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CRIMINAL LAW PROTECTION OF HUMAN HEALTH IN THE CONTEXT OF CORPORATE CRIME

This paper examines the criminal law response directed at companies whose activities endanger human health, aiming to shed light on the problem of severe and widespread health impairments beyond the traditional approach, which typically considers health violations as a consequence of so-called conventional crime. The analysis is grounded in the normatively established premise that health is not merely a biological or medical category, but also a social one, whereby the endangerment of human health is considered in the context of socio-economic factors arising from (il)legal and unethical corporate conduct. The mechanisms of criminal law response, in terms of their adequacy, are analyzed within the de lege lata framework, with particular reference to the Republic of Serbia, while also highlighting certain important comparative solutions. To structure the discussion appropriately, the analysis is divided into three main areas in which, based on existing research, health endangerment by companies has most frequently and intensively manifested, whether through breaches of relevant regulations or the application of unethical practices. These areas concern the negative impacts on human health related to the marketing and distribution of harmful substances and products in the food and pharmaceutical industries, environmental crime, and violations of occupational health and safety regulations. Within these domains, the paper identifies typical corporate practices that lead to adverse health outcomes, drawing on numerous cases from domestic and comparative jurisprudence. Prior to this discussion, the concept of "corporate crime" is elaborated. Finally, the study presents a criminological analysis of the topic, highlighting both the phenomenological and victimological characteristics of the crime under consideration.

Keywords: *corporate criminality, human health, criminal law response.*

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1. Introductory Considerations

The right to health, understood within the normative conceptual framework prevailing until the end of the Second World War, could be regarded as a sort of oxymoron if considered solely as a biological-psychological category (the absence of disease or injury) determined by a set of genetic factors, which the state is inherently unable to guarantee to every individual. In contrast, the right to healthcare embodies an entirely different concept, as it secures the citizen's access to an organized and comprehensive societal activity aimed at achieving the highest attainable level of health preservation and promotion.[1]

Significant changes occurred with the adoption of the Constitution of the World Health Organization (hereinafter: WHO) in 1948, in which health was defined as a state of complete physical, mental, and social well-being, not merely the absence of disease or infirmity.[2] Although this WHO definition serves as an international standard for conceptualizing health, it has undergone further reconceptualization over time, reflected both in relevant doctrine and in the normative activities of the WHO. Fundamentally, these developments represent alternative perspectives on the understanding of health rather than entirely new definitions of the concept (Krahn et al., 2021, p. 2), with particular emphasis on elaborating the social dimension of the original WHO definition.

From a normative perspective, a significant contribution to these tendencies was made by the Ottawa Charter for Health Promotion[3] of 1986, which regards health as a resource for everyday life rather than as a goal to be achieved over the course of one's life. Furthermore, doctrinal definitions described in the literature as dynamic (Krahn et al., 2021) underscore the importance of adaptive processes in response to external factors, given the ongoing societal changes that occur across virtually all domains (Lancet, 2009). This gradually shifts away from the static concept of complete well-being, which, in the context of frequent social crises and dynamic processes in general, has faced the most theoretical criticism (Huber et al., 2011).

In any case, the legal conceptualization of health has two focal points: the first pertains to the medical aspect (the absence of disease), while the second concerns the concept of well-being, i.e., quality of life (Syme, 1996, p. 467; Langevin, 2024, p. 13), upon which contemporary doctrinal considerations of health increasingly rely.

[1] Law on Health Care**,** *Official Gazette of the Republic of Serbia*, No. 25/2019, 92/2023 – authentic interpretation, and 29/2025 – Constitutional Court decision, Art. 2, para. 1.

[2] World Health Organization. (1948). *Constitution of the World Health Organization*.

[3] World Health Organization. (1986). *Ottawa Charter for Health Promotion*. First International Conference on Health Promotion, Ottawa, 21 November 1986. Geneva: WHO.

The expansion of the concept of health in an interpretative sense, increasingly moving away from a mere absence of disease, has also influenced criminal law responses in the area of health protection. Criminological studies are increasingly focused on the examination of corporate crime and its negative consequences for (public) health, even though the research and literature on corporate crime have traditionally emphasized financial and economic offenses (Michalowski, Brown, 2020, p. 114). This trend has been particularly pronounced during and after the formal conclusion of the COVID-19 pandemic, when the pharmaceutical industry, in particular, has been associated with the commission of the most serious offenses against human health, based on various arguments and analyses.[4]

From the perspective of crime control policy, the negative impacts of harmful corporate activities on (public) human health find their normative expression, which in criminal law is manifested in a specialized legal framework through the establishment of new offenses. Health is thus protected not only through traditional crimes against health but also through offenses primarily aimed at safeguarding the environment and occupational safety and health, all of which are closely related to and directed toward the protection of human health.

This state of affairs has been significantly shaped by research and scholarly contributions of criminologists with a radical orientation, as well as other authors advocating, among other things, for the conceptualization of crime beyond formalistic formulations, which prescribe harmful acts or omissions as criminal offenses. Undoubtedly, this formalistic-legalistic approach remains dominant because it allows for a clear delimitation of the object of criminological study (Ignjatović, 2023). However, it has become evident that many activities producing so-called social harm remain beyond the reach of criminal law, either because they are not codified as offenses or because they are explicitly authorized by statute or other regulatory instruments (Passas, 2005; Hillyard & Tombs, 2007, p. 12). For this reason, Passas characterizes them as "lawful but awful,"[5] while Freudenberg offers an even more illustrative description: "lethal but legal."[6]

[4] Thus, when the terms *crime* and *COVID-19* are entered together in the search engine of a well-known academic platform such as Google Scholar, more than half a million results are retrieved.

[5] This refers to the title of a work by the renowned criminologist and professor of criminal law Nikos Passas, in which he essentially argues that, when defining prohibited acts or omissions under criminal law, those actions that actually pose the greatest threats to fundamental social values and goods are often omitted. For further reference, see: Passas, N. (2005). Lawful but awful: 'Legal corporate crimes'. *The Journal of Socio-Economics, 34*(6), 771–786.

[6] Freudenberg, N. (2014). *Lethal but legal: corporations, consumption, and protecting public health*. Oxford University Press.

