

CORPORATE MANSLAUGHTER WITH REFERENCE TO CORPORATE CRIMINAL LIABILITY : A LEGAL ANALYSIS

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ABSTRACT

Companies often act in more corrupted and irresponsible way than people as they have more power to do harm and do not face same level of punishments as they are not able to feel guilt, kindness and thankfulness.

What is a corporation and how it acts criminally and what are the remedies provided to the victim all of this will be discussed under this article. As we know a corporation is an artificial legal entity that is being made to render the profit, it has the separate legal entity from its owners and stake holders and also the corporation can sue and can be sued. Corporation is created by share holders, individuals or stock holders and also it can take loans, have assets, can take loan and can enter into contract.

This study will tell us about the concept of corporate criminal liability and corporate manslaughter with proper legal analysis that how the companies can be sued for their wrong actions or wrong doing. What are the legal penalties that can be imposed on the corporations for their wrong doings. As we know the crimes are increasing day by day in the corporate sector and some crimes are conducted or performed by the corporation due to its gross negligence or intention to render more profit by cost cutting and not providing proper safety measures which may result in corporate crime.

Key words: corporate, liability, manslaughter, criminal, vicarious, crime.

INTRODUCTION

Corporate manslaughter is a legal concept that allows a company to be held responsible when someone dies because of serious failings in how the company was run. For a long time, the law found it difficult to punish companies for such deaths because a company is not a person—it has no mind or body. But over time, people have realized that companies can cause great harm, and the law has started to change to reflect that. One of the major steps was taken by the UK government by introducing corporate homicide and manslaughter act 2007. Introduction of this law allowed the companies to be sued for the

death caused by the company due to its negligence or management failures. Unlike earlier laws that focused on blaming one specific person in charge, this law looks at the way the company as a whole was managed. This paper looks at corporate manslaughter as part of the wider topic of corporate criminal liability—that is, the idea that a company can commit crimes.

When a company is registered under the Companies Act, it becomes a separate legal entity. This means it has its own name, its own seal, and owns property and assets that are different from those of its shareholders. It can

do many of the same things an individual can—such as own property, take loans, open bank accounts, hire employees, make contracts, and go to court. This legal identity is what is known as a "corporate personality."

The well-known case *Salomon v. Salomon & Co. Ltd*⁸⁸⁰, established that once a company is legally formed, it becomes a person in the eyes of the law, separate from the people who own or manage it. It does not matter how many shares a person owns or whether they hold them for themselves or on behalf of others—the company is still an independent legal entity.

Since a company is treated like a person in legal terms, it can also commit acts similar to those committed by individuals, including criminal acts. In the case of *Shiromani Gurdwara Prabandhak Committee v. Shri Sam Nath Das*⁸⁸¹, the court explained that while a company is a legal fiction, it acts through people, and the actions of these individuals are considered as those of the company. This means that a company can be seen as forming the intent (*mens rea*) necessary for committing a crime.

However, companies often use their legal status as separate entities to avoid being held responsible for serious crimes like manslaughter or homicide. This creates a situation where no one is punished, and the victims are left without justice, which is a serious issue in modern legal systems.

MEANING AND CONCEPT OF CORPORATE MANSLAUGHTER AND CORPORATE CRIMINAL LIABILITY

In contemporary legal systems, the role of corporations in society has expanded significantly, making it essential to address how these artificial legal entities can be held responsible when they engage in unlawful or harmful conduct. Two key legal doctrines that have emerged to deal with this are corporate criminal liability and corporate manslaughter.

While both address corporate wrongdoing, they operate in different areas of criminal law and vary in the gravity of offenses covered.

Corporate Criminal Liability

Corporate Criminal Liability refers to the legal principle by which a corporation, a non-human legal entity, is held liable for criminal acts committed by its agents, employees, or representatives. The liability arises when these individuals commit a crime while acting on behalf of the corporation and within the scope of their employment.

As we know the principle of criminal liability is focused more on an individuality based on doctrines of *actus reus* (guilty act) and doctrine of *mens rea* (guilty mind).

