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The Policy of Criminalization and Punishment Within the Scope of the Work of Commercial Companies

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Abstract

The research topic acquires special importance because it is related to a contemporary and evolving topic that keeps pace with modern developments in our contemporary life and it is related to the scope of criminalization and punishment in the field of commercial companies that are using modern technology means. Where previously unknown crimes have appeared that require the intervention of the legislator to set penal rules to punish violators of the economic and commercial systems in place.

Hence the study problem arose; Because the criminal penalties prescribed for combating crimes in violation of corporate provisions still include a set of traditional penalties included in the Penal Code and special legislation. Also, we have addressed through this research the foundations of criminal intervention specialized in the scope of the commercial company and explained the special nature of crimes related to commercial companies, and we also dealt with the legislative approaches to confront these crimes. We also reached a set of results, most notably: the method of criminalization in the field of commercial companies followed by countries varies according to the approach followed by this or that country; There are countries that follow the traditional approach to criminalization in the field of companies, and there are other countries that follow the new method of having an independent special law. It constitutes an integrated system from both the substantive and procedural aspects, as for the most important recommendation, it was necessary for the legislator to intervene to tighten the penalties prescribed for the crime affecting the interests of commercial companies. Because it is insufficient and not a deterrent compared to the seriousness of the crime.

Keywords: Corporate law, Penal law, Criminal liability of a legal person
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Introduction

The transactions of some commercial companies have become of a large size, and they have large financial capabilities of savings, which made them possess power and influence; Therefore, these companies, when exercising their various tasks to achieve their multiple goals, may behave in an illegal manner, which results in a breach of the transaction system, legitimate competition and trust in credit to a degree that can only be prevented through sophisticated punitive sanctions. In addition, the practical transformations in the form of companies led to successive amendments in their legal system, because of the transition of economic activities from relying on the capabilities of one individual to the capabilities of large groups of individuals, they combined to accumulate funds using modern technology within huge commercial companies that have an economic, political and social impact.

Importance of the study

The importance of the study is highlighted by the transformation in the legal system for commercial companies, which kept pace with the development in the use of modern technologies, which in turn reflected in the development of corporate criminal law. This led to the imposition of a punitive character on the personal responsibility of the partners who represent these companies by supplementing civil and other penalties with criminal penalties. Moreover, the various legislations tend to tighten the penalties for the crimes of commercial companies that aim to achieve illegal profit, although these crimes fall under the category of violations, as the fine reaches a level unparalleled in ordinary crimes, in addition, many misdemeanors are met with harsh penalties whose maximum penalty is higher than the penalty prescribed in the common law. In addition, the judge does not allow the use of a stay of execution of the sentence or the observance of extenuating circumstances.

Objectives of the study

The study aims to clarify the position of the legislator on the tremendous development that accompanied the social and economic life in society due to the qualitative shift in the use of techniques and means of modern technology, the study also aims to show the most prominent legal rules enacted by the legislator in order to apply to certain categories and specific activities and professions. which received great

attention from him, especially in the field of commercial companies; where he singled out laws aimed at regulating them, and penal rules to punish violators of the economic and commercial regulations in force. The legislator's intervention by enacting injunctive and punitive rules in the field of finance, business, and commerce aims to confer criminal protection on certain interests.

The study Problem

The problem of the study is clear; Because it addresses the inability of the traditional civil rules to confront the illegal actions that arise from commercial companies that use modern technology and techniques on the one hand; and because the criminal penalties prescribed for combating crimes that violate the provisions of the companies still include a set of penalties and traditional precautionary measures that are included in the penal code and special legislation on the other hand.

The study questions

- Did the legislature put sanctions in line with the legal nature of commercial companies that use modern technology? Or just satisfied with the traditional sanctions?
- Did the legislator distinguish between the penalties prescribed for felonies, misdemeanors, and violations committed by companies that use the means of modern technologies?
- Did the legislator classify the penalties for which commercial companies are subject, and which use modern technology?
- Did the legislator make the fine the only original punishment that can be imposed on commercial companies?
- Did the legislator consider other penalties - other than a fine - that could be inflicted on modern commercial companies as complementary penalties?

Methodology

We will follow the comparative analytical descriptive approach when dealing with research topics, and that is by standing on the legal texts that deal with the topics he analyzes, and clarifying the judicial rulings that they dealt with and the jurisprudential opinions that were exposed to them.

The Study Plan

The search will be divided as follows:

The first topic: The foundations of criminal intervention within the scope of the commercial company.

The second topic: The subjectivity of the commercial company's crime.

The third topic: The legislative approaches to confronting the commercial company's crime.

Conclusion: We include the most important results that we have reached through this research and the most prominent recommendations that we propose to address the negatives that we have observed.

The first topic: The foundations of criminal intervention within the scope of the commercial company

Criminal intervention within the criminal companies has grounds based on several reasons; Since what the legislator seeks by enacting injunctive and punitive rules is to regulate the behavior of individuals in society in general, whereas the injunctive legal rule, which is characterized by impartiality and generality, and addresses all segments of society without distinction between its members, sects, and classes. Social and economic development has placed it at the forefront of the concerns of governments in the world.

The legislator aims from this to preserve the legal organization and the foundations of trust in its scope in terms of: Funds, administration, documents, information, etc.; When talking about the foundations of criminal intervention within the scope of commercial companies, we must clarify the nature of the commercial company, and opinions on criminal intervention in its field, through the following requirements:

The first requirement: The nature of the trading company

In this requirement, we will talk about the nature of the company through the following:

Section one: The sound commercial company

The Jordanian Civil Law No. 43 of 1967 defines a commercial company as A contract whereby two or more persons are obligated, each of whom contributes to a financial project by providing a share of money or work, to invest in that project and to share the profit or loss that results from it ([1]). As for the Jordanian Civil

[1]Article 582 of the Jordanian Civil Law No. 43 of 1967.

Article 10/2 of the Egyptian Trade Law No. 17 of 1999 states: "A merchant is every company that takes one of the forms

Code, where its definition of the commercial company in Article (582) is identical to the definition of the Egyptian Civil Law in Article No. (505) ([1]). The legislator recognizes the legal personality arising from the company as a contract, and that this personality is independent of the persons involved in the formation of this contract. And it has an independent financial liability called the term "legal personality" or the term "judicial personality", and this group has an entity independent of its components, so the company is considered an independent person from the partners if this group is made up of people, and it is considered a legal company if it is made up of funds allocated for a specific purpose, called an "institution," such as a hospital that provides medical service and has an independent personality. Consequently, there has become a legal personality other than the natural personality that is based on the human being, as it is everyone who is fit to acquire rights and bear obligations, whereas, the legal personality is a realistic fact that must be recognized ([2]).

As for the Egyptian legislator, a commercial company is all the companies stipulated in the Companies Law No. 159 of 1981 AD, as amended by Law No. 212 of 1994 AD regarding the amendment of some provisions of the Law on Joint Stock Companies, Partnerships Limited by Shares and Limited Liability, and Law No. 3 of 1998 and Law No. 159 of 1998 regarding the amendment of Article 46 of the Joint Stock Companies Law, and Law No. 94 of 2005, it is a joint stock company, a limited liability company, a partnership limited by shares, in addition to the companies stipulated in the old commercial law, in the first chapter of Chapter Two of it, which was not canceled by the issuance of the new law, which is the General Partnership and the Simple Partnership. This is in addition to all types of commercial companies regulated by other laws such as holding and affiliated companies and subject to Law 203 of 1991 regarding public business sector companies. And public sector companies subject to Law No. 97 of 1983, and companies operating in the field of securities regulated by Capital Market Law No. 95 of 1992, and some provisions of Chapter Ten of its Executive Regulations have been amended by Resolution No. 139 of 2006, and investment companies regulated by Law No. 8 of 1997 regarding investment incentives, and money-receiving companies regulated by Law 146 of 1988. And other commercial companies regulated by special laws. As for the French legislator, in the first and second articles of the Companies Law of 1966, the company's commercial nature is determined by its form or subject matter, even if its purpose is civil.

stipulated in the laws related to companies, whatever the purpose for which it was established.

It is clear from this text that the Egyptian legislator abandoned the criterion of purpose to give a commercial or civil character to the company, where the lesson in determining the company's character is the nature of the main work it does and the purpose it seeks to achieve as it specified in its founding contract. That is, the company, under the old commercial law, acquires the status of a merchant when the purpose for which it was established is to conduct a commercial activity as a professional. Therefore, it was not permissible under this law to declare the bankruptcy of land division and sale companies, for example, even though they are subject to the commercial professions tax and take the form of a joint stock company and are subject to the Companies Law issued in 1981. However, she is not considered a merchant because the subject of her activity is civil in the eyes of the repealed Commercial Law. As for the new Commercial Law, the company acquires the status of a merchant just because it takes one of the forms stipulated in the laws related to companies, and regardless of the purpose for which it was established, the standard here is formal, and It depends on the form of the company even if it engages in a civil activity, which is what is implemented in French law. Accordingly, a commercial company is all the companies stipulated in the Companies Law No. 159 of 1981 AD, as amended by Law No. 212 of 1994 AD regarding the amendment of some provisions of the Law on Joint Stock Companies and Limited Partnerships with Shares and Related Companies. Limited Liability, Law No. 3 of 1998 and Law No. 159 of 1998 amending Article 46 of the Joint Stock Companies Law, and Law No. 94 of 2005. It is a joint stock company, limited liability companies, and a partnership limited by shares in addition to the companies stipulated in the old Trade Law, in Chapter One of Part Two of it, which was not canceled by the issuance of the new law, which is the General Partnership and the Simple Partnership. This is in addition to all types of commercial companies regulated by other laws: such as holding and affiliated companies subject to Law 203 of 1991 regarding public business sector companies, public sector companies subject to Law 97 of 1983, and companies operating in the field of securities regulated by Capital Market Law No. 95 of 1983 1992, ssome provisions of Chapter Ten of its Executive Regulations were amended by Resolution No. 139 of 2006, investment companies regulated by Law No. 8 of 1997 regarding investment incentives, and money-receiving companies regulated by Law 146 of 1988. And other commercial companies regulated by laws Especially such as exchange companies, tourism, land reclamation and others." Dr. Hani Samir Abdel Razzaq, Responsibility of the Board of Directors of a Joint Stock Company in the event of the company's bankruptcy, Dar Al Haqqania for Legal Publications, Cairo 2008, pp. 2-3.

[1] Criminal Discrimination, dated: 08-27-2017, Qastas Legal Encyclopedia of Jordan: (www.qistas.com), Case No. 2117 of 2017. Criminal Discrimination, dated: 6-16-2016, Qistas Legal Encyclopedia (www.qistas.com) Case No. 949 of 2016.