Consequently, the classical concept of the victim has been critically problematized in both literature and normative frameworks. This issue has become particularly salient given the frequent manifestation of harmful effects with delayed consequences, the difficulty of identifying concrete victims and perpetrators, and the challenge of establishing causal relationships using classical investigative methods. As a result, individuals who actually suffer harm are, in many cases, excluded from the legal definition of the injured party, thereby being denied access to the full spectrum of rights intended to provide victims with appropriate support and protection.

Existing criminal offenses that are typically committed by companies, or their harmful activities that are currently not criminalized despite a justified need for such regulation, are largely crimes with blanket provisions. The possibility of effectively applying criminal law in situations where such intervention is justified according to the principle of *ultima ratio* depends primarily on the quantity and quality of sector-specific (non-criminal) regulations, especially in the areas of health protection, occupational safety, environmental protection, and administrative regulation of the food industry and agriculture.

The issue of normative regulation across various sectors, primarily through administrative rules, and its potential impact on harmful corporate activities, was brought to public attention during the first term of the President of the United States, Donald Trump. In this context, his Executive Order No. 13771[7] of 2017, also known as the "two-for-one" rule, was particularly contested in academic circles. According to this rule, for every new regulation implemented by a regulator, at least two previously existing rules must be repealed. The publicly available rationale for this Order was to relieve businesses from substantive and detailed bureaucratic rules, allowing market actors operating under neoliberal economic and political principles to fully focus on profit-seeking. However, this approach has been rightfully criticized, primarily because it entails the repeal of previously established regulatory rules without proper assessments or clear criteria, relying on quantitative rather than qualitative bases (Michalowski & Brown, 2020, p. 117). In other words, one of the world's most influential nations advocated an approach characterized by the deregulation of economic activity, which consequently raises numerous issues for criminal law responses through the codification of blanket offenses targeting harmful corporate practices. This creates a "regulatory gap" in which serious violations and threats to protected values, such as health, may go unsanctioned.

Such an approach is part of the previously observed and analyzed mechanism of the state's routinization of powerful actors' criminality (Barak, 2017) or the conventionalization of crime, a broader sociological process in which public emotional reactions to

[7] Executive Order No. 13771/17, 82. Fed. Reg. 9339 (Feb. 3, 2017).

crime are attenuated, and the crimes themselves are justified and normalized in various ways (Carson, 1979). Without considering these political and sociological processes, it is nearly impossible to comprehensively analyze corporate crime, particularly given its influence on political and economic flows not only at the national but also at the global level – a perspective that will be further elaborated in the subsequent analysis of this study.

Building on the widespread victimization caused by the routine daily activities of business entities,[8] and taking into account the substantial "dark figure" associated with corporate crime (Lukić, 2021, p. 33), this analysis first conceptually defines corporate crime and then examines the criminal law's response to threats to human health posed specifically by companies. The discussion focuses on three principal areas: the distribution and commercialization of harmful substances, environmental protection, and the regulation of occupational health and safety.

2. Corporate crime and its characteristics

For over half a century, criminologists have studied corporate crime as a form of white-collar crime (Lukić, 2021, p. 17). Considering the extensive literature on this phenomenon, one can conclude that the only indisputable fact about it is that almost everything remains contentious.[9] Beyond the theoretical debate regarding the possibility of establishing criminal liability for legal entities – which, on a normative level, has been addressed with varying degrees of success through the enactment of laws on corporate liability for criminal offenses and the creation of models for attributing such liability in accordance with the fundamental principles of criminal law – doctrinal discussions problematize numerous elements influencing the conceptual definition of corporate crime.

The foundation for this analysis is provided by the concept of white-collar crime introduced into criminology by Sutherland, who, at a 1939 conference of the American Sociological Society, publicly observed that criminal activities are also carried out within the occupations of higher social strata individuals who enjoy prestige and respect in their communities (Lukić, 2021, p. 17). In his subsequent works, Sutherland distinguished white-collar crime from corporate crime, noting that the latter is often carried out by pro-

[8] Braithwaite (1982), in an earlier study, concluded that certain forms of white-collar crime may pose greater harm than homicide. For further reference, see: Braithwaite, J. (1982). Challenging just deserts: Punishing white-collar criminals. *Journal of Criminal Law and Criminology, 73*(2), 723–763.

[9] Pepinsky (2006) points out that criminal justice essentially revolves around the adjudication between the state, the accused, and the victim regarding responsibility, while the very concept of a legal entity is based on legal constructs designed to limit its liability.

fessional offenders whose criminal activities are facilitated by organizations such as business entities, yet they do not perceive themselves as thieves, nor does society view them as such, partly due to their higher social status (Lukić, 2021, p. 17).

One year after his famous conference address, Sutherland published a paper questioning whether acts classified as white-collar crime could truly be treated as criminal offenses. Comparing the procedural rules for prosecuting white-collar offenses with those applicable to juvenile offenders, he observed that, in both cases, the stigma typically associated with perpetrators of conventional crimes is largely absent. Furthermore, he noted that violations of regulations by corporations, although legally defined as criminal offenses, generally lack sufficient grounding in social ethics – a characteristic of acts considered *mala prohibita* (Sutherland, 1945, p. 139).

Over time, the emphasis on the social components of the concept, such as social status, has been abandoned,[10] and the focus shifted to the illicit activities of corporations, moving the discussion primarily into the legal domain. In an effort to avoid the element of social status, Clinard and Quinney began using the term "corporate crime," which, in their understanding, refers to the unlawful activities of companies (Salinger, 2005, p. 174). For conduct to be deemed unlawful, it must be prohibited within a given normative framework, in this case, the legal system. Within the context of corporate crime, two approaches exist: a narrower approach, which focuses on violations of criminal law, i.e., the commission of criminal offenses, and a broader approach, which also includes breaches of civil and administrative regulations. Several authors advocate the broader approach (Clinard & Yeager, 2011; O'Brien & Yar, 2008, p. 29), arguing that corporations generally enjoy a form of *de facto immunity* from criminal prosecution and that many harmful behaviors are not even legally defined as criminal offenses.