However, corporations, despite being artificial persons, can cause immense harm—ranging from financial fraud to environmental disasters and public health risks. Recognizing corporate criminal liability ensures accountability at the organizational level and prevents misuse of the corporate veil to evade justice.

Theories pinning corporate criminal liability

- Identification theory:
This doctrine tells that a corporation can be held criminally liable when individuals who embody the company's "directing mind and will" commit offenses within their authority and on behalf of the company. Essentially, the actions and intentions of senior officers are equated with those of the corporation. This approach has been prominent in jurisdictions like the United Kingdom and Canada. For instance, in *R v Canadian Dredge & Dock Co*⁸⁸², the Supreme Court of Canada applied this doctrine, establishing that corporations could be held liable if the directing minds committed offenses benefiting the corporation⁸⁸³.
- Vicarious liability

⁸⁸⁰ 1896 UKHL 1

⁸⁸¹ 1894(2) SC 600

⁸⁸² (1985) 1 S.C.R. 662

Under this theory, corporations are held liable for the criminal acts of their employees if such acts occur within the scope of employment and intend, at least in part, to benefit the corporation. This approach is prevalent in the United States, where the principle of *respondere superior* (Latin for "let the master answer") is applied. It allows for corporate liability even if upper management was unaware of the employee's misconduct. However, this broad attribution has faced criticism for potentially imposing liability on corporations without direct involvement or knowledge of the wrongdoing.

- **Aggregation Doctrine**

Also known as the collective knowledge doctrine, this theory combines the knowledge and actions of various employees to establish corporate liability. Even if no single employee possesses the requisite *mens rea*⁸⁸⁴ (guilty mind), the corporation can be held liable if the collective actions and knowledge of its employees meet the criteria for an offense. This approach addresses challenges in attributing liability within complex corporate structures but has been controversial due to concerns about fairness and due process.

Corporate criminal liability means that a company can be held legally responsible when someone working for it commits a crime while doing their job. Corporate crimes can be divided into two types: occupational and organisational crime.

- Occupational crime is when an individual commits a crime while performing their job duties. In this case, the individual alone is held responsible.
- Organizational (or corporate) crime, on the other hand, involves criminal acts done in a planned and organized way by

the company or its employees, usually to benefit the company itself. In such cases, the company itself is held responsible, not just the individuals.

The key difference between these two is about who is blamed—in occupational crime, it's the individual; in corporate crime, it's the company.

A big legal question is: who should be punished—the company, the individuals in charge, or both? Normally, in criminal law, a person is only responsible for their own actions. But there is an exception called doctrine of alteration of ego, where a company can be blamed for the actions of its employees if they acted on the company's behalf.

Companies are treated as "legal persons"⁸⁸⁵⁸⁸⁶ under the law, meaning they have rights and responsibilities like real people. Because companies are given this special status to help society, they should not be allowed to harm society through illegal actions.

Holding companies criminally responsible helps make sure they follow the law and don't hurt the public. However, it is often hard to prove that a company committed a crime because its decisions are made by skilled professionals working together in complex ways. Proving *mens rea* (criminal intent) in such cases can be very difficult.

That's why the law sometimes applies **strict liability** to companies. Under strict liability, if a company is proven to have done something illegal, the court assumes there was criminal intent—even if it's hard to prove. In some cases, the law goes a step further with **absolute liability**, where once the illegal act is proven, the burden shifts to the company to prove they didn't intend to do wrong. In both situations, the law makes it easier to hold companies accountable for their actions.

⁴ Standard charter bank and ors vs directorate of enforcement and others 1999 SC held that corporations are the legal persons.

MEANING OF CORPORATE MANSLAUGHTER

Corporate manslaughter refers to the criminal liability of a corporation or organization for causing a person's death due to gross negligence, recklessness, or systemic failures in its operations, management, or policies. It is a legal concept that holds companies accountable for fatalities resulting from below the standard of care expected.