[2] Fawzi Muhammad Sami, Commercial Companies, General and Special Provisions, House of Culture for Publishing and Distribution, Amman - Jordan, first edition, 1999, p. 37.

Section Two: The false trading company ([1]):'

The company's contract is one of the so-called consensual contracts regulated by civil law, and it is a formal contract that requires writing, otherwise, it is void. Since the company is a contract, it is necessary for its formation to have the general objective elements to form the contract in accordance with the general theory of obligations. As well as the substantive elements of the company, and the formal elements required by law. Violation of any of the pillars of the company's contract entails - as a general rule - the company's invalidity. However, the invalidity of companies raises some difficulties. Because it is sometimes difficult to ignore the existence of the company in the period prior to the invalidity, and because the retroactive effect of invalidity, if it is applied, will entail the destabilization of the legal positions established for third parties who dealt with the company as a legal person, it will also ignore obvious facts that the company experienced before deciding its invalidity. For these considerations, Fiqh and Judiciary innovated the theory of the real company or the actual company, which is based on the fact that when the invalidity of the company is decided, the effect of this invalidity does not return to the past, as the company is considered to exist during the period preceding the invalidity report, and this is only a matter of acknowledgment of reality ([2]).

Whereas, prior to the issuance of the Companies Act of 1966, the French judiciary used the theory of the actual company. With the issuance of Articles 368 and 391/2 for companies, the existence of the company has become legally determined during the period from its establishment until the judgment of its invalidity, whatever the reason for the invalidity, that is, even if it was due to the illegality of the purpose ([3]).

However, it is noted that the scope of application of the realty company theory is limited to cases of relative invalidity of the company or its invalidity due to the failure of one of the formal pillars in it, namely: writing and publication ([4]). But in cases of the company's contract being absolutely void due to the illegality of the purpose, or the absence of one of its objective elements, such as the provision of shares, or the company's contract containing the lion's condition, there is no room for applying the theory of reality, as the company is

[1] Since the company is a contract, it is necessary for its formation to provide the general substantive elements to form the contract in accordance with the general theory of obligations, as well as the substantive elements of the company, and the formal elements required by law. Violation of any of the pillars of the company's contract results – as a general rule – to the invalidity of the company. However, the invalidity of the companies raises some difficulties, because it is sometimes difficult to ignore the existence of the company in the period prior to the invalidity, and because the retroactive effect of invalidity, if it is applied, will involve undermining the legal positions established for others who dealt with the company as a legal person, and it will also ignore clear facts that the company experienced before deciding its invalidity. For these considerations, jurisprudence and jurisprudence have invented the theory of the reality company or the actual company, which is based on the fact that when the invalidity of the company is decided, the effect of this invalidity does not go back to the past. The company is considered established during the period prior to the invalidity report, and this is only a way of acknowledging reality, but it is noted that the scope of application of the reality company theory is limited to cases of the relative invalidity of the company or its invalidity due to the failure of one of the formal pillars in it, which is writing and month, but in cases of invalidity of the company's contract Absolutely due to the illegality of the purpose or the non-availability of one of its objective elements, such as the provision of quotas, or it included the company's contract for the lion's condition, so there is no room for applying the theory of reality, as the company is considered stripped of its legal entity even in relation to the past and it follows that the reality company – despite its invalidity – maintains its financial independence and there is no objection to the application of the bankruptcy system to it when it stops paying in The period prior to the judgment invalidating it. But if the company is absolutely nullified due to the illegality of the shop, for example, then it is not permissible to declare it bankrupt because it did not have a legal existence at any time, and only the bankruptcy of the partners who are traders in it in their personal capacity is declared. Dr.. Hani Samir Abdel Razzaq, Responsibility of the Board of Directors of a Joint Stock Company in the Case of the Company's Bankruptcy, op. cit., p. 6-8.

[2] Dr. Hani Samir Abdel Razzaq, previous reference, p. 53.

[3] Dr. Samiha, Al-Qalyubi, Summary in Bankruptcy Provisions, Dar Al-Nahda Al-Arabiya, first edition, 2003, pp. 103-104.

[4] Criminal discrimination, date: 9/14/1999, Qistas Law Encyclopedia (www.qistas.com), Case No.: 416/1999. In the judgment issued in Case No. 130/2013, it ruled, "... As for the regular panel of the Court of Cassation, it reached cassation decision No. 1267/200 dated 25/3/2009 to: (The legislator did not consider writing a condition of the establishment of the company, nullity results from failure to observe it, unless one of the partners requests that it be considered invalid in accordance with the provisions of Article 584 of the Civil Code. Or the amendment that was not registered and published in accordance with the provisions of Article 583 of the Civil Code and Article 15 of the Partners Law, with which it is necessary to examine the legal effect of the declaration signed by the two partners in the distinguished company, to see if it constitutes an amendment to its memorandum of association or a type of actual company between the privileged company. and discriminatory against it or not). Referring to Article 583 of the Civil Code... and Article 584... and Article 15 of the Companies Law... Accordingly, we find that writing and registering with the Companies and Publication Controller are not among the conditions for concluding the company's articles of incorporation, which is considered a legal person once it is formed, whether in relation to Contracting with each other or in the relations of others with it, as can be understood from the provisions of Articles 583 and 584 of the Civil Code...." Civil Discrimination, Qistas Law Encyclopedia (www.qistas.com), dated 3/08/2015, Case No. 2576/ 2014.

considered stripped of its legal entity even in relation to the past. It follows that the reality company - despite its invalidity - maintains its financial independence and there is no objection to the application of the bankruptcy system to it when it stops paying in the period preceding the judgment of its invalidity.

But if the company is absolutely nullified due to the illegality of the shop, for example, it is not permissible to declare it bankrupt because it did not have a legal existence at any time, and only the bankruptcy of the partners who are considered merchants in their personal capacity are declared bankruptcy ([1]).

With regard to the criminal liability of the manager of this company, for example, the first paragraph of Article 24 of Egyptian Law No. 146 of 1988 - regarding companies receiving money - states that: Without prejudice to the criminal responsibility of the perpetrator of the act violating the law, the person responsible for the actual management of the company shall be punished with the same penalties prescribed for acts committed in violation of the provisions of this law. And concerning the invalid (actual) company; In one of its rulings, the French Court of Cassation ruled that the responsibility of the legal director was based on the crime of breach of trust as a partner of the actual director ([2]). After that, the French legislator approved the responsibility of the actual manager of the commercial company in the Companies Act of 1966.

The second requirement: Opinions on criminal interference within the scope of the commercial company.

The economic life at the present time no longer depends on the activity of individuals only, but also needs huge investment conglomerates, so companies have become the main component in economic life, consequently, the legislation was organized to be able to face the legal conditions that arise from the formation of these companies, which may disrupt the workflow and negatively affect the general economy of the community. Accordingly, criminal intervention appeared in the field of these companies by criminalizing some of the acts prohibited by the legislator. Two opinions were said in this regard, the first: it opposes criminal intervention in this field, and the second opinion supports and justifies this intervention. We review and discuss these two views through the following sections:

Section one: The opinion calling for criminal intervention within the scope of the commercial company ([3]).

The enormous development and magnitude of business has helped the existence of criminal protection for commercial companies; With the aim of protecting businesses and protecting those who deal with them, and the sweeping globalization of economic systems such as privatization, multinational companies and the Internet; It led to the emergence of new crimes due to its misuse, which leads to a threat to the economic situation. Accordingly, there must be a strict and deterrent criminal law in the face of the emerging challenges that have begun to impose themselves on states and individuals with force, especially for anyone who is tempted to tamper with the economies of states, and to punish all persons who have committed crimes targeting shareholders and creditors of companies. The criminal law only intervenes as necessary, and this intervention maintains the normal functioning of the market by eliminating the interventions that obstruct the functioning of the market, and the intervention is often to deter those who try to leave it. Where the criminal law aims to protect the economic policy of the state, whether it is interfering with the factors of production or consumption, or if it is a custodian state that does not interfere with the factors of production, leaving the matter to the economics and mechanisms of the free market, which is governed by the rules of supply and demand, and the prohibition of monopoly in order to provide the economic law with the rules of comprehensive competition ([4]).

Based on the foregoing; One of the basic tasks of criminal law is deterrence, and we also note that we are dealing with a field characterized by globalization, rapid fluctuation, complexity and liberalization of trade, and therefore criminal law needs new rules characterized by technicality, and it requires specialization and international cooperation, and the ability of this law to confront the present and the future with rapid and effective intervention as a result of the emergence of the defects of the capitalist system, and because of the corporate scandals that spread throughout the year; necessitated intervention and punishment for the acts

[1] Dr. Hani Samir Abdel Razzaq, previous reference, p. 54.

[2] Kasi Abdallah, The Responsibility of the Director of the Limited Liability Company, Master Thesis, University of Algiers, 2012. p. 96.

[3] "Most of the contemporary criminal jurisprudence goes to say that there is an economic criminal law and economic crimes, as this law and those crimes have become a tangible reality in our contemporary daily life, This law aims to protect the economic policy of the state, whether this state is involved in most elements of production and consumption, or it is only a guard state that does not interfere in these elements, leaving the matter to the economics of the free market and its mechanisms governed by the rules of supply and demand, and the prohibition of monopoly in order to provide the so-called In economic law, the rules of perfect or universal competition. Dr. Hosni Abdel Samie Ibrahim, Economic Crimes in Islamic Sharia, Dar Al Fikr Al Jamia, Alexandria, 2015 edition, p. 4.

[4] Dr. Hosni Abdel Samee Ibrahim, previous reference, p. 23

committed in the establishment and management of companies, and this led some to call for the creation of a penal code for companies to punish those responsible for them and their management, especially those who obstruct the progress of their work and achieve their goals, and they constitute an important aspect of crime within the scope of commercial companies.

Especially joint stock companies, because of what they include in the accumulation of huge capital and their use in specific projects, as a type or means of national savings and the implementation of the economic policies of countries, therefore, the protection of commercial companies is a protection for the general economic policy of the state, and attacking them is not only an attack on the interests of the individuals participating in it, but its effects go beyond the public interest ([1]). Therefore, in order for the legislator to ensure that the merchant does not deviate from his message, he was not limited to determining civil penalties, rather, he decided on criminal protection for his purposes, against the misuse and deviant use of funds and the credit of projects and commercial companies.

Under it, merchants' violation of the legal requirements governing commercial activity resulted in criminal responsibilities and penalties, criminal penalties differ from them according to the gravity of the act and the circumstances of its commission, as a penalty for violating these requirements, and the importance of trade in economic growth made the legislature's purposes of criminal protection for commercial activity not only to provide protection for private and public interests, and ensuring the stability of commercial transactions, so that they constitute a strong support for the revitalization of trade, the protection of traders - partners or producers and those dealing with them - and the protection of the commercial field in general and its control only, rather, it is also to provide protection for the national and international economic system and the economic interests of the state, so that trade achieves its functions in active participation in achieving sustainable economic development ([2]).