However, from a positive-law perspective, the literature criticizes this approach, noting that, for example, breaches of contractual obligations or the intent to endanger the health of a large number of people through the distribution of toxic food do not, either qualitatively or quantitatively, warrant an equivalent social reaction (Lukić, 2021, p. 21). It is undeniable that a significant number of harmful consequences remain insufficiently addressed; nonetheless, this does not imply that civil and criminal norms should be equated, regardless of the scholarly significance of the broader approach, which draws attention to the challenges of prosecuting corporations. A more purposeful strategy is to

[10] This is primarily due to the fact that, at the time Sutherland wrote about this type of crime, the positions of directors, executives, and particularly company owners, were largely associated with belonging to the upper social class. Today, due to numerous factors such as technological advancements and internet-based business, this still holds true, but to a significantly lesser extent. As early as the 1980s, Braithwaite noted that only a simplistic generalization is possible when attempting to identify the actors involved in white-collar crime (Braithwaite, 1985, pp. 1–25).

focus on the application of existing regulations and their qualitative and quantitative enhancement, aiming to prohibit new harmful corporate practices and, in accordance with the principle of *ultima ratio*, to define which activities merit criminal-law intervention so that the legal framework covers as much ground as possible.

The issue of social harm has increasingly gained prominence in scholarly discourse. For example, Franc and Lynch conceptualize corporate crime as socially perilous conduct, irrespective of its legal prohibition, which may attract social censure and generate adverse consequences across multiple domains of societal life (Franc & Lynch, 1992). As Braithwaite observes, from an analytical standpoint, when studying corporate crime beyond the confines of a single national legal system, the formal distinction between violations of civil and criminal law is of limited significance. In certain jurisdictions, harmful corporate conduct is regulated and sanctioned under civil law, whereas in others, identical conduct is codified as criminal offenses (Braithwaite, 1984). Accordingly, it is justifiable to categorize definitions of corporate crime into criminological and criminal-law frameworks (Keković & Milošević, 2011). Within the latter, only acts that constitute legally punishable conduct – such as criminal offenses, commercial violations, or misdemeanors – are considered, and these primarily fall under the purview of formal social control institutions.

Within the domestic literature, corporate crime is predominantly defined as unlawful conduct by an authorized individual within a legal entity, or by another person whose actions can be attributed to the company, which violates criminal, commercial, or administrative norms with the intent to secure benefit for the company, and which, under applicable law, is attributable to the legal entity itself (Keković & Milošević, 2011, p. 28; Banović & Milošević, 2014). Lukić provides a comparable definition, emphasizing that pecuniary benefits may accrue solely to the company or jointly to both the company and the natural person acting on its behalf (Lukić, 2021, p. 32).

Criminologically oriented conceptions of corporate crime extend beyond mere violations of codified laws to include activities that are not legally prohibited at all (social harm). Such an approach is considered essential for highlighting corporate conduct and its repercussions that remain unaddressed by formal legislation, although the scale and severity of the harm would arguably warrant legal intervention, in light of the social function of criminal law.[11]

[11] In the context of regulating harmful consequences, Hayek, from a legal-philosophical perspective, emphasizes that only actions affecting the lives of others can be effectively regulated through the establishment of legal norms (Hayek, 2022).

From a legal perspective, questions may also arise regarding the formal organizational form of a legal entity, which, in this context, can be encompassed under the generic term "company." The stance adopted in the domestic Law on the Liability of Legal Entities for Criminal Offenses[12] is particularly instructive, defining a legal entity as a domestic or foreign subject capable, under the positive law of the Republic, of acquiring such status. This definition explicitly includes associations, as a non-profit organizational form, which may nevertheless contravene legal regulations in pursuit of its own interests or those of its members. In this context, the principle of prioritizing the activity of the legal entity becomes central, as it constitutes a broader conceptual framework than mere business operations and encompasses actions undertaken in accordance with recognized corporate –legal capacities.

Corporate crime is commonly equated with white-collar crime, although it is recognized as a broader concept, encompassing not only the personal gain obtained by responsible individuals within companies (Ignjatović, 2023, p. 121), but also the benefits that accrue to the company itself, even though this distinction can often be complex and blurred. For this reason, earlier domestic literature employed the term *useful malfeasance* (Ignjatović, 2023). Nevertheless, given the similarity in the methods and areas in which harmful activities are carried out, the core characteristics of both forms of organizational property crime generally apply in both cases. In our view, the most significant among them are:

1. **Violation of norms within legal activities** – corporate crime occurs within the framework of lawful business activities and legally recognized forms of corporate organization. If these conditions are not met, the organizational form is reduced to a criminal group or organized criminal organization under criminal law, provided the prescribed criteria are fulfilled.
2. **Existence of de facto immunity** – companies and their responsible officers often enjoy de facto immunity, reflected in the absence of criminal prosecution and, consequently, the absence of criminal stigma. More broadly, this includes inadequate legal frameworks (deregulation, absence or insufficiency of criminal law norms, etc.).
3. **Diffuseness of acts and responsibilities** – this is reflected across multiple levels (difficulty in identifying perpetrators and victims, especially primary victims, and challenges in establishing causal links). The lack of proximity between the actor (decision-maker within the company responsible for harmful activity) and

[12] Law on the Liability of Legal Entities for Criminal Offenses, *Official Gazette of the Republic of Serbia*, No. 97/2008.

the victim typically acts as a catalyst for the harmful act, as numerous psychological experiments have shown that closeness and visibility of the victim reduce aggression and enhance empathy as a brake on committing harm (Milgram, 1965; Turner et al., 1975).

4. **Causing greater societal harm** – corporate crime often results in more substantial damage to society than conventional criminality.
5. **Unequal exposure to harmful consequences** – these consequences disproportionately affect members of lower social strata and minority racial or ethnic groups within the community (Bullard, 1990; Bryant & Mohai, 1992; Stretesky & Lynch, 1999; Hall, 2016, 2014; Michalowski & Brown, 2020, p. 115; Stevanović, 2025).
6. **Connection with state authorities** – in order to establish, maintain, or advance criminal activities, corporate actors often collaborate with holders of state power.[13]

In the literature, corporate crime is typically classified based on several criteria, including the type of consequence, the victim, and the business sector (Berger, 2011). Since the focus of our analysis is on the endangerment of human health resulting from corporate activities, we will concentrate on those areas of business operations in which, according to empirical evidence, human health is most frequently at risk. These activities primarily encompass violations of regulations prohibiting the marketing of harmful substances, breaches of environmental protection laws, and failures to ensure occupational health and safety.