Key elements for the corporate manslaughter are

A person dies as a result of the corporation's action or inaction.

The corporation breached a duty of care.

The breach amounted to a gross deviation from the standard expected.

The organizational structure or senior management failure is central to the breach.

R v. Cotswold Geotechnical Holdings Ltd. (2011)⁸⁸⁷– The first company convicted under the 2007 Act after an employee was buried alive due to unsafe work practices. The company was fined £385,000.

As we know proving a criminal liability is very difficult to prove in the case of corporate manslaughter as the person may hide behind the doctrine of corporate veil which states that the identity of the person working for the company is different from that of a company which protects them from the personal liability for the companies action and debt. But piercing of corporate veil or doctrine of alteration of ego can also be applied in certain cases. The simple meaning of the the doctrine of alteration of ego is that “ in law it is a doctrine that allows the court to treat a corporation as the same as its shareholders, officers and directors, especially when they have committed fraud or injustice. The concept of alter

ego can be seen in the cases such as standard chartered bank and others vs directorate of enforcement and others 1999 where in the sc gave the judgement that section 11 of the Indian penal code in which the person is defined as the word person includes any company or association or body of person whether incorporated or not . Thus after this case the current position is that corporation can no longer claim immunity from criminal prosecution on the grounds that they are incapable of possessing the necessary mens rea for the commission of criminal offense . the notion that a corporation cannot be held criminal liable for the commission of the crime has been rejected also the company is made liable to prosecute under the criminal offense although the act may be committed through its agents.

Sunil Bharti mittal v CBI and ors. Apex court observed that the principle of alter ego can only be applied in one direction that is to make company liable for an act committed by a person or group of people who control the affairs of the company as the represent the alter ego of the company and not vice versa.

LEGAL ANALYSIS

Let us know discuss about the various legislation which are there for the offence of corporate man slaughter

Corporate manslaughter laws hold organizations criminally accountable when their gross negligence leads to fatalities. The legal frameworks governing corporate manslaughter vary across jurisdictions. Below is an overview of the laws in India, the United Kingdom (UK), Canada, and Australia:

India

India does not have a specific statute addressing corporate manslaughter. In cases where corporate negligence results in death, prosecutions typically rely on provision of Bhartiya Nyaya Sanhita(bns):

⁵ R V Pitwood (1902) 19 TLR 37

- Section 106 bhartiya Nyaya sanhita: Pertains to causing death by negligence, prescribing imprisonment for up to two years, a fine, or both.
- Section 100 of Bhartiya Nyaya sanhita: Deals with culpable homicide not amounting to murder, with penalties ranging from imprisonment to fines.
- Occupational safety, health and working condition code 2020 replaces various previous labour laws and also imposes various penalties for workplace fatalities.

However, these provisions are often deemed inadequate for addressing large-scale corporate negligence. The absence of a dedicated corporate manslaughter law in India has led to calls for legislative reforms to ensure more effective corporate accountability.

United Kingdom

The UK established a distinct offense for corporate manslaughter with the enactment of the Corporate Manslaughter and Corporate Homicide Act 2007, which came into force on April 6, 2008. Key aspects of the Act include:

- This act Applies to companies and certain organizations where gross breaches of duty of care by senior management result in death.
- Penalties: Organizations found guilty can face unlimited fines and may be subjected to remedial orders and publicity orders.

This legislation was designed to overcome challenges in attributing criminal liability to corporations under previous common law principles.

Canada

Canada addresses corporate criminal liability through amendments to the Criminal Code, particularly following the Westray Mine disaster in 1992. The amendments, known as the Westray Bill (Bill C-45), enacted in 2004, introduced the following:

- This bill Establishes a legal duty for all persons directing work to take reasonable steps to prevent bodily harm to workers or the public.
- Penalties: Corporations can face significant fines, and individuals within the corporation can face imprisonment for criminal negligence causing death or bodily harm.

These provisions aim to hold organizations and their representatives accountable for failing to ensure workplace safety.