The second section: the opinion calling for non-criminal interference within the scope of the commercial company ([3]).

Traditional criminal law jurists denied the existence of economic criminal law, as well as the existence of the so-called economic crime based on the fact that these crimes are artificial and invented by the legislator to protect his economic system, as these crimes, described as economic crimes, do not involve themselves and do not affect social values and morals in the same situation as in other traditional crimes, for example, and the direction of this group is due to their influence on the capitalist system ([4]).

The opponents' argument was that criminal interference in business activities obstructs the functioning of the market, and may cause many to refrain from interfering in the market for fear of responsibility, especially the financial markets. It was said that a legal person is an imaginary thing without a will, from which no human activity comes from, but rather acts by those who represent him legally ([5]).

The third requirement: Discussing opinions about criminal interference within the scope of the commercial company.

It is no longer realistic to say that the criminal legislator does not need to intervene in the scope of commercial companies, but the trend has begun to change towards the need for the legislator to intervene in the field of corporate regulation, however, this intervention must be a necessary measure to protect the company, so that those in charge of the company's management do not refrain from taking the necessary management decisions for fear of responsibility on the one hand, n the other hand, so that the interests of the company and partners are not lost due to the lack of deterrent penalties. The legal representative of the company acts of his own volition and thus expresses and fulfills the will of the commercial company ([6]).

Accordingly, the Commercial Companies Penal Code has become self-contained, as it is a real fact, as the acts constituting criminal activity in the field of companies differ from other traditional acts, and the

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[1] Dr. Mahmoud Kubaish, The Criminal Responsibility of the Auditor in Joint Stock Companies - A Comparative Study in Egyptian and French Laws, Dar Al-Nahda Al-Arabiya, Cairo, Edition 2010, p. 10.

[2] Dr. Heikal Ahmed Othman, Crimes of Financial and Commercial Businessmen, Research Paper Presented at a Conference on Crimes of Financial and Commercial Businessmen, Beirut 2-4/7/2012, pp. 6-7.

[3] Didier REBUT, Sociétés, Répertoire de droit pénal et de procédure pénale, juin 2014, p: 5

[4] Dr. Hosni Abdel Samee Ibrahim, previous reference, pp. 22-23.

[5] Dr. Raouf Obeid, Principles of the General Section of Punitive Legislation, without a publishing house, Fourth Edition, 1979, p. 592.

[6]Dr... Muhammad Ali Koman, Dr. Reda El-Sayed Abdel Hamid, Corporate Crimes in the Saudi System, Dar Al-Nahda Al-Arabiya, Cairo, 1996, pp. 3-6.

offenders in the field of business were called white-collar criminals, while the crime was called white-collar crime with absolute responsibility, whether it occurred from individuals, commercial establishments, companies or factories. Therefore, the Legislator decides on her financial fines, because the commission of these individuals or those parties is for the purpose of profit, even in a forbidden way, so the penalty for the fine was appropriate for her, and this does not preclude the severity of the penalty if the activity is committed with a mistake or criminal intent ([1]).

Many comparative legislations have recognized the criminal law of companies, whether by providing for this type of crime in the companies' own legislation ([2]) or in separate legislation other than the penal code. The researcher tends to the first opinion that the criminal legislator should intervene within the scope of commercial companies, especially since he only intervenes when necessary and necessary, due to the huge development in business, globalization, privatization, and multinational corporations have all but given rise to new crimes. Criminal intervention maintains the normal functioning of the market, and criminal law is necessary to deter those who try to deviate from it. Therefore, the protection of commercial companies is, in effect, protection of the general economic policy of the state.

In addition, criminal interference within the criminal enterprise has many causes; Since what the legislator seeks by enacting injunctive and punitive rules is to regulate the behavior of individuals in society in general ([3]), as the injunctive legal rule, which is characterized by impartiality and generality, addresses all segments of society without distinction between its members, sects, and classes. But the development of social and economic life in modern societies prompted the legislator to enact legal rules that apply to certain groups, activities and specific professions. Finance, business, and trade are among the most important areas that have received great attention from the legislature; Where he singled out laws aimed at regulating them, and penal rules to punish violators of the economic systems, including the commercial ones in force. As the legislator's intervention by enacting injunctive and punitive rules in the field of finance, business and commerce aim to confer criminal protection on certain interests. Social and economic development has put it at the top of the concerns of officials and governments in all countries of the world, regardless of their political orientations and ideological convictions ([4]).

The criminal law of companies has also developed in two directions, namely: bypassing the rules of tort by placing positive obligations on the managers and founders of companies, as for the second trend, was through assigning a punitive character to personal responsibility by supplementing civil penalties with criminal penalties, and economic activities that exceeded the capabilities of one individual, and this led to the establishment of large groups of individuals, they join forces in accumulating funds and means of modern technology within the large commercial companies, which leads to the inability of the traditional civil rules to confront the illegal behavior that arises from them, and the legislator aims to preserve the financial disclosure of the company, the joint funds of the partners, and a guarantee for the creditors. Therefore, the criminal penalty does not apply to crimes related to the formation of the company only, rather, the legislator deals with punishment for the attempts of the

[1] Ali Rashid bin Nayi Al Tunaiji, previous reference, pp. 57-58.

- "Some researchers have concluded, in recent studies on white-collar crimes and criminality in the field of economic business, the importance of emphasizing the exemplary and exemplary nature of punishment, for various types of crimes without expression, and that what white-collar criminals fear most is the traditional punishment. especially imprisonment and confinement, and this is in light of what has been observed that financial penalties are often seen as one of the usual risks of the profession, whose burdens are transferred, in disguise, to other categories such as customers and consumers. In general, we can say that the prevailing trend of contemporary legal jurisprudence is characterized by the preference for the adoption of more stringent punitive policies than the opinions of the perpetrators of these crimes, and the rejection of the distinguished treatment of leniency and tolerance, the treatment that transformed the arsenal of laws regulating the field of economic business into a mere hair of paper. However, it must - in any case - that there should not be extravagance or unjustified cruelty, so that these penalties are decided in a way other than their subject, or by expansion and exaggeration in their application to satisfy the feeling of public opinion. We believe that the more it is possible to correct deviation in the field of economic business and change the patterns of illegal behavior by means and penalties that are less severe than freedom-restricting penalties, the more this will lead to the success of the economic and criminal policies, and in line with modern trends calling for the principle of impunity. Whatever is said about the importance of determining freedom-restricting penalties such as imprisonment, The role of financial sanctions as an effective sanction for crimes involving the abuse of economic power should not be underestimated; Most of this type of crime, if not all of it, is committed for the purpose of achieving profit or illegal profit, then it is appropriate not to neglect the role of financial punishment with its multiple objectives, whether it lies in achieving deterrence, compensation or erasing damages." Dr. Mustafa Mounir Al-Sayed, previous reference , pp. 338-340.

[2] Didier REBUT, op. cit, p: 5.

[3] Didier REBUT, op. cit, p: 3.

[4] Muhammad bin Ham, previous reference, p. 1.

company's founders, managers, and agents to exploit its funds to achieve their own profit or benefits or increase capital, and to achieve balance in the company's management by major shareholders who have influence in the company's management and their access to its boards of directors ([1]).

In sum, the goal of the criminal legislator from interfering in the field of commercial companies is to protect the funds of commercial companies, and the goal is to form a pillar and guarantee for creditors and to strengthen public confidence in commercial companies in particular and in the national economy in general; In addition to protecting the partners in those companies and taking care of their interests and rights ([2]).

The second topic: The subjectivity of the crime of the commercial company

Despite the difference in jurisprudence on the origin and scope of the corporate penal code, especially the existence of a financial penal code that includes tax and customs crimes, however, a distinction must be made between crimes that constitute an attack on the financial system on the one hand, and crimes that involve an attack on the company's commercial interests on the other. Examples of crimes that constitute an attack on the financial system include; Tax, customs, and banking crimes, currency discrimination, and check crimes. As for the assault on the economic system every crime involves an attack on it, it includes Crimes of commercial fraud, companies, the capital market ... etc., and this is evidence that the scope of this law is still in dispute, and as a result of this, the crime within the scope of commercial companies is still subject to the same dispute ([3]).

Accordingly, we will talk in this topic about the nature of the crime of the commercial company through three demands, the first of which talks about the definition of crime within the scope of commercial companies, and the second requirement about distinguishing the crime within the scope of commercial companies from what is similar, and the third will deal with the characteristics of the crime of the commercial company.

The first requirement: The definition of the crime of the commercial company.

The concept of crime within the scope of commercial companies is unfamiliar or used by the Jordanian legislator, who did not directly address it in legislative texts, but there are laws and regulations that include texts for crimes related to companies.

Most of the crimes in the field of commercial companies fall under the category of danger crimes, that is, the actions that were criminalized economically and that were intended to prevent any threat to the economic system of the state, whereas punishment is not dependent on actual harm being achieved; Rather, this harm may not be achieved, and it may not affect the economic system in the state. As for the punitive policy, it is based on the fear of achieving harm to the national economy ([4]). And the legislator shows the existence of the danger and its merit in criminalization to the idea of the normal course of things and the extent to which that course leads to an attack on the interesting subject of criminal protection ([5]).

Jurisprudence differed about the legal texts related to crime within the scope of commercial companies, as he used to study the crime of commercial companies as one of the topics of the Economic Penal Code. It was included within the economic crimes as a whole, but this trend was criticized, and jurisprudence has been studying crime within the scope of commercial companies under the name of business law, and the proponents of this trend have been criticized, supporters of this trend also include the economic penal code, including crime within the scope of commercial companies, within the topics of the penal code, because some crimes fall within the scope of the penal code; Business law is a non-specific term and does not agree on its definition due to its modernity ([6]).

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[1] Dr. Hosni Ahmed El-Gendy, Criminal Law for Commercial Transactions. Dar Al-Nahda Al-Arabiya, Cairo, 1989 edition, pp. 65-67.

[2] Dr. Adel Abdel Samie Abdel Fattah, Criminal Protection for Commercial Companies, previous reference, p. 76.

[3] Dr. Muhammad, Samir, Economic Crimes in Egyptian and Emirati Legislation, Arab Renaissance House, 2015, p. 24.

[4] Dr. Abdel Hamid Al Shawarby, Financial and Commercial Crimes, University Press, Alexandria, 1986, p. 13

[5] Dr. Seif Al-Masarwe, Criminal Protection for Securities Trading, Ph.D. thesis, Ain Shams University, 2008, pp. 102-103.