3. Placement of Harmful Substances on the Market and the Endangerment of Human Health

The term "placement on the market," in the context of business activities, refers to making a product available to a wider audience in an organized and commercial manner. Within most legal frameworks regulating such substances, this concept typically includes related activities such as import, export, storage, and display for sale. For a substance or product to be considered harmful, it must be defined as such by legal rules and standards, which in the Serbian context are primarily established through subordinate legislation.

[13] For more on the methods and models of such connections, see: Stevanović, A. (2018). Značaj povezivanja organizovanih kriminalnih struktura i političke elite. *Zbornik Instituta za kriminološka i sociološka istraživanja, 37*(1), 115–129.

It is possible to distinguish between substances and products that are entirely prohibited – such as psychoactive substances, with very limited exceptions for controlled medical use – and those that are only harmful when present in quantities exceeding legally defined thresholds. Furthermore, not all products are intended for general consumption; however, under controlled conditions, certain items are permitted for use in various industrial sectors, including strong chemicals, acids, pesticides, and similar materials. It should also be noted that some products, such as tobacco and alcohol, are inherently harmful. These, however, will not be the focus of this analysis, as their use has been normalized and routinized in society. The situation changes, for instance, when an alcoholic beverage contains an illegal concentration of a chemical or is marketed past its safe consumption date.

For the purposes of this analysis, the agricultural and food industries – both for human and animal consumption – as well as the pharmaceutical industry, are particularly significant. These sectors present the most frequent and direct risks to human health through the placement of harmful substances on the market. In this regard, Nicholas Freudenberg, a professor of public health, rightly asserts that the business decisions made daily by owners and managers of retail chains often have a greater impact on public health than the decisions and actions of healthcare authorities, hospital directors, and individual physicians (Freudenberg, 2014: 1).

This perspective aligns with the concept of Commercial Determinants of Health (CDH), which emphasizes the role of commercial and corporate practices in shaping public health outcomes and the ways in which corporate operations influence health at a population level (Freudenberg, 2023).

3.1. Agricultural and Food Industry

According to research conducted by the World Health Organization, products from the food industry that are routinely placed on the market are responsible for numerous chronic diseases, which are often referred to as the "leading killers" of people (Freudenberg, 2014). The meat industry in the United States provides an illustrative historical example: the Meat Inspection Act of 1906 was introduced to regulate corporate practices in the meat sector with the aim of protecting public health (Michalowski & Brown, 2020: 115). Nevertheless, the legislation largely failed to eliminate the practices that prompted its enactment, such as the mixing of parts of dead rats and manure into meat intended for consumption. Even prior to that, there were recorded incidents of mass food poisoning, including a case in Bradford, England, in 1858, where approximately 200 people were poisoned by sweets containing arsenic (Kerschke-Risch, 2014).

In Serbia, a notable example is the Aflatoxin scandal of February 2013. Following the detection of prohibited aflatoxin levels in milk – resulting from contaminated corn during the 2012 drought – the authorities issued a decree increasing the permissible aflatoxin limit in milk from 0.005 mg/kg to 0.05 mg/kg. This adjustment allowed the commercial distribution of the milk, despite the European Food Safety Authority's recommendation of a maximum level of 0.005 mg/kg for milk and 0.0025 mg/kg for infant formulas (Kerschke-Risch, 2014). This case demonstrates the close connection between the commercial distribution of contaminated agricultural products and food safety. In the same year, livestock feed from Serbia containing prohibited levels of aflatoxin was exported to Germany via an international logistics company, prompting German authorities to remove the feed from the market. The particular danger of aflatoxin-contaminated food lies in its potential to enter the food chain, with toxic substances accumulating in animal-derived products, particularly milk (Kerschke-Risch, 2014). In both cases, despite investigations and resignations of officials, criminal liability was never established.

Drinking water occupies a uniquely important position in the hierarchy of essential elements for human life, not merely health. In the literature, it is often described as both a conduit of life and, potentially, a source of death (Michalowski & Brown, 2020) when it is either unavailable or unsafe for consumption, as numerous examples demonstrate. In Serbia, the situation in Zrenjanin illustrates this issue. Problems with the city's drinking water date back to 2004, when its use was prohibited due to arsenic concentrations exceeding legal limits. A long-term solution was proposed through the construction of a water treatment plant. After multiple unsuccessful attempts, an Italian-affiliated company was selected as a strategic partner to build the facility in collaboration with the public utility company "Vodovod i kanalizacija." However, the project was repeatedly delayed, and upon completion, the facility failed to meet the legally required water quality standards. In June 2022, agreements were signed in Belgrade to ensure that residents would have access to safe drinking water by 2024 – a goal that remains unfulfilled.[14] The corporate dimension of this case becomes evident when considering that the city paid approximately €50,000 to a private investor in April 2020 for "drinking water" delivery, even though the official prohibition on its use remained in place due to the presence of harmful substances.

Similar challenges exist in more developed countries. In early 2016, a national scandal erupted in Michigan, USA, when officials were found to have ignored public complaints about contaminated tap water for two years, despite rising cases of poisoning. The political denial of the problem exemplifies the systemic risks posed by corporate

[14] DailyGreen. (2025, September 1). Zrenjanin i problem pijaće vode. https://dailygreen.rs/eko-price/zrenjanin-i-problem-pijace-vode, accessed September 1, 2025.

negligence and regulatory failure. Barak (2017) notes that approximately six million people in the United States receive water containing excessive levels of lead, and of the 2,000 water systems across all 50 states exceeding safe lead levels, around 350 supply schools and childcare facilities.

