-2008, p. 183). A fundamental factor in these companies' impact on state sovereignty is the communications revolution, which has brought countries closer. Any event in one country can affect others without regard for political boundaries, challenging the principle of state sovereign (Blounas 2008, p. 183).

Overall, these companies aim to disregard the interests and needs of host countries, focusing on profit rather than the development of human and natural resources of these countries. They primarily rely on technology rather than human labor, monopolize advanced technology, and are keen not to transfer it to developing countries. They encourage brain drain and promote emigration (melindi s.d., p. 73).

As for these companies' responsibility for human rights violations, no mechanism forces them to take responsibility for human rights breaches. However, some human rights obligations exist in the United Nations Draft Norms, prohibiting genocide and enforced disappearance. Article 1 of the Optional Protocol to the International Covenant on Civil and Political Rights states that the Human Rights Committee only receives communications from individuals claiming to be victims of a state party's violation of the Optional Protocol annexed to the International Covenant on Civil and Political Rights, dated December 1966.

There is also a mechanism for providing protection under UN human rights treaties. The International Convention on the Elimination of All Forms of Racial Discrimination requires each state party to prevent racial discrimination practiced by any person, group, organization, or entity (Article 2 (d) of the International Convention on the Elimination of All Forms of Racial Discrimination, issued on December 21, 1965). The Convention on the Elimination of All Forms of Discrimination Against Women stipulates that states commit to taking all appropriate measures to eliminate discrimination practiced by any institution and protect bank loans, mortgages, and other forms of financial credit (Article 2 (h) of the International Convention on the Elimination of All Forms of Discrimination Against Women, issued on December 18, 1979).



In reality, the responsibility of multinational corporations is currently evolving due to actions by international criminal courts and the Rome Statute of the International Criminal Court, which expanded the scope of international responsibility to include companies. The jurisdictions where charges related to international crimes committed by multinational corporations can be brought are increasing as more countries ratify the Statute of the International Criminal Court. As states provide their domestic legislation with provisions related to criminal penalties for these companies, it becomes possible to expand the application of international standards to individuals to include commercial entities (nations 2006, p. 9-10).

Economically, these companies attempt tax evasion by maximizing profits through exploiting differences in corporate tax rates and variations in privileges and deductions allowed by tax legislation. Profits can be maximized, unless legally prohibited, by setting transfer prices that lead to the transfer of profits from subsidiaries in countries with high tax rates to countries with low tax rates. High transfer prices in countries with high corporate tax rates lead to increased cost of goods sold, thereby reducing the profits of companies in those countries and consequently reducing the tax imposed on these profits. In contrast, low transfer prices in countries with low corporate tax rates reduce the cost of goods sold and increase the profits of companies in these countries, thereby maximizing the group's overall profits (ben toute 2020, p. 410- 411).

In other words, when these companies want to evade taxes, they adopt the "transfer pricing" mechanism. If corporate tax rates are higher in the home country than in the host country, the parent company issues a decision to price its exports to its branch in the host country at a lower rate than the actual (claiming no profits), thereby transferring the profits from the parent company to the subsidiary, reducing the overall tax burden (al- homsi s.d., p. 21).

### **Conclusion:**

Through this study, we have touched on the fact that the legal person, especially commercial companies, is considered by some scholars to be merely a metaphor and assumption created by the legislator so that this legal entity can own property and have the capacity to contract. However, the prevailing opinion believes in the legal existence of the legal person (commercial companies) as a reality that the legislator cannot ignore due to their increasing number and, consequently, their growing risk to individuals and society.

The recognition of the criminal responsibility of the legal person in general, and commercial companies in particular, is a goal sought by the Algerian legislator to confront the danger these legal entities represent and address the crimes committed using their means and on their behalf by their representatives. This situation has led to the use of these entities as a cover to evade punishment, prompting the Algerian legislator and comparative legislation to establish the principle of criminal responsibility imposed on both the legal person (commercial company) and the natural person managing it, who commits the crime in the name and on behalf of the commercial company (dual responsibility).

Regarding the countries hosting multinational corporations, some of them have been unable to control these entities, which have become like lobbies that undermine the economies of these countries. This is evident in the governments of Brazil and India, which have been unable to control and supervise the actions of these companies, as they have intervened in directing state policies towards weakening decisions that do not align with their interests.

Multinational corporations significantly intervene in the implementation of development projects in many Arab countries, leading to economic dependence on these companies, as well as technological and subsequently food dependence. This has resulted in stagnation and regression in agricultural production and binding these countries with external debts.

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