There are two doctrines about the word danger: the personal doctrine: which means that danger is something that does not exist in reality and reality, because there is only harm or no harm, and there is no third for them. This means that what could have happened, and between harm and non-harm, there is no place for an intermediate phenomenon called danger. And this doctrine concluded that this danger does not exist except in the imagination of those who consider its existence. And the objective doctrine: that danger has a physical and realistic entity, and otherwise the law would not be able to prohibit a person from certain types of dangerous behavior, so how can the law prohibit it if we accept that the danger that characterizes it does not exist in reality but only in the imagination of individuals. Zubaydah Jassem Muhammad, The Result as an Element in the Material Pillar of Crime (Comparative Study), Ph.D. thesis, Cairo University, p. 216.

[6] Dr. Jamil Abdel-Baqi Al-Saghir, Criminal aspects of public business sector companies. Report submitted to the conference held on the Public Enterprise Sector Companies Law (Law No. 203 of 1992) North Coast from 19-24/6/1992, p. 6.

The difference in the definition of crime within the scope of commercial companies is primarily due to the nature of the crime itself, as it differs from one state to another, and from one time to another within the same state, Therefore, it is not possible to set a specific and fixed standard to determine the crime within the scope of commercial companies, and if a fixed and specific standard is set, it is necessary to refer to the economic legislation of each country ([1]).

Some defined economic crime as: "every illegal act harmful to the national economy if it is stipulated in the penal code, or in the laws relating to economic development plans issued by the competent authority" ([2]), others defined it ([3]) as: acts that include an attack on the economic system in the state ([4]).

Some have defined business crimes as: "illegal acts committed when engaging in transactions or trade, and that lead to damage or threat of harm to the integrity of economic and financial transactions ([5])." The French Court of Cassation defined economic crime as: "every attack on the production, distribution or consumption of goods and merchandise and the various forms of money exchange" ([6]).

Accordingly, the researcher finds that the crime within the scope of commercial companies can be defined as: Every act or omission that is in violation of the established rules for organizing a commercial company, and is punishable by law when the legislator finds that there is any prejudice to its interests. In line with the economic developments witnessed by some Arab countries, special laws were issued for economic crimes, such as Egypt and Jordan. Some of them even specifically named the Economic Crimes Law, and there are law commentators and jurists who called economic crime by another name, "financial crimes," but they agreed on the same definition ([7]).

The second requirement: distinguishing the crime of the commercial company from others.

After talking about a definition of this crime, we will show images of crimes that may be mixed with or closely resemble them.

Section One: money crimes

Money crimes are defined as: crimes that violate the financial rights of individuals, that is, the positive aspect of their financial liability, and are named so to distinguish them from other crimes committed against individuals and affect a right attached to the human personality, and they are called crimes of the soul. The crimes of commercial companies are consistent with the crimes of money in terms of the object of the attack being money, and the first differs that the money may be material or moral, as in copyrights, patents, designs, and models, as for the second, the money must be material. In most cases, crime within the scope of commercial companies affects the economic policy of the state, and this does not happen in money crimes. The reason for the criminalization of money crimes is to ensure the right of ownership ([8]).

As for the crime within the scope of commercial companies, it varies according to the different interests under protection. Some of them may be protecting public confidence in companies, protecting partners or those dealing with them or their entity, or protecting dealers in the stock market or in banking, and as a result, in order to preserve the state's economic policy...etc.

Section Two: Business Crimes

Businessmen's crimes may constitute economic crimes due to the nature of their work related to economic activity, and this case may be identical to the crime within the scope of commercial companies. Business crimes can be defined, they are crimes committed by businessmen, and their meaning is limited to researching and realizing actions, and refraining from actions, which would harm the foundations of the economic system. These crimes are characterized by the fact that their nature is often not inclined to violence, but their cost is high. Perhaps the most important reasons for these crimes are the absence of the idea of ethics in the field of business among many businessmen; So that the end is just collecting money in accordance with the principle that the end justifies the means. It falls within the scope of these crimes committed by one or more persons with the aim of maximizing profit or obtaining it for the benefit of its partners and with the knowledge of officials within companies, including managers and members of the board of directors. As well as crimes

[1] Dr. Hosni Abdel Samee Ibrahim, previous reference.

[2] Dr. Fakhri Abdul Razzaq Al-Hadithi, Penal Code "Economic Crimes", Baghdad University Press, d. T, p. 9.

[3] Dr. Amal Othman, Explanation of the Economic Penalty Law on Supply Crimes, Dar Al-Nahda Al-Arabiya, Cairo, 1983, p. 30.

[4] Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 52.

[5] Dr. Hosni Ahmed Al-Jundi, previous reference, p. 28.

[6] Muhammad bin Ham, previous reference, p. 25.

[7] Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 54.

[8] Dr. Muhammad Samir, Economic Crimes, previous reference, p. 30.

committed by people for their own account and claim that their activities are financial or sound commercial activities, and there are several classifications of these crimes, where some see that the crimes of businessmen are crimes of commercial fraud, organized crime, money laundering, and information and computer crimes, and some see them as crimes of sabotaging public funds, smuggling, and marketing of inferior goods, while some see it as crimes of bribery, smuggling, and embezzlement ([1]).

Section Three: Labor Crimes

Work crimes are consistent with the crime within the scope of commercial companies in that both of them are closely related to the economic activity in the state, and that both of them have many fines, and freedom-restricting penalties are rare compared to financial penalties. They differ that labor crimes require a warning to remove the violation. As for the crime within the scope of commercial companies, the offender is not warned, and labor crimes involve an assault on the economic policy of the state, while the crime is within the scope of commercial companies for the most part ([2]).

The third requirement: the characteristics of the crime of the commercial company.

After addressing the definition of crime within the scope of the commercial company and the distinction of the commercial company from what is similar, we will talk about the characteristics of the crime of the commercial company through the following points:

Section one: Characteristics in terms of the content of the crime text

This crime has several characteristics in terms of the content of its texts:

First- The crime in the field of the commercial company falls under the category of dangerous crimes:

It is an act that threatens the commercial system, and therefore the legislator criminalizes it to prevent the possibility of harming this system; Crimes affecting companies are not punishable by actual harm, as the commission of these acts threatens the interest that the legislator protects with a grave danger, which necessitates the legislator incriminating it, and the danger here is a general danger directed against the economic system in the state ([3]).

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[1] The Secret of the Seal, Saleh Ali, a scientific paper presented at a conference entitled Businessmen Crimes, at the Arab Center for Legal and Judicial Research, Beirut - Lebanon. 2012. p3.

- "The crimes of businessmen overlap to a large extent with the field of economic crimes, and their crimes are not the result of need and want in all cases, but the crime of luxury, greed and the enormity of the booty, due to their material capabilities, influence, skill and experience, benefiting from legal loopholes and contradictions, and seeking to buy receivables in their various forms. To obtain privileges in the course of their economic activity, they are also better able to conceal their crimes. Businessmen's crimes are not the kind of criminality whose causes we are looking for in the offender's personality, composition, upbringing, psyche and environment. Rather, it is a choice and direction of the will and it exists where the free economy is based on competition and exists in the directed economy, and they are the focus of this symposium, whether they are natural or legal persons despite the multiplicity of the sects that fall under this description may not be united by a measure of homogeneity, and From the point of view of the intent of business as being primarily economic activities, many legislations have been issued to regulate their work, but these activities may be exposed to some deviations of a criminal nature, which entail a penalty for the perpetrators of these acts and which are stipulated in the Penal Code and other laws scattered among several legal branches Saeed Qassem Al-Aqel, Trends in Legislation and Jurisprudence and its Role in Reducing Businessmen's Crimes, a working paper presented at the conference held at the Arab Center for Legal and Judicial Research on Businessmen Crimes Beirut 2-4/7/2012, p. 2.

[2] Dr. Muhammad, Samir, previous reference, p. 32.

[3] Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 243.

The Egyptian jurisprudence goes in its entirety to the fact that the basis for dividing crimes into harm crimes and dangerous crimes is the criminal result. Despite this, the jurisprudence was divided in determining the result that is the basis for the division: is the intended result here the result in its material meaning, or is it the result in Its legal meaning? That is why some jurists went (to the fact that the basis for dividing crimes into harm crimes and dangerous crimes) is the result in their material, not legal, meaning. While some others went to the contrary, and that the result in its legal meaning is what should be the basis for that division. The reason for this difference is due to the disagreement about determining the harm and danger, are each of them a material result? Or are both of them a legal consequence? Some have argued that harm and danger are a material result, and they demonstrate that harm is an effect that results from behavior and represents actual and immediate harm to a right protected by law, and that danger is also a material effect. A product of criminal behavior, and it represents potential harm to the right, i.e. a threat of danger. As for those who say that harm and danger are a legal consequence, they also demonstrate what they have said: that the harm or danger is nothing but an evaluation of the material consequences of human behavior in relation to the protected interest. Dr. Mamoun Muhammad Salama, Penal Code, Special Section, Crimes Harmful to the Public Interest, Part One, Salama Publishing, Cairo, first edition, 2017, p. 168. Dr. Ramses Bahnam, The General Theory of Criminal Law, Maarif Foundation in Alexandria, Egypt, third edition, 1997, p. 84.

The theory of danger is of paramount importance in criminal law, as it is the pole around which the meaning of causation, the meaning of negligence, the meaning of attempted crime, and the meaning of danger in crimes in which a component event is a dangerous event, not a harmful one, seems to be determined, and the meaning of criminal danger, and the meaning of human responsibility in the infringing intent for an unintended criminal event that resulted from the intended event, and the meaning of the potential crime that the partner is asked about even though it is different from the crime in which he wanted to participate ([1]).

Second - The principle is that criminalization is only possible by a law issued by the legislative authority:

It is not permissible for the executive authority to do so, considering the principle of separation of powers. However, exceptional circumstances may justify deviation from this principle. The efforts of the specialized administrative authorities are sought in prosecuting the perpetrators of commercial corporate crimes, and special penal procedures are applied.

Third - Most crimes of commercial companies are material crimes:

It is established as soon as the offender comes to the material act that brings the crime into existence without the need to search for the moral pillar, which is considered by virtue of the presumed, and this does not mean its absence, but rather leniency in proving the availability of this pillar, unlike ordinary crimes for which the availability of the moral pillar is required ([2]).

The moral element and asking for error or not, is one of the most controversial topics in the crime of the commercial company, "The most important thing that distinguishes these crimes from others is that they are crimes with absolute responsibility, or without error, or with a weak moral element, or the error in them is presumed and capable of proving the opposite, as he says Thus, the jurists of the Latin system ([3]).