In Serbia, contamination of drinking water and food is criminalized under legislation addressing crimes against human health.[15] Drinking water is defined in the Water Law, while the Food Safety Law defines food products.[16] Environmental offenses include criminal provisions for pollution, which may encompass water contamination. Given that drinking water is legally recognized in its "original state," questions arise regarding the application of two different criminal offenses, each carrying distinct penalties.[17]

3.2. Pharmaceutical Industry

The history of the pharmaceutical market is replete with regulatory violations and breaches of ethical principles. Following the outbreak of the COVID-19 pandemic, both scholarly and public interest in the activities of companies operating in this sector surged, while more comprehensive scientific analyses are still forthcoming. For instance, authorities in the U.S. state of Kansas initiated civil proceedings against Pfizer, seeking compensation for fraudulent practices and misleading conduct toward individuals who received their vaccine.[18] Yet, even before the pandemic, the (il)legal actions of actors in this industry attracted significant attention from scholars. Over three decades ago, Braithwaite noted that the (il)legal practices of pharmaceutical companies likely result in more severe consequences than any other type of corporate crime (Braithwaite, 1993).

Research supports this view, showing that in the United States, financial losses due to corporate crime are estimated at $100–$400 billion annually, compared to roughly $3.8 billion resulting from so-called street crimes, such as theft and robbery. Moreover, comparisons of fatalities reveal a stark disparity: a single instance of market deception

[15] Criminal Code, "Official Gazette of the Republic of Serbia", Nos. 85/2005, 88/2005 – corr., 107/2005 – corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019, and 94/2024, Article 258.

[16] Article 256 of the Criminal Code stipulates the criminal offence of Production and Distribution of Harmful Products. From the formulation of the offence, it can be inferred that the legislator, by the term "foodstuff," also encompasses products that are not strictly considered food, i.e., those not intended solely for consumption (such as medicines or medical products), although it does not provide a more precise definition.

[17] We consider it indisputable that, in the event of contamination of the water supply network and municipal water systems, the provisions of the offence classified within the group of crimes against human health should be applied.

[18] Kris Kobach, Attorney General, https://www.ag.ks.gov/Home/Components/News/News/182/1292, accessed September 1, 2025.

involving just one pharmaceutical product can lead to over 100,000 deaths, whereas conventional crimes against life and body account for around 20,000 deaths per year (Mokhiber, 2007; Braithwaite, 2020).

Practical cases further illustrate this danger. Victims of harmful or improperly administered medications have included children and pregnant women – for example, in the case of Seroquel, produced by AstraZeneca – underscoring the severe impact of some corporate practices. Academic literature consistently highlights that illegal activities in the pharmaceutical industry occur more frequently and with greater social harm than other forms of corporate crime (Clinard & Yeager, 2011).

The harmful activities of actors in the pharmaceutical market are driven by management's pursuit of profit through deceptive practices – such as providing inaccurate information about drug composition and side effects, concealing certain information, or selectively disclosing it[19] – applied to products that are widely distributed and, for many, essential for maintaining health and survival. The objective is to maximize profits while minimizing costs. Achieving this often requires launching a product before competitors, which may involve minimal or entirely absent testing for harmful effects, misleading the public regarding potential risks, and using cheaper or more readily available resources that, alone or in combination with other compounds, may generate health hazards, which are deliberately withheld from public knowledge. In addition, less sophisticated forms of fraud, such as distributing products past their safe-use expiration date, should not be overlooked.

Numerous documented cases reveal instances in which pharmaceutical companies have bribed doctors, pharmacists, medical staff, and even medical professors to promote and prescribe their products, even when such use may result in harmful consequences (Angell, 2004: 1452; Gøtzsche, 2012).[20] In this context, corruption serves as a pervasive link between pharmaceutical companies and those professionally capable of promoting specific products or influencing market preference, as well as officials responsible for inspections and regulatory enforcement. Corrupt practices also often affect the creation of regulations in the sector.

Institutional challenges in combating corporate crime within the pharmaceutical industry extend beyond corruption to include the capacity of regulatory authorities – such

[19] For instance, one of the largest multinational pharmaceutical companies, GlaxoSmithKline, was once required to pay $2.5 million for selectively presenting only certain parts of a clinical examining of one of its drugs, despite the original study indicating that, under specific circumstances, the medication could produce harmful effects on human health (Gøtzsche, 2012).

[20] Based on the results of his research, Braithwaite argues that corruption is most pronounced in the pharmaceutical industry (Braithwaite, 1993: 13).

as staffing, expertise, and equipment – to detect violations and irregularities. Finally, regulatory inaction in the face of clear and well-documented breaches is frequently motivated by governmental concerns that enforcing sanctions might destabilize the market or limit public access to essential products, effectively contributing to the so-called "de facto immunity" enjoyed by certain corporate actors.[21]

The social standing and respect enjoyed by actors involved in corporate crime – a concept Sutherland, a pioneer of white-collar crime studies, emphasized – are particularly evident in the pharmaceutical industry. This is largely because the products and activities of these companies play a vital role in enhancing human life; many diseases that were once fatal are now routinely managed thanks to advances in pharmaceuticals. Consequently, any broad generalizations about the conduct of pharmaceutical companies are unhelpful, even when considering individual firms with documented regulatory violations or histories of deceptive practices.

Braithewaite, in one of the most influential studies on pharmaceutical corporate crime, observes that employees and lower-level management in these companies are generally highly professional. Regulatory breaches, however, typically originate from owners or top management and occur within the organizational framework, sometimes involving only a few cooperative specialists – or none at all (Braithwaite, 1984).

The behavioral patterns and characteristics of both offenses and offenders outlined above similarly apply to other medical products outside the pharmaceutical sector.[22]

4. Environmental crime

Viewed from a historical perspective, environmental harm and violations are neither a novelty nor an exclusive phenomenon of the twenty-first century. They gained significance during the First and Second Industrial Revolutions in the nineteenth century, reached critical levels in the latter half of the twentieth century, and continue to manifest in the early decades of the twenty-first century, both in academic and public discourse. Despite growing awareness, such violations appear to be increasingly frequent. Contem-

[21] A notable example is the Abot Company, which distributed defective and potentially hazardous intravenous solutions on a large scale in the United States. The relevant regulatory authorities failed to take action for years, in part because the company held a dominant 45% share of the U.S. market (Braithwaite, 1984).