Australia

In Australia, industrial manslaughter laws are enacted at the state and territory level, leading to some variations across jurisdictions:

- Queensland: Introduced industrial manslaughter provisions in 2017, with maximum penalties of 20 years imprisonment for individuals and fines up to AUD 10 million for corporations.
- Victoria: Enacted similar laws in 2019, imposing fines up to AUD 16.5 million for corporations and up to 25 years imprisonment for individuals.
- New South Wales: In 2024, introduced industrial manslaughter offenses with maximum penalties of 25 years imprisonment for individuals and fines up to AUD 20 million for corporations.

These laws reflect a commitment to enhancing workplace safety and ensuring that organizations are held accountable for fatal incidents resulting from negligence.

In summary, while the UK, Canada, and various Australian states have established specific legal frameworks to address corporate manslaughter, India currently relies on general provisions within its penal code. The development of dedicated corporate manslaughter statutes in other jurisdictions highlights the importance of tailored legislation to effectively address corporate accountability in cases of fatal negligence.

ANALYSING THE NEED OF CORPORATE MANSLAUGHTER LAWS IN INDIA

As we know that we do not have any specific law on corporate manslaughter in India which penalises the offence of corporate manslaughter. Also, there is an important need for corporate manslaughter laws in India because the death caused by the corporation due to its gross negligence and recklessness has been increased. Also, the deceased person could not get his proper remedies for the injustice that has been done to him. As we know there are no specific laws governing this offense, so the prosecution is done under the *Bhartiya Nyaya Sanhita* and *Bhartiya Nyaya Suraksha Sanhita*. Also, the remedy provided to the victims is not sufficient for them. Let's conclude this by understanding two major cases of corporate manslaughter laws in India which will be discussed as further.

The Bhopal gas tragedy case⁸⁸⁸

In this case, there was a corporation named Union Carbide India Limited, a subsidiary of American multinational Union Carbide Corporation. Its main objective was to produce pesticide. So, they used various chemicals and stored them, so on the night of December 2-3, water entered a storage tank containing the 42 tons of methyl isocyanide, it resulted in the chemical reaction causing the tank to release a cloud of toxic gases into the surrounding areas. This gas leak caused the death of more than 3500 people and later after an year it may have risen up to 10000 or more than that. After this, the legal action was taken in which the Indian government reached the settlement with Union Carbide Corporation on behalf of victims. The settlement was widely criticized as the compensation was inadequate, providing each victim with the compensation of 500-2000 far less than what was needed to cover medical expenses and losses. Also, the CEO got fugitive after failing to appear in the trial in 2014. Also, seven Indian employees of UCIL were convicted

of negligence and sentenced to two years in prison. Later on, released on bail.

Uphaar cinema fire tragedy (1997)⁸⁸⁹

In this case, a fire broke out in Uphaar Cinema situated at Delhi during the screening of a border movie, killing 59 people and injuring more than 100 people due to blocked exits and lack of fire safety measures as certain modifications were not done to the building. The Ansal Brothers, the owner of the cinema, were convicted under section 304A of IPC and sentenced to two years in prison, later reduced by the higher courts. They also paid the fine of Rs 60 crore.

After watching the remedies and justice provided to the victims of these cases, there is an important need for the specific laws of corporate manslaughter in India.

CONCLUSION

Corporate manslaughter is a critical area of corporate criminal liability, ensuring that businesses and their leaders are held accountable for deaths resulting from gross negligence, unsafe practices, or failure to uphold safety standards. While many countries, such as the UK, USA, and Canada, have specific laws addressing corporate manslaughter, India lacks a dedicated legal framework to prosecute companies for fatalities caused by negligence. Corporate manslaughter laws must strike a balance between economic interests and human safety. Stronger legal frameworks, corporate governance reforms, and stricter enforcement are essential to ensuring corporate accountability and justice for victims. Adopting a clear corporate manslaughter framework in India could enhance workplace safety, environmental responsibility, and public trust in corporate entities.

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