It is noted that the legislator does not subject the moral element of crimes within the scope of commercial companies to the same provisions stipulated in the General Penal Code. Corporate penal laws are characterized by the weakness of this element, some criticize the material responsibility in some crimes in the field of companies because it contradicts the modern criminal principles that require the presence of the moral element in order for the responsibility to be established, rather, others go in criticizing the supposed science of cheating on the commodity, for example. Or its corruption according to those who deal with it as a clear adventure that harms the innocent with the guilt of the abuser to imagine that the merchant was a victim of fraud and did not interfere in its commission, and this opinion concludes that criminal responsibility cannot be established in any way on a pure assumption, and it is not possible to combat crime by blurring the procedures of the case or blurring the limits of criminalization, but it can be reached by several social and moral considerations ([4]).

It is almost prevalent in comparative law that the legislator does not always adhere to the moral element of the crime within the scope of commercial companies with the same provisions established in the common law. Accordingly, the question arises about the nature of this element in the crimes of commercial companies. Do the general rules of the Penal Code apply to the moral element, or is it characterized by a special nature that prevents this?

The slightest controversy does not arise if the legislator stipulates the image of the moral element of the crime within the scope of commercial companies. However, if the legislator does not provide for the image of the moral element of the crime within the scope of commercial companies, so here the problem appears, as the moral pillar in its field has a special nature that requires the general rules of the moral pillar not to be applied in their regard, and it can be said that the origin of these crimes is intentional, as is the principle in all crimes. However, many crimes within the scope of commercial companies are considered equal in the opinion of the legislator to be committed by the offender intentionally or negligently. And the requirement of criminal intent is a measure of the severity of the punitive system, the more severe the system, the more the criminal intent is not required ([5]).

Therefore, the moral element takes the form of criminal intent unless the legislator expressly states that the crime occurred by mistake, and felonies in general must have criminal intent, so there are no felonies that occur by mistake. As for misdemeanours, the basic principle is that they are intentional and are not realized by

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[1] Dr. Mahmoud Najib Hosni, Causal Relationship in the Penal Code, previous reference,

[2] Dr. Nael Saleh, Economic Crimes in Jordanian Law, first edition, Dar Al-Fikr for Publishing and Distribution, Amman, 1990, p. 16.

[3] Muhammad Mohieldin Awad, Criminal Economic Phenomena, Scientific Symposium, Naif University for Security Sciences, Riyadh, 1996, p. 15.

[4] Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 257.

[5] Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 249.

mistake unless the legislator expressly stipulates that. ([1]).

The theory of misdemeanors was invented by the French judiciary if it considered that there are crimes that are not punishable by law with the penalty prescribed for violations, but with the penalty for misdemeanors, but it agrees with it in the nature of its moral element, which does not require - according to the origin, the presence of criminal intent in it, only an unintentional mistake. Often this is in misdemeanors of danger, the reason for its criminalization lies in preventing the occurrence of certain danger. The Italian judiciary has also adopted this theory, then it spread in the comparative judiciary, and this theory took its way to the Egyptian jurisprudence, which explicitly adopted it with regard to some violations and misdemeanors of its nature. And these are what the Penal Code, jurisprudence, and comparative judiciary called "misdemeanors of violations" or "misdemeanors of misdemeanor". The most prominent of them are economic misdemeanors ([2]).

It does not mean only the misdemeanors that are competent to the economic courts according to the Egyptian Law 120 of 2008, but rather the economic misdemeanors in the broad sense, which of course does not include all the misdemeanors that the economic courts have jurisdiction over, but only some of them, which aim to protect the economic policy of the state. These misdemeanors and infractions have a special nature, and they involve an organizational nature. The reason for their criminalization is preemptive in order to prevent possible harm to certain rights or interests related to the commercial or social interests of the state. It is obvious that this does not apply to felonies within the scope of commercial companies. And part of the jurisprudence has gone to the fact that these crimes are material - that is, without a moral pillar - and it is sufficient for them to merely occur the material act that achieves the harm ([3]).

Fourth - Criminal responsibility in the crime of the commercial company:

It is accepted on a larger scale, while in the Penal Code it is considered within its narrowest limits and personal in support of the general rules.

The second section: characteristics in terms of the source of criminalization

This crime has several characteristics in terms of its legislative source, namely:

First - Crime within the scope of commercial companies is not only part of the Penal Code: there are some crimes related to commercial activity in particular and economic activity in general ([4]).

Second - The legal rules governing crime within the scope of commercial companies are not codified within one law: rather they are distributed in a number of texts within different legislation, without a direct link such as the Companies Law, the Central Bank Law, the Banks Law, and the Financial Market Law... All forms of legislative texts, in addition to the laws, regulations, and instructions issued under the law and international agreements, are considered a source of criminalization within the scope of the commercial company.

Third - The scope of the legislative mandate expands in defining crimes within the scope of companies. The role of the legislator is limited to issuing blank texts. Most criminal law jurists support the legislative mandate to criminalize deviation from the corporate penal code, this is because legislation in this field requires technical knowledge that may only be available to the delegated authority, in addition to the need to provide flexibility in the legislative tool so that it can face the surprises of economic phenomena in order to achieve the success of the economic policy. The delegation does not achieve its purpose unless it is entrusted to a competent authority ([5]).

The third topic: the legislative approaches to confronting the crime of the commercial company.

The method of criminalization in the field of commercial companies that countries follow is different. There are countries that still follow the traditional method of criminalization in the field of companies, and there are other countries that follow the newly developed method of having an independent private law, it constitutes an integrated system from both the substantive and procedural aspects. In this requirement, we will address these two approaches and the interpretation of the texts of the commercial company crime through three demands:

The first requirement: The traditional approach to facing the crime of the commercial company.

There are traditional methods of confronting the crime of commercial companies, and they do not go beyond the following cases: the existence of many special laws that criminalize actions against the interests of companies in the country, or the inclusion of crime within the scope of commercial companies within the penal code, or the combination of the penal law and the law of commercial companies.

Section one: Inclusion of criminalization texts in a special law.

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[1] Dr. Muhammad, Samir, previous reference, p. 50.

[2] Dr. Sherif Sayed Kamel, The Criminal Responsibility of Legal Persons, Dar Al-Nahda Al-Arabiya, Cairo, 1997, p. 359.

[3] Dr. Muhammad Samir, previous reference, p. 52.

[4] Articles 386, 433, 435 of the Egyptian Penal Code.

[5] Dr. Mahmoud Mahmoud Mustafa, previous reference, pp. 73-74.

One of the first legislative methods regarding crime within the scope of commercial companies that countries have adopted is the inclusion of crime within the scope of commercial companies within the legal rules of economic activity, and it included one of two countries: either they are with a free (capitalist) economic system, or they are at the beginning of a stage of changing their economic system ([1]).

The Jordanian legislator has taken this direction. Accordingly, many laws regulating economic life in general have been established, with the inclusion of criminal penalties applied to violators, and the sources of crime within the scope of commercial companies in Jordan, for example, but not limited to: Companies Law No. (22) of 1997 and Jordanian Trade Law No. (12) of 1966, especially articles (456-465) related to dealing with judgments related to tort or fraudulent bankruptcy, and Official Banks Law No. (28) of 2000, which contained in Article (88) a set of penalties for violators of its provisions, and Exchange Business Law No. 44 of 2015 and Article 29 of it punishes anyone who engages in money exchange without a final license.

Among the countries that adopted the method of including crime within the scope of commercial companies within the legislative texts regulating economic activity, the Arab Republic of Egypt, which included legislation texts criminalizing behavior that violates the content of the laws, such as: Law No. 159 of 1981 on companies, which provided for criminal penalties in Articles 162-163, and Law No. 88 of 2003 promulgating the Central Bank, Banking System and Money Law and Capital Market Law No. 95 of 1992. To adopt a certain method is often affected by the political, economic and social conditions specific to each country.

Section Two: Combining the Penal Code and Special Laws.

Some countries follow the method of including crimes related to commercial companies in the Penal Code, by dedicating a special chapter in this law to the subject of criminalizing crime within the scope of commercial companies, but due to changing economic conditions and various economic crises, the inadequacy of a single penal law appeared to confront it, and this forces the state to enact special economic laws to address such crises or developments, and there are on the ground a set of special laws in addition to the penal code to regulate commercial life, and a set of some texts in the laws constitute the so-called corporate penal code.

Section Three: Including the crimes of the commercial company within the Penal Code

Many socialist countries have followed the method of including crimes within the scope of the commercial company within the penal code to give the legislation permanent and stable on the one hand, and these countries consider the attack on their economic entity a serious threat on the other hand. These countries do not recognize the principle of individual ownership or the administrative and financial independence of commercial enterprises, and therefore do not recognize the legal personality of them and consider them an integral part of the state administrations that control their complete control over commercial activity. Among these crimes, we note that the Jordanian Penal Code included the bulk of them and considered them ordinary and not economic crimes. The inclusion of crime within the scope of commercial companies within a unified and coordinated law, and the unification of all provisions related to these crimes is consistent with the rules of justice and equality before the law, especially since Jordan follows a free economy system. And that these crimes are not subject to the general provisions stipulated in the Penal Code, but rather have special rules ([2]).

The second requirement: the approach developed in the face of the crime of the commercial company.

Some countries tend to single out an independent law related to crime within the scope of commercial companies, and many countries have followed the legislative method as they follow the free market system (capitalist), and it is based on limiting all crimes that the legislator considers economic in one law instead of being scattered among many laws and legislations. Therefore, it tended to single out a special law for corporate penalties similar to the Penal Code, by limiting the rules and provisions that, in the absence of compliance with them, would be economic crimes regardless of whether these rules were issued by the legislative authority in the form of a law or by the executive authority in the form of regulations or instructions when It is authorized by the legislative authority to do so, and the law provides for it.

The third requirement: interpretation of the texts related to the crime of the commercial

[1] "The countries that adopt this system adopt this system: one of two countries: either a country that follows the traditional system of economic freedom, or a country that is new to changing its economic system. In most Latin American countries, few economic legislations are issued that include criminal provisions related to the control of money or trade. external. These legislations are temporary when the circumstances that necessitated them disappear, so the matter does not call for thinking about an integrated legal system. The Arab Republic of Egypt was forced to stipulate economic crimes in the same economic laws that were issued in installments. Perhaps the opportunity now exists to group economic crimes into a special law that takes into account the technical principles of economic criminality." Dr. Mahmoud Mahmoud Mustafa, previous reference, p. 27.

[2] Dr. Nael Saleh, previous reference, pg. 40.

company.

The words and phrases included in the text are the means by which the legislator expresses his will, and these words and phrases may be clear so that the meaning intended by the legislator can be deduced from them. That is, the search for what the legislator intended through the words and phrases used in the text ([1]).