[22] Lukić cites cases where the company A.H. Robins, through the market release of its contraceptive product, inflicted severe harm – including infections, sterility, and fetal damage – on approximately 200,000 women. Likewise, Pfizer distributed defective heart valves, leading to the deaths of around 150 individuals (Lukić, 2021: 74).

porary literature in environmental law emphasizes that ongoing environmental degradation has resulted in a triple planetary crisis,[23] manifested in climate change, biodiversity loss, and pollution – each representing a systemic threat to the sustainability of life on Earth. In response, the vast majority of rule-of-law-based states have recognized the right to a healthy and sustainable environment[24] as a constitutional right, thereby elevating it to the highest level of legal protection (Škulić, 2023).[25]

Within modern constitutional discourse and human rights theory, there is a growing tendency to interpret the right to a healthy environment as an integral aspect of the right to life (Stevanović, 2024: 248). This evolving understanding reflects a shift from a narrowly biological or physical conception of life and its legal protection toward a more substantive notion encompassing quality of life – that is, the right to live with dignity and well-being. Accordingly, the right to life is no longer perceived solely as the protection of physical integrity but also encompasses the right to exist within a healthy and ecologically balanced environment. Since the last quarter of the twentieth century, concepts such as ecological justice, anthropocentrism, and sustainable development, together with terms like ecocide, animal rights, and corporate crime, have gained increasing prominence in both general and academic discourse (Ignjatović, 2023: 24).

This development has contributed to the emergence of a relatively new criminological field – Green Criminology – which embraces a wide spectrum of research methodologies and theoretical perspectives (Brisman & South, 2020). Its arguably most significant contribution to criminology concerns the identification of the protected object in environmental crimes. Proponents of Green Criminology advocate for a broader understanding of the protected object compared to the still-dominant anthropocentric perspective,[26] which focuses on humans and fundamental social values. According to this view,

[23] The existence of a triple planetary crisis in the context of environmental degradation is also highlighted in the explanatory section of the newly adopted Council of Europe Convention on the Protection of the Environment through Criminal Law. See: CM(2025)52-final – 134th Session of the Committee of Ministers (Luxembourg, 13–14 May 2025) – Council of Europe Convention on the Protection of the Environment through Criminal Law. Some authors, arguably with good reason, emphasize that certain elements of this triple threat, such as climate change, jeopardize the very survival of the human species on Earth (Agnew, 2012).

[24] Considering the normative definitions of this right, primarily at the international level, the literature emphasizes that it would be more accurate to speak of a right to an adequate environment (Škulić, 2011).

[25] Regarding environmental protection, the evolution of both general and legal thought on this matter can be traced through the ways in which constitutional rights have been prescribed and guaranteed. For instance, under the 1963 Constitution of the Socialist Federal Republic of Yugoslavia, land was constitutionally protected, whereas the 1974 Constitution extended this protection to forests, waters, watercourses, the sea, and other natural resources (Alimpić, 2022).

[26] Similarly Stojanović (2022) notes in *Commentary on the Criminal Code of the Republic of Serbia* (12th ed., *Official Gazette*).

criminal law should protect ecological media and animals – the ecosystem as a whole – on an equal footing with humans as part of that system.

Nevertheless, given that the protection of human rights to a healthy[27] and sustainable environment is generally constitutionalized, it is difficult to argue that violations or harm to any ecological medium – water, soil, or air – do not, to a greater or lesser extent, negatively affect human health and the ecological balance. The same applies to acts directed against animals, which, through various biological processes, contribute both to human well-being and to a balanced and sustainable environment. In this context, debates about the protected object of environmental offenses, under such an interpretation, hold limited practical significance beyond their theoretical value, highlighting the importance of a comprehensive assessment of the consequences of environmental harm and violations.

Considering that both constitutional and criminal law protections uphold the human right to a healthy environment, the connection between environmental harm and human health is unmistakable. Research conducted in the United States underlines that nearly 100 million people are daily exposed to environmental pollution, with many experiencing diverse adverse health effects as a result (Lynch, 2013).

Corporate environmental crime[28] has long been recognized in the literature (Lukić, 2017: 77), reflecting the understanding that companies, in the course of their economic activities,[29] are responsible for the most substantial and intensive harm to both the environment and human health.[30] Illustrative cases include the 1984 Bhopal disaster in India, where inadequate oversight of industrial facilities led to the release of toxic gas, causing approximately 10,000 deaths and severe health consequences for around 200,000 individuals, as well as the 2010 explosion of a British Petroleum oil platform in the Gulf of Mexico, which inflicted extensive environmental damage alongside significant human health impacts. Such offenses are typically carried out within corporate organizational structures and are motivated by clear financial interests. Accordingly, for the purposes of

[27] The Constitution of the Republic of Serbia similarly enshrines this in Article 74. See: *Constitution of the Republic of Serbia*, Official Gazette of RS, Nos. 98/2006 and 115/2021.

[28] In contrast to corporate environmental crime, there are so-called personal environmental offenses, committed by individuals or groups operating outside a clear organizational structure and, as a rule, without an evident financial motive (Situ & Emmons, 2000). The harmfulness of such acts lies in their cumulative effect, whereby a large number of individually minor offenses collectively result in significant environmental damage.

[29] The activity of an economic entity is viewed as a broader category compared to the operations of a company, which are tied to the limits of its legal capacity. See more in: Ilić, G. P. (2010). Marginalije uz Zakon o odgovornosti pravnih lica za krivična dela. *CRIMEN-časopis za krivične nauke*, (2), 246-256.

[30] Based on their research, Meško and Eman note that companies – whether privately, jointly, or publicly owned – are the primary polluters of soil, water, and air in Southeast Europe (Meško & Eman, 2020), a pattern that can be observed globally as well. See, for example: https://corporateaccountability.org/, accessed 15 September 2025.

defining corporate environmental crime, only "true" ecological offenses – those causing direct harm to the environment and human health – should be included, as opposed to administrative violations such as failures to notify authorities or submit required data.

Environmental crimes committed by corporations can often be identified through statutory provisions that establish objective conditions of the offense, requiring that environmental damage or pollution occur over a broader area or with greater intensity – circumstances that inherently result from corporate activity rather than individual conduct.