Interpretation is divided into three types: legislative, judicial and jurisprudential interpretation. However, the interpretation authorities differ in their interpretation of the text, and two opinions were expressed regarding the interpretation of criminal texts in the field of companies.

Section one: Interpreting the text of the commercial company crime in a narrow way:

A part of legal jurisprudence opposed the idea of interpreting the provisions of the Penal Code, fearing that the interpretation would lead to the criminalization of actions that the legislature did not intend to criminalize. However, this trend did not receive much response from the side of jurisprudence or the judiciary, on the basis that it is not the functions of the legislator to define, come up with examples and specify the elements or images of the material pillar, but rather the task of the legislator is limited to developing the abstract text that leads to reaching the goal. Therefore, some went to say that if the interpretation is necessary, it must be narrow and specific, so that the expansion of the interpretation does not lead to the creation of new crimes other than those originally included in the text. The response to this view is that the goal of interpretation is to show the true will of the legislator, so there is no room for saying that the interpretation is limited to the literalness of the text. ([2]).

Section Two: Interpreting the text of the commercial company crime, in order to clarify the intent of the legislator

A side of jurisprudence believes that the interpreter should not have a goal other than to determine the intent of the legislator through the phrase of the text, and there is no importance after that because the interpretation has been narrowed or broad, so what matches the legislator's intent of interpretation is the correct interpretation of the text, which is called the theory of revealing interpretation. The principle of legality requires not to take analogy in the field of criminalization, so the judge cannot measure an act that was not stipulated by a text criminalizing an act and a text was stated to criminalize it, but there is nothing wrong with an analogy in the field of permissibility, because it is accompanied by the general principle which is the permissibility of actions ([3]).

As for the statement that the interpretation must be narrow, leading to the imposition of arbitrary and unjustified restrictions on the mental activity of the interpreter, and making the law incapable of facing the new circumstances and protecting society, in addition to the fact that the matter will end if the judge seeks the narrow interpretation by giving precedence to words over the intent of the legislator, it may be obvious. The same applies to saying that the interpretation must be broad in the interest of the accused, as it is inaccurate; Because the broad interpretation should not be an end in itself, and moreover, this interpretation will harm society; Because it may result in exempting a person from punishment despite his seriousness. Accordingly, this aspect believes - rightly - that the interpreter should not have a goal other than to memorize the intent of the legislator from the text so that if he is convinced that what he says matches that intent, there is no importance after that because the interpretation has been narrow or broad ([4]).

It should be noted that it is prohibited to resort to analogy in the field of criminalization and punishment out of respect for the principle of legality of crimes and punishments, and since it is not permissible for a judge to measure an act whose criminalization is not intended to be based on an act and the text of its criminalization, even if the two acts are similar or united in the cause; Because that would create crimes and punishments without a text, which constitutes a violation of the principle of legality of crimes and punishments, but there is nothing wrong with analogy if the matter goes outside the scope of criminalization and punishment. The principle of legality, without prejudice to the rights of the accused, nor harming the interests of society ([5]).

With regard to the texts of criminalization in the field of commercial companies, we affirm at the outset that interpretation is inevitable and necessary for the provisions of the criminal texts of commercial laws and for

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[1] Dr. Fattouh Abdullah Al-Shazly, Explanation of the Penal Code, General Section, University Press, Alexandria, 2001, p. 151 152.

[2] Dr. Nael Saleh, previous reference, p. 51.

[3] Dr. Mazhar Farghali, Criminal Protection of Trust in the Capital Market, Dar Al-Nahda Al-Arabiya, first edition, 2000, p. 81.

[4] Dr. Ahmed Fathi Sorour, Mediator in the Penal Law, General Section, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, sixth edition, 1996 AD, p. 38.

[5] Dr. Ramses Bahnam, The General Theory of Criminal Law, Mansha'at al-Maarif in Alexandria, Egypt, third edition, 1997, pp. 72-73.

commercial companies. We see that these texts are subject in their interpretation to the same provisions prescribed for the interpretation of the provisions of the Penal Code, and there is no justification for distinguishing them with their own rules, as the legislation regulating the activity of companies enjoys relative stability. It is assumed that it was developed by persons specialized in economics and legal matters, and if the criminal texts in corporate crimes contain some words and phrases tainted with ambiguity and confusion, The judge interprets it by asking the legislator's intent through the phrase "text," and there is no lesson after that if the interpretation is broad or narrow, but if it is impossible for him to determine the legislator's intent, he must adhere to the narrow interpretation in which the interest of the accused is achieved, the rule is that doubt is explained in the interest of the accused ([1]).

Results

- The development and use of modern technology and technologies led to the introduction of the globalization system and the liberalization of international trade, and this clearly affected the field of commercial companies, and the emergence of crimes within the scope of commercial companies was described as dangerous crimes that are punished as soon as the action occurs without waiting for the damage to be realized.
- Crime within the scope of commercial companies is not only part of the Penal Code: there are some crimes related to commercial activity in particular, and economic activity in general, since crime within the scope of commercial companies varies according to the different interests under protection, some of them may be to protect public confidence in companies or to protect partners or dealers with them or dealers in the stock exchange and banking business, and as a result, in order to preserve the state's economic policy.
- The legal rules governing crime within the scope of commercial companies in Jordan are not codified within a single law; Rather, they are distributed in a number of texts within different legislations, without a direct link between them, such as the rules regulating companies' law, the Central Bank Law, Banking Law, Financial Market Law...etc. All forms of legislative texts, in addition to international agreements, are considered a source of criminalization within the scope of the commercial company.
- The legislator intervenes by imposing a set of legal rules in the commercial field, and supports this with the necessary sanctions; With the aim of ensuring trust and credit among merchants, as well as ensuring

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[1] Dr.. Saif Al-Masarwa, previous reference, p. 76. The general rule in the application of the law in terms of time - in general - is the non-retroactivity of laws. Its provisions apply only to the facts subsequent to the date of their implementation and their effect does not extend to what occurred before this date. This rule is echoed by Article 5 of the Jordanian Penal Code that: "Crimes shall be punished according to the law in force at the time of their commission." As for the Jordanian legislator, no clear trend was found regarding the scope of application of the provisions of the crime text within the scope of commercial companies in terms of time.

Some jurisprudence is supported by the tendency that the criminal text has the most retroactive effect in the scope of crime within the scope of commercial companies due to the specificity of this type of crime, and the great damage it causes in the commercial field and what is reflected on the national economy, and the personal benefits achieved by the perpetrator on a large scale, provided that The competent court has not issued a definitive decision in the crime it is considering, and that the provisions of the Companies Penal Code are subject to a different ruling regarding the validity of its provisions in terms of time, and the agreement is reached between jurisprudence and the judiciary for this exception in all countries on the basis that the crime in the field of the commercial company is formed in Its content is a great danger to economic policy and society. Dr. Nael Saleh, previous reference, p. 89.

In the Egyptian judiciary, there are two directions, one of which goes to the non-retroactivity of the laws that are best for the accused on the crime within the scope of commercial companies. In this direction, the Court of Cassation decides if the new text amends the conditions of criminalization only without reaching the decriminalization completely. In this case, the text does not apply retroactively if it is more suitable for the accused. In the judiciary, there is a tendency to apply retroactive laws that are most suitable for the accused for these crimes, if the new text removes the description of the crime from the committed behavior, then this text is applied retroactively as long as it is more suitable for the accused. And that the retroactive rule of law that is best for the accused does not apply to crime in the field of a commercial company. This opinion agrees with the third recommendation of the Sixth Conference of the Penal Code held in Rome in 1953, as it stated, "The retroactivity of these rules - economic rules - must be excluded." 151, which stipulates that "if a law is issued following the crime, and it is more suitable for the accused or the convicted person, he does not benefit from it unless he intends to change the economic policy that was targeted by the previous law." Dr. Muhammad, Samir, op. reference, p. 43.

The crime affecting the commercial company, like other crimes, is subject to the rule of retroactive application of the criminal text if it is more suitable for the accused. Retroactive application of the text that is suitable for the accused, so that legislation does not stand idly by regarding the many crimes that are committed and whose perpetrators are punished. Criminal jurisprudence tended to expand the scope of the application of the principle of non-retroactivity of texts, especially at the beginning of the commercial company crime. However, as a result of the danger posed by this crime to economic policy, a new trend emerged in jurisprudence and the judiciary whose content is to reject the direct impact of criminal laws that are best for the accused. Dr. Anwar Masa'dah, Criminal Responsibility for Economic Crimes, House of Culture, Amman, 2009, 1st Edition, pp. 139-140.

the stability of the economic situation in the country, but the practical reality reveals the shortcomings and failure of these criminal measures in reprimanding the perpetrators of these violations.

- In some crimes in the Egyptian and Jordanian Companies Law, the legislator requires a special intent, such as the crime of forgery mentioned in Article 162 of the Egyptian Companies Law, and Articles (41 and 42) of the Jordanian Securities Law.
- Most criminal law jurists support the legislative mandate to criminalize deviation from the corporate penal code, since legislation in this field requires technical knowledge that may be available only to the delegated authority, in addition to the need to provide flexibility in the legislative tool so that it can face the surprises of economic phenomena. Therefore, most jurists noted that the moral element of crimes within the scope of commercial companies is subject to the same provisions established in the general penal code, and corporate penal laws are characterized by the weakness of this element.
- The method of criminalization in the field of commercial companies that countries follow is different. There are countries that still follow the traditional method of criminalization in the field of companies, and there are other countries that follow the newly developed method of having an independent private law, it constitutes an integrated system from both the substantive and procedural aspects, and the Jordanian legislator has taken this direction. Accordingly, many laws regulating economic life, in general, have been enacted, with the inclusion of criminal penalties for violating them. Among the sources of crime within the scope of commercial companies in Jordan, for example, but not limited to: Companies Law No. (22) of 1997, Jordanian Commercial Law No. (12) of 1966, and Official Banks Law No. (28) of 2000.
- Among the countries that have adopted the method of including crime within the scope of commercial companies within the legislative texts regulating economic activity: The Arab Republic of Egypt, which included legislation that criminalizes behavior that violates the content of laws, such as: Law No. 159 of 1981 on companies, and Capital Market Law No. 95 of 1992.
- Many socialist countries have followed the method of including crimes within the scope of the commercial company within the penal code in order to impart permanence and stability to the legislation, and because these countries consider the attack on their economic entity a serious threat to their political entity, in addition, it does not recognize the principle of individual ownership or the administrative and financial independence of commercial enterprises, and therefore does not recognize its legal personality and considers it an integral part of the state administrations that control its full control over the commercial activity.
- Some countries tend to single out an independent law related to crime within the scope of commercial companies, and many countries that follow the free market (capitalist) have followed the legislative method that is based on limiting all crimes that the legislator considers economic in one law instead of being scattered among many laws and legislations.
- The modern trend in punishment seeks to prosecute the persons who facilitated the commission of the crime simply by their presence or because of their financial liability; Therefore, this trend called for criminal responsibility for the actions of others and for the criminal responsibility of a legal person, and responsibility for the actions of others or followed by the actions of his subordinates, and thus constitutes a departure from the principle of personal punishment.
- In Article 442 of the Jordanian Penal Code, the legislator stipulated the liability of natural persons alongside the liability of the legal person, thus following the approach of the French legislator who stipulated in Article 121-2/3 of the Penal Code of 1992 that: “The criminal responsibility of legal persons is not It prevents the liability of natural persons as principals or partners for the same facts.
- There are difficulties in the field of punishment when the interests of commercial companies are attacked by any person, whether legal or natural, and thus harm the economic situation. These difficulties include; The lack of comprehensiveness or adequacy of penalties or legislative texts included in the Penal Code to achieve the objectives of public or private deterrence.
- There are difficulties in the field of punishment when the interests of commercial companies are attacked by any person, whether legal or natural, and thus harm the economic situation. These difficulties include; The lack of comprehensiveness or adequacy of penalties or legislative texts included in the Penal Code to achieve the objectives of public or private deterrence.

Recommendations

- The intervention of the legislator has become an indispensable necessity, not only to frighten those who deal with commercial companies in accordance with the laws by deterring them but to set the legal rules governing them, which must keep pace with the recent developments taking place in various fields, including the field related to the activity of commercial companies and their modern means, as challenges and developments have imposed themselves forcefully on states and individuals together to find unified legal rules to punish persons who commit corporate-related crimes. Punishments should be more severe, and the inherent principle in criminal law, which is the principle of legality and not being lenient, must be emphasized.

- We appeal to the legislator not to require the necessity of having a special intent in these crimes, as it may help the one who committed their escape from punishment, due to the difficulty of proving the private intent even though the act causes harm to the company.
- We suggest to the legislator the development of legal texts that contribute to increasing the authority of shareholders, partners, employees, and everyone who may be subject to criminal accountability within the scope of the company's crime and the internal and external control bodies on the company and their right to direct the management in the company, and permanent knowledge of the course of things within it to have the authority to combat crime within the scope of the commercial company and to detect it when it occurs. We demand the legislator to tighten the penalties prescribed for the crime affecting the interests of commercial companies; Because it is insufficient and not deterrent compared to the seriousness of the crime, the meager amount of money that is imposed on some commercial companies that violate the legal legislation as a fine, it is not at all commensurate with the size of its capital or the volume of its transactions, and therefore the fate of the binding legal rule supported by this fine will be indifference and litigation for its application.

Endnotes

1) Article 582 of the Jordanian Civil Law No. 43 of 1967 .
- Article 10/2 of the Egyptian Trade Law No. 17 of 1999 states: "A merchant is every company that takes one of the forms stipulated in the laws related to companies, whatever the purpose for which it was established.

It is clear from this text that the Egyptian legislator abandoned the criterion of purpose to give a commercial or civil character to the company, where the lesson in determining the company's character is the nature of the main work it does and the purpose it seeks to achieve as it specified in its founding contract. That is, the company, under the old commercial law, acquires the status of a merchant when the purpose for which it was established is to conduct a commercial activity as a professional. Therefore, it was not permissible under this law to declare the bankruptcy of land division and sale companies, for example, even though they are subject to the commercial professions tax and take the form of a joint stock company and are subject to the Companies Law issued in 1981. However, she is not considered a merchant because the subject of her activity is civil in the eyes of the repealed Commercial Law. As for the new Commercial Law, the company acquires the status of a merchant just because it takes one of the forms stipulated in the laws related to companies, and regardless of the purpose for which it was established, the standard here is formal, and It depends on the form of the company even if it engages in a civil activity, which is what is implemented in French law. Accordingly, a commercial company is all the companies stipulated in the Companies Law No. 159 of 1981 AD, as amended by Law No. 212 of 1994 AD regarding the amendment of some provisions of the Law on Joint Stock Companies and Limited Partnerships with Shares and Related Companies. Limited Liability, Law No. 3 of 1998 and Law No. 159 of 1998 amending Article 46 of the Joint Stock Companies Law, and Law No. 94 of 2005. It is a joint stock company, limited liability companies, and a partnership limited by shares in addition to the companies stipulated in the old Trade Law, in Chapter One of Part Two of it, which was not canceled by the issuance of the new law, which is the General Partnership and the Simple Partnership. This is in addition to all types of commercial companies regulated by other laws: such as holding and affiliated companies subject to Law 203 of 1991 regarding public business sector companies, public sector companies subject to Law 97 of 1983, and companies operating in the field of securities regulated by Capital Market Law No. 95 of 1983 1992, some provisions of Chapter Ten of its Executive Regulations were amended by Resolution No. 139 of 2006, investment companies regulated by Law No. 8 of 1997 regarding investment incentives, and money-receiving companies regulated by Law 146 of 1988. And other commercial companies regulated by laws Especially such as exchange companies, tourism, land reclamation and others." Dr. Hani Samir Abdel Razzaq, Responsibility of the Board of Directors of a Joint Stock Company in the event of the company's bankruptcy, Dar Al Haqqania for Legal Publications, Cairo 2008, pp. 2-3.

2) Criminal Discrimination, dated: 08-27-2017, Qastas Legal Encyclopedia of Jordan: (www.qistas.com), Case No. 2117 of 2017. Criminal Discrimination, dated: 6-16-2016, Qistas Legal Encyclopedia (www.qistas.com) Case No. 949 of 2016.
3) Fawzi Muhammad Sami, Commercial Companies, General and Special Provisions, House of Culture for Publishing and Distribution, Amman - Jordan, first edition, 1999, p. 37.
4) Since the company is a contract, it is necessary for its formation to provide the general substantive elements to form the contract in accordance with the general theory of obligations, as well as the substantive elements of the company, and the formal elements required by law. Violation of any of the pillars of the company's contract results – as a general rule – to the invalidity of the company. However, the invalidity of the companies raises some difficulties, because it is sometimes difficult to ignore the existence of the company in the period prior to the invalidity, and because the retroactive

effect of invalidity, if it is applied, will involve undermining the legal positions established for others who dealt with the company as a legal person, and it will also ignore clear facts that the company experienced before deciding its invalidity. For these considerations, jurisprudence and jurisprudence have invented the theory of the reality company or the actual company, which is based on the fact that when the invalidity of the company is decided, the effect of this invalidity does not go back to the past. The company is considered established during the period prior to the invalidity report, and this is only a way of acknowledging reality, but it is noted that the scope of application of the reality company theory is limited to cases of the relative invalidity of the company or its invalidity due to the failure of one of the formal pillars in it, which is writing and month, but in cases of invalidity of the company's contract Absolutely due to the illegality of the purpose or the non-availability of one of its objective elements, such as the provision of quotas, or it included the company's contract for the lion's condition, so there is no room for applying the theory of reality, as the company is considered stripped of its legal entity even in relation to the past and it follows that the reality company – despite its invalidity – maintains its financial independence and there is no objection to the application of the bankruptcy system to it when it stops paying in The period prior to the judgment invalidating it. But if the company is absolutely nullified due to the illegality of the shop, for example, then it is not permissible to declare it bankrupt because it did not have a legal existence at any time, and only the bankruptcy of the partners who are traders in it in their personal capacity is declared. Dr.. Hani Samir Abdel Razzaq, Responsibility of the Board of Directors of a Joint Stock Company in the Case of the Company's Bankruptcy, op. cit., p. 6-8.

5) Dr. Hani Samir Abdel Razzaq, previous reference, p. 53.
6) Dr. Samiha, Al-Qalyubi, Summary in Bankruptcy Provisions, Dar Al-Nahda Al-Arabiya, first edition, 2003, pp. 103-104.
7) Criminal discrimination, date: 9/14/1999, Qistas Law Encyclopedia (www.qistas.com), Case No.: 416/1999. In the judgment issued in Case No. 130/2013, it ruled, "... As for the regular panel of the Court of Cassation, it reached cassation decision No. 1267/200 dated 25/3/2009 to: (The legislator did not consider writing a condition of the establishment of the company, nullity results from failure to observe it, unless one of the partners requests that it be considered invalid in accordance with the provisions of Article 584 of the Civil Code. Or the amendment that was not registered and published in accordance with the provisions of Article 583 of the Civil Code and Article 15 of the Partners Law, with which it is necessary to examine the legal effect of the declaration signed by the two partners in the distinguished company, to see if it constitutes an amendment to its memorandum of association or a type of actual company between the privileged company. and discriminatory against it or not). Referring to Article 583 of the Civil Code... and Article 584... and Article 15 of the Companies Law... Accordingly, we find that writing and registering with the Companies and Publication Controller are not among the conditions for concluding the company's articles of incorporation, which is considered a legal person once it is formed, whether in relation to Contracting with each other or in the relations of others with it, as can be understood from the provisions of Articles 583 and 584 of the Civil Code...." Civil Discrimination, Qistas Law Encyclopedia (www.qistas.com), dated 3/08/2015, Case No. 2576/ 2014.
8) Dr. Hani Samir Abdel Razzaq, previous reference, p. 54.
9) Kasi Abdallah, The Responsibility of the Director of the Limited Liability Company, Master Thesis, University of Algiers, 2012. p. 96.
10) "Most of the contemporary criminal jurisprudence goes to say that there is an economic criminal law and economic crimes, as this law and those crimes have become a tangible reality in our contemporary daily life, This law aims to protect the economic policy of the state, whether this state is involved in most elements of production and consumption, or it is only a guard state that does not interfere in these elements, leaving the matter to the economics of the free market and its mechanisms governed by the rules of supply and demand, and the prohibition of monopoly in order to provide the so-called In economic law, the rules of perfect or universal competition. Dr. Hosni Abdel Samie Ibrahim, Economic Crimes in Islamic Sharia, Dar Al Fikr Al Jamia, Alexandria, 2015 edition, p. 4.
11) Dr. Hosni Abdel Samee Ibrahim, previous reference, p. 23
12) Dr. Mahmoud Kubaish, The Criminal Responsibility of the Auditor in Joint Stock Companies - A Comparative Study in Egyptian and French Laws, Dar Al-Nahda Al-Arabiya, Cairo, Edition 2010, p. 10.
13) Dr. Heikal Ahmed Othman, Crimes of Financial and Commercial Businessmen, Research Paper Presented at a Conference on Crimes of Financial and Commercial Businessmen, Beirut 2-4/7/2012, pp. 6-7.
14) Didier REBUT, Sociétés, Répertoire de droit pénal et de procédure pénale, juin 2014, p: 5

15) Dr. Husni Abdel Samee Ibrahim, previous reference, pp. 22-23.
16) Dr. Raouf Obeid, Principles of the General Section of Punitive Legislation, without a publishing house, Fourth Edition, 1979, p. 592.
17) Dr... Muhammad Ali Koman, Dr. Reda El-Sayed Abdel Hamid, Corporate Crimes in the Saudi System, Dar Al-Nahda Al-Arabiya, Cairo, 1996, pp. 3-6 .
18) Ali Rashid bin Nayi Al Tunaiji, previous reference, pp. 57-58.