In terms of health endangerment arising from environmental violations, victimological patterns indicate that those affected are generally individuals or groups occupying lower socio-economic strata (Bullard, 1990; Bryant & Mohai, 1992; Stretesky & Lynch, 1999; Hall, 2016: 2014; Michalowski & Brown, 2020: 115; Stevanović, 2025). Victimization often unfolds gradually,[31] to the extent that some affected persons may not even have been born when the harmful act occurred. From a procedural-criminal perspective, these offenses are notoriously difficult to detect and substantiate through conventional investigative methods, a challenge closely linked to the complexity of establishing causal relationships between corporate actions and their environmental and health consequences.

5. Field of Occupational Safety and Health

The criminalization of offenses against labor relations reflects the legislator's justified intent to provide legal protection to labor as a socio-economic category of vital importance for the functioning of any state (Stevanović, 2021: 167). Criminal-law protection in this field primarily targets employees – whether formally employed or otherwise engaged – as the inherently weaker party in the employment relationship. This imbalance manifests both during the hiring process (Kovačević, 2021: 288) and throughout the employment period, particularly in terms of legal subordination (Kovačević, 2013). Given that the vast majority of people secure their livelihood through work, while income generation through capital remains a privilege of the few, the protection of labor and social rights represents one of the most critical dimensions of state intervention. This is especially important since the structural imbalance in employment relationships frequently gives rise to abuses and violations of employee rights by employers (Stevanović, 2021).

[31] Nixon (2011) describes this phenomenon as "slow violence."

Occupational safety and health is understood as the process of ensuring working conditions that minimize, to the greatest possible extent, the risks of injury and occupational disease, thereby safeguarding the physical, psychological, and social well-being of employees.[32] While certain forms of harm, such as the deterioration of employees' mental health linked to stressful work environments or excessive managerial expectations, may occur, these typically exhibit an interpersonal character. Behaviors such as workplace harassment, bullying (mobbing), and sexual harassment arise from intra-organizational interactions and are only indirectly related to regulatory violations aimed at generating profit.

In the context of corporate crime, violations of occupational safety and health rights that produce adverse outcomes for human health include fatalities, physical injuries, and occupational illnesses directly associated with work or work-related activities.[33] For liability to attach to the employer, these outcomes must result from circumstances attributable to employer actions or omissions, rather than employee misconduct or force majeure. In practice, harm usually stems from failures to prevent risks adequately, provide safe workplaces, supply appropriate equipment, or deliver professional training to employees. To frame these violations as a phenomenon of corporate crime, it is essential that breaches of occupational safety and health regulations be motivated by the company's pursuit of profit – that is, by attempts to reduce operational costs. From the perspective of criminal offenses codified in the special part of the domestic Criminal Code, this form of corporate crime includes:

a) Noncompliance with occupational safety measures under Article 169 of the Criminal Code;
b) Endangering others by failing to implement occupational safety measures under Article 280, paragraph 2 of the Criminal Code; and
c) Human trafficking under Article 388 of the Criminal Code.

In the case of the latter, a so-called "umbrella offense," the prescribed acts are often carried out to exploit the labor of passive subjects, which inherently involves work under conditions hazardous to health.

[32] The domestic Law on Occupational Safety and Health (Official Gazette of the Republic of Serbia, No. 35/2023) adopts this perspective.
[33] In the literature, a distinction is made based on the cause of the harm: deaths or physical injuries are considered the consequences of a specific event, whereas occupational diseases are attributed to prolonged exposure to the source of the illness (Tombs & Whyte, 2007).

A review of numerous workplace accidents resulting in fatalities underscores the fundamental importance of ensuring that workers operate under safe and healthy conditions. Consequently, the right to occupational safety and health is frequently enshrined in constitutional provisions and is recognized as a core component of the broader human right to work (Jovanović & Reljanović, 2023: 95). The criminalization of non-compliance with, or failure to implement, workplace safety measures is inherently preventive: it seeks to mitigate the risk of harmful events before they materialize. In legal terms, this approach relies on the concept of general or abstract danger, emphasizing the operational nature of the offense without necessitating the actual occurrence of injury or harm.

Historical evidence illustrates that workplace accidents with severe injuries or fatalities have long been a feature of industrial labor (Johnston, 2009). This pattern persists into the present, as exemplified by Whyte's observation that over 20,000 deaths annually in the United Kingdom are attributable to occupational cancers linked to working conditions. Furthermore, data from the International Labour Organization at the end of 2023 indicate that nearly three million individuals worldwide suffer each year from work-related accidents and occupational diseases.[34]

The risk of injury and occupational illness is not evenly distributed across sectors. Certain industries – most notably mining, the asbestos industry, and the oil sector – pose particularly heightened hazards, reflecting both the nature of the work and the exposure to harmful materials. These sectors illustrate the critical importance of rigorous regulatory oversight and proactive safety measures to protect workers' health and lives.

In a study conducted by Braithwaite, which examined the working conditions of miners in mines where fatal accidents occurred – including cases in the United States, the United Kingdom, Australia, Zimbabwe, and Belgium – it was found that in nearly 80% of instances there had been serious violations of occupational safety regulations, and in approximately 60% of cases, these violations significantly contributed to the occurrence of the accidents. Accordingly, the statistics on mining fatalities are alarming: around 60,000 miners in the United Kingdom (primarily in coal mines) lost their lives in mining accidents over the course of the previous century, while in the United States approximately 100,000 miners perished (Braithwaite, 1985). Mining accidents have also occurred domestically; the most recent took place at the "Soko" mine near Sokobanja on April 1, 2022, when an explosion claimed eight lives and injured twenty, while the largest disaster in the country occurred on November 17, 1989, at the Aleksinac mines. A fire in

[34] International Labour Organization. (2023). *A call for safer and healthier working environments*. International Labour Organization.

the northern section, at a depth of 700 meters, resulted in the loss of ninety lives in a single day.[35] [36]

Regarding asbestos, the dangers of its use were first recognized by British regulatory authorities as early as 1898, and subsequently, asbestos exposure was linked to the deaths of thousands of workers (Ruggiero & South, 2013). A particularly significant case occurred in Italy, culminating in 2013, which highlighted both the scientific and public policy dimensions of corporate accountability for occupational hazards. The owner of the Eternit consortium, which dealt with asbestos, was sentenced by the Turin Court of Appeal in 2013 to 18 years in prison for, among other charges, gross violations of occupational safety and health regulations. During the company's operational history, its factory released enormous quantities of asbestos dust, a substance known in medicine for its multiple harmful effects on human health, while providing workers with no protective measures. As a result, approximately 3,000 individuals – mostly factory workers – suffered health consequences, as established in the high-profile court proceedings that included foreign delegations and an unusually large number of witnesses and experts (Ruggiero & South, 2013).