Some researchers have concluded, in recent studies on white-collar crimes and criminality in the field of economic business, the importance of emphasizing the exemplary and exemplary nature of punishment, for various types of crimes without expression, and that what white-collar criminals fear most is the traditional punishment. especially imprisonment and confinement, and this is in light of what has been observed that financial penalties are often seen as one of the usual risks of the profession, whose burdens are transferred, in disguise, to other categories such as customers and consumers. In general, we can say that the prevailing trend of contemporary legal jurisprudence is characterized by the preference for the adoption of more stringent punitive policies than the opinions of the perpetrators of these crimes, and the rejection of the distinguished treatment of leniency and tolerance, the treatment that transformed the arsenal of laws regulating the field of economic business into a mere hair of paper. However, it must - in any case - that there should not be extravagance or unjustified cruelty, so that these penalties are decided in a way other than their subject, or by expansion and exaggeration in their application to satisfy the feeling of public opinion. We believe that the more it is possible to correct deviation in the field of economic business and change the patterns of illegal behavior by means and penalties that are less severe than freedom-restricting penalties, the more this will lead to the success of the economic and criminal policies, and in line with modern trends calling for the principle of impunity. Whatever is said about the importance of determining freedom-restricting penalties such as imprisonment, The role of financial sanctions as an effective sanction for crimes involving the abuse of economic power should not be underestimated; Most of this type of crime, if not all of it, is committed for the purpose of achieving profit or illegal profit, then it is appropriate not to neglect the role of financial punishment with its multiple objectives, whether it lies in achieving deterrence, compensation or erasing damages." Dr. Mustafa Mounir Al-Sayed, previous reference, pp. 338-340.

19) Didier REBUT, op. cit, p: 5.
20) Didier REBUT, op. cit, p: 3.
21) Muhammad bin Ham, previous reference, p. 1.
22) Dr. Husni Ahmed El-Gendy, Criminal Law for Commercial Transactions. Dar Al-Nahda Al-Arabiya, Cairo, 1989 edition, pp. 65-67.
23) Dr. Adel Abdel Samie Abdel Fattah, Criminal Protection for Commercial Companies, previous reference, p. 76.
24) Dr. Muhammad, Samir, Economic Crimes in Egyptian and Emirati Legislation, Arab Renaissance House, 2015, p. 24.
25) Dr. Abdel Hamid Al Shawarby, Financial and Commercial Crimes, University Press, Alexandria, 1986, p. 13
26) Dr. Seif Al-Masarwi, Criminal Protection for Securities Trading, Ph.D. thesis, Ain Shams University, 2008, pp. 102-103.

There are two doctrines about the word danger: the personal doctrine: which means that danger is something that does not exist in reality and reality, because there is only harm or no harm, and there is no third for them. This means that what could have happened, and between harm and non-harm, there is no place for an intermediate phenomenon called danger. And this doctrine concluded that this danger does not exist except in the imagination of those who consider its existence. And the objective doctrine: that danger has a physical and realistic entity, and otherwise the law would not be able to prohibit a person from certain types of dangerous behavior, so how can the law prohibit it if we accept that the danger that characterizes it does not exist in reality but only in the imagination of individuals. Zubaydah Jassem Muhammad, The Result as an Element in the Material Pillar of Crime (Comparative Study), Ph.D. thesis, Cairo University, p. 216.

27) Dr. Jamil Abdel-Baqi Al-Saghir, Criminal aspects of public business sector companies. Report submitted to the conference held on the Public Enterprise Sector Companies Law (Law No. 203 of 1992) North Coast from 19-24/6/1992, p. 6.
28) Dr. Hosni Abdel Samee Ibrahim, previous reference.
29) Dr. Fakhri Abdul Razzaq Al-Hadithi, Penal Code "Economic Crimes", Baghdad University Press, d. T, p. 9.
30) Dr. Amal Othman, Explanation of the Economic Penalty Law on Supply Crimes, Dar Al-Nahda Al-Arabiya, Cairo, 1983, p. 30.
31) Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 52.
32) Dr. Husni Ahmed Al-Jundi, previous reference, p. 28.

33) Muhammad bin Ham, previous reference, p. 25.
34) Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 54.
35) Dr. Muhammad Samir, Economic Crimes, previous reference, p. 30.
36) The Secret of the Seal, Saleh Ali, a scientific paper presented at a conference entitled Businessmen Crimes, at the Arab Center for Legal and Judicial Research, Beirut - Lebanon. 2012. p3.

The crimes of businessmen overlap to a large extent with the field of economic crimes, and their crimes are not the result of need and want in all cases, but the crime of luxury, greed and the enormity of the booty, due to their material capabilities, influence, skill and experience, benefiting from legal loopholes and contradictions, and seeking to buy receivables in their various forms. To obtain privileges in the course of their economic activity, they are also better able to conceal their crimes. Businessmen's crimes are not the kind of criminality whose causes we are looking for in the offender's personality, composition, upbringing, psyche and environment. Rather, it is a choice and direction of the will and it exists where the free economy is based on competition and exists in the directed economy, and they are the focus of this symposium, whether they are natural or legal persons despite the multiplicity of the sects that fall under this description may not be united by a measure of homogeneity, and From the point of view of the intent of business as being primarily economic activities, many legislations have been issued to regulate their work, but these activities may be exposed to some deviations of a criminal nature, which entail a penalty for the perpetrators of these acts and which are stipulated in the Penal Code and other laws scattered among several legal branches Saeed Qassem Al-Aqel, Trends in Legislation and Jurisprudence and its Role in Reducing Businessmen's Crimes, a working paper presented at the conference held at the Arab Center for Legal and Judicial Research on Businessmen Crimes Beirut 2-4/7/2012, p. 2.

37) Dr. Muhammad, Samir, previous reference, p. 32.
38) Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 243.

The Egyptian jurisprudence goes in its entirety to the fact that the basis for dividing crimes into harm crimes and dangerous crimes is the criminal result. Despite this, the jurisprudence was divided in determining the result that is the basis for the division: is the intended result here the result in its material meaning, or is it the result in Its legal meaning? That is why some jurists went (to the fact that the basis for dividing crimes into harm crimes and dangerous crimes) is the result in their material, not legal, meaning. While some others went to the contrary, and that the result in its legal meaning is what should be the basis for that division. The reason for this difference is due to the disagreement about determining the harm and danger, are each of them a material result? Or are both of them a legal consequence? Some have argued that harm and danger are a material result, and they demonstrate that harm is an effect that results from behavior and represents actual and immediate harm to a right protected by law, and that danger is also a material effect. A product of criminal behavior, and it represents potential harm to the right, i.e. a threat of danger. As for those who say that harm and danger are a legal consequence, they also demonstrate what they have said: that the harm or danger is nothing but an evaluation of the material consequences of human behavior in relation to the protected interest. Dr. Mamoun Muhammad Salama, Penal Code, Special Section, Crimes Harmful to the Public Interest, Part One, Salama Publishing, Cairo, first edition, 2017, p. 168. Dr. Ramses Bahnam, The General Theory of Criminal Law, Maarif Foundation in Alexandria, Egypt, third edition, 1997, p. 84.

39) Dr. Mahmoud Najib Husni, Causal Relationship in the Penal Code, previous reference,
40) Dr. Nael Saleh, Economic Crimes in Jordanian Law, first edition, Dar Al-Fikr for Publishing and Distribution, Amman, 1990, p. 16.
41) Muhammad Mohieldin Awad, Criminal Economic Phenomena, Scientific Symposium, Naif University for Security Sciences, Riyadh, 1996, p. 15.
42) Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 257.
43) Ali Rashid bin Nayi Al Tunaiji, previous reference, p. 249.
44) Dr. Muhammad, Samir, previous reference, p. 50. Didier REBUT: Sociétés, op. cit, p: 3
45) Dr. Sherif Sayed Kamel, The Criminal Responsibility of Legal Persons, Dar Al-Nahda Al-Arabiya, Cairo, 1997, p. 359.
46) Dr. Muhammad Samir, previous reference, p. 52.
47) Articles 386, 433, 435 of the Egyptian Penal Code.
48) Dr. Mahmoud Mahmoud Mustafa, previous reference, pp. 73-74.
49) "The countries that adopt this system adopt this system: one of two countries: either a country that follows the traditional system of economic freedom, or a country that is new to changing its economic system. In most Latin American countries, few economic legislations are issued that include criminal provisions related to the control of money or trade. external. These legislations are temporary when the circumstances that necessitated them disappear, so the matter does not call for thinking about an integrated legal system. The Arab Republic of Egypt was forced to stipulate economic crimes in the same economic laws that were issued in installments. Perhaps the opportunity now exists to group

economic crimes into a special law that takes into account the technical principles of economic criminality." Dr. Mahmoud Mahmoud Mustafa, previous reference, p. 27.

50) Dr. Nael Saleh, previous reference, pg. 40.
51) Dr. Fattouh Abdullah Al-Shazly, Explanation of the Penal Code, General Section, University Press, Alexandria, 2001, p. 151 152.
52) Dr. Nael Saleh, previous reference, p. 51.
53) Dr. Mazhar Farghali, Criminal Protection of Trust in the Capital Market, Dar Al-Nahda Al-Arabiya, first edition, 2000, p. 81.
54) Dr. Ahmed Fathi Sorour, Mediator in the Penal Law, General Section, Dar Al-Nahda Al-Arabiya, Cairo, Egypt, sixth edition, 1996 AD, p. 38.
55) Dr. Ramses Bahnam, The General Theory of Criminal Law, Mansha'at al-Maarif in Alexandria, Egypt, third edition, 1997, pp. 72-73.
56) Dr. Saif Al-Masarwa, previous reference, p. 76. The general rule in the application of the law in terms of time - in general - is the non-retroactivity of laws. Its provisions apply only to the facts subsequent to the date of their implementation and their effect does not extend to what occurred before this date. This rule is echoed by Article 5 of the Jordanian Penal Code that: "Crimes shall be punished according to the law in force at the time of their commission." As for the Jordanian legislator, no clear trend was found regarding the scope of application of the provisions of the crime text within the scope of commercial companies in terms of time.

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