Crucially, the court concluded that the owner and several executives were criminally liable because they knowingly incentivized workers directly exposed to asbestos with bonuses to accept hazardous working conditions without mandated protective measures. This case illustrates a key characteristic of corporate violations of occupational safety regulations, which is not particularly evident in the previously discussed sectors. Specifically, aside from cases of forced labor that can fall under human trafficking, it is common for individuals to knowingly accept work in conditions dangerous to their health in order to secure a livelihood, often relying on the hope – shared by both employees and employers – that an accident will not occur. This contrasts sharply with the pharmaceutical industry, where consumers, absent suicidal intent, are unlikely to use drugs with

[35] https://www.rts.rs/lat/vesti/drustvo/4761519/najvece-rudarske-nesrece-koje-su-se-dogodile-u-srbiji.html?utm_source=chatgpt.com, accessed 15 September 2025.

[36] The Public Prosecutor's Office dismissed the criminal complaint against several executives of the "Soko" Mine, concluding that there was no basis to hold them responsible for the accident. Paradoxically, the mine was closed on the very same day, with authorities explaining that operations would resume only once safe working conditions for employees could be ensured. This raises questions regarding the coherence of legal assessments vis-à-vis the actual safety of workers. https://www.rts.rs/lat/vesti/hronika/4901835/nesreca-u-rudniku-soko-poginuli-rudari-tuzilasto.html. Beyond this specific case, patterns of routine normalization of industrial tragedies by high-level state officials are observable. A striking example is the statement of the current President of the Republic, addressed to the father of a worker who died in the "Milan Blagojević" munitions factory: "Your son was not working on a fashion runway but in a weapons factory." Such rhetoric exemplifies the minimization of tragedy and the implicit acceptance of workplace hazards in public discourse https://www.danas.rs/vesti/ekonomija/tvoj-sin-nije-radio-na-manekenskoj-pisti-vec-u-fabrici-oruzja-kazne-i-do-milion-dinara-ali-radnicima-zivoti-jos-uvek-ugrozeni/.

known harmful effects, and no one would voluntarily swim in a river into which thousands of liters of hazardous substances had been discharged the previous day.

These circumstances raise the question of whether corporations, under the model of autonomous liability for legal entities,[37] can be held accountable for negligent acts. Unlike the Italian court, which did not find negligence in the Eternit case, the first corporate conviction for negligent homicide in the United States occurred in 1985, when two companies – Film Recovery Systems and Metallic Mining Systems – were fined following the death of an employee cleaning cyanide barrels. These companies not only failed to inform their employees about the toxic substances but also removed warning labels from the barrels. Nonetheless, the court concluded that there was no evidence of intent (Vuković, 2014: 274).[38]

6. Concluding remarks

The protection of health through criminal law intervention, when examined within the context of so-called conventional crime – predominantly drug-related offenses – demonstrates a massive, institutionalized response, as evidenced by police and judicial records. The declaration of a "war on drugs" constitutes a well-established politico-legal strategy. In stark contrast, the prosecution and regulation of corporate crime remain marginal within the discourse of political elites and policymakers. From both a normative perspective, aimed at the identification of optimal regulatory and enforcement mechanisms, and a practical perspective, concerning the operational conduct of formal social control authorities, significant scope remains for the enhancement of the existing legal and institutional framework.

The "dark figure" of corporate crime – irrespective of its precise legal characterization – that endangers human health is substantial, as documented in numerous comparative studies. Moreover, for diverse socio-economic reasons, such conduct is frequently normalized by actors charged with the enactment and enforcement of law. This normalization does not generally extend to conventional crimes, whose victims typically correspond to the "ideal victim" archetype as perceived by state authorities.

[37] See more on this model in: Đurđević, Z. (2003). Kaznena odgovornost i kazneni postupak prema pravnim osobama u Republici Hrvatskoj. *Hrvatski ljetopis za kazneno pravo i praksu, 10*(2), 719-770.

[38] The *Corporate Manslaughter and Corporate Homicide* Act 2007 was enacted in the United Kingdom and entered into force on 6 April 2008. This legislation represents a substantial advancement in the legal regime governing corporate liability for deaths arising from serious organizational or managerial failures. Prior to its enactment, corporate entities could be prosecuted for homicide only where a director was personally responsible for the fatality. Under this Act, however, an organization may be held criminally liable for a death if it is established that the fatality resulted from a gross breach of the duty of care owed by the organization to the deceased (Vuković, 2014: 281).

Empirical evidence indicates that the most severe threats to health do not arise from offenses traditionally associated with criminal health protection – such as drug-related crimes – but from unlawful, unethical, and often systemic corporate practices. This is particularly evident in the distribution of harmful substances or products within the food and pharmaceutical sectors, as well as in breaches of environmental, occupational health, and workplace safety regulations. Beyond the core characteristics of corporate crime, which this study has broadly delineated into six propositions, each of the three analyzed domains manifests unique features. For instance, the conscious acceptance by individuals to work under hazardous conditions to secure their livelihoods underscores the need for heightened regulatory and preventive attention.

The protection of health is inextricably linked to the safeguarding of the right to life, which occupies a central position in all normative frameworks aimed at the legal regulation of human life in society. Health is one of the few human goods afforded protection under criminal law that can be imperiled through a multiplicity of acts and systemic failures, rendering the categorization of offenses primarily directed at health protection inherently complex. Nevertheless, notwithstanding both legal and extra-legal challenges, criminal law in this domain must be conceptualized analogously to medicine: although not every patient may be saved, the commitment to preservation and protection cannot be abandoned.

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