

CORPORATE CRIMINAL LIABILITY IN INDIA: EVALUATING THE LEGISLATIVE ARCHITECTURE

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ABSTRACT

Corporate criminal liability has grown in importance in modern legal systems, especially given businesses' substantial influence over economic activity and social institutions. In India, the emergence of corporate criminal liability reflects a growing realization that businesses, despite their artificial legal status, must be held liable for illegal activities committed while conducting business. Corporate criminal liability is the legal responsibility imposed on corporations for offenses committed by its employees, agents, or representatives while working on behalf of the business. Ideally, such liability should operate as a deterrent, encouraging responsible corporate behaviour rather than merely serving as a form of punishment.

This study critically explores and evaluates India's legislative framework controlling corporate criminal responsibility, including its scope, efficacy, and limitations. It analyses important statutory provisions under the Companies Act, 2013, Prevention of Corruption Act, 1988, Prevention of Money Laundering Act, 2002, and the Bharatiya Nyaya Sanhita, 2023, which together form the legal foundation of corporate accountability in the country. Apart from legislative provisions, the judiciary has also played an important role in expanding the scope of corporate criminal liability. Courts have clarified in many historic decisions that corporations can be prosecuted even for offenses requiring the existence of mens rea, enhancing corporate accountability procedures.

Despite these developments, certain challenges continue to affect the effectiveness of the existing framework. Difficulties in attributing criminal intent to corporations, inconsistencies in the imposition of penalties, and practical challenges in enforcing sanctions against large corporate entities remain significant concerns. By analysing the interaction between statutory provisions and judicial developments, this paper discusses the strengths and drawbacks of India's legislative framework in determining the criminal liability of corporations, emphasizing the importance of clearer legal rules, uniform sanctions, and greater compliance procedures to improve corporate accountability.

KEYWORDS

Corporate Criminal Liability, Mens Rea, Economic Offences, Vicarious liability, Regulatory Enforcement

1.1 INTRODUCTION

In India, corporate criminal liability has changed to balance accountability with economic growth. The growth of businesses in banking,

insurance, telecommunications, and manufacturing has revealed the inadequacy of civil penalties to address fraud, corruption, and environmental degradation. Environmental

catastrophes like the Bhopal Gas Tragedy, corporate scandals like Satyam Computers, and the 2G spectrum problem demonstrate the detrimental effects of corporate misconduct. In the past, corporations were thought of as artificial entities that lacked the mens rea necessary to be held criminally responsible.

Criminal intent. Early Indian courts adopted this attitude, limiting civil culpability fines. Corporate criminal culpability was recognized through judicial interpretation and legislation modifications to provide public accountability and deterrent. Corporate liability is covered by the Companies Act of 2013, the Prevention of Money Laundering Act of 2002, and the Prevention of Corruption Act of 1988 (as amended in 2018)²³⁴².

The concept of corporate criminal culpability in India has changed as a result of judicial interpretation and legislative participation. Because corporations are artificial legal persons, courts were first hesitant to try them for crimes requiring imprisonment or mens rea²³⁴³. Over time, however, Indian courts evolved theories such as the identity concept and vicarious responsibility to assign the conduct and intents of persons operating on behalf of a business to the corporation itself. Landmark rulings have played an important role in establishing that organizations can be tried and punished for criminal actions, even when the statute imposes mandatory imprisonment in addition to penalties²³⁴⁴. Criminal culpability is limited to acts or omissions that violate Penal Law, as they cannot be held accountable unless prohibited by law. Criminal culpability is founded on the Latin maxim "Actus non facit reum, nisi mens sit rea". To be held accountable, it should be established that an illegal act or omission was committed with a guilty mind. The two essential elements of crime are:

²³⁴² Archanya Heamal G, Aishwarya C L and Jemsina L, "Corporate Criminal Liability in India: Judicial Interpretation, Challenges, and the Way Forward" (2025) 10(10) International Journal of Novel Research and Development 852.

²³⁴³ Laxmi Kumari and Abhishek Chatterjee, "Corporate Criminal Liability: Assessing Legal Accountability" (2024) 7(1) International Journal of Law Management & Humanities 1127

²³⁴⁴ Pratik Bharat Kashid and Sunita Bachchhav, "Corporate Criminal Liability" (2022) II(VI) Indian Journal of Integrated Research in Law 1.

physical (actus reus) and mental (mens rea)²³⁴⁵.

The research paper examines that despite existence of legislative frameworks; application of corporate criminal liability continues to face various practical and conceptual challenges. The issues such as determining criminal intent within complex corporate structures, inconsistent penalties, and difficulties in enforcing the sanctions against the large corporate entities remain major concerns. This paper analyses the legislative provisions and judicial interpretations relating to criminal liability of the corporations in India. It also highlights challenges within the current legal regime and suggests the reforms aimed at strengthening the corporate accountability and improving the effectiveness of enforcement mechanisms.

1.2 CONCEPT OF CORPORATE CRIMINAL LIABILITY

Corporate criminal responsibility is becoming increasingly important in India as legal and public accountability requirements shift. Historically, Indian law considered that corporations, as artificial entities, lacked the mental intent (mens rea) to commit a crime, rendering them virtually immune to criminal liability.

With globalization and greater corporate influence, the approach of holding corporations accountable for actions that have an impact on stakeholders or the general public emerged.

In **Standard Chartered Bank v. Directorate of Enforcement**, it was determined that intent-based offenses could result in criminal prosecution for businesses²³⁴⁶.

A company is a distinct legal entity that is created by legislation or registration. Any corporation's assets and liabilities may be located in both its home country and any other nation where it desires to conduct business because these corporations have holdings in

²³⁴⁵ John Braithwaite, To Punish or Persuade: Enforcement of Coal Mine Safety (State University of New York Press, Albany, N.Y., 1985).

²³⁴⁶ Standard Chartered Bank v. Directorate of Enforcement AIR 2006 SUPREME COURT 1301

both countries. A company's legal accountability for the conduct of its employees is known as corporate criminal liability²³⁴⁷.

1.3 CORPORATE CRIMINAL LIABILITY DEFINITIONS

1.3.1 Corporations:

The Companies Act of 2013 defines the term "company" as a legal entity. The Act defines it as a "Body corporate" or "corporation," which includes but is not limited to enterprises incorporated outside of India.

- A. A firm that exists solely to conduct business,
- B. a founder organization formed under one of the legislation governing founder societies,
- C. any other legal entity (other than a corporation as that term is defined by the Act, which the governing government names by publishing a notice in the official gazette²³⁴⁸).

1.3.2 CRIMINAL LIABILITY

The Company's Act does not define the term "criminal liability" but it is replicated in section 6 (45, 63, 68, 70 (5), 203), where only the firm's officials are held accountable, not the firm itself. Many sections of the Bharatiya Nyaya Sanhita that require mandatory imprisonment do not apply to corporations because such a punishment cannot be utilized against them. The Latin phrase serves as the foundation for the primary rule of criminal liability. "Actus non facit reum, nisi mens sit rea."²³⁴⁹ It indicates that in order "to hold someone accountable, it must be proven that they committed an illegal act or omission²³⁵⁰"

Although not exhaustive, the Bharatiya Nyaya Sanhita, 2023 is the country's primary substantive criminal legislation. It applies to everyone with a geographical connection to India. parts 45, 63, 68, 70 (5), 203, and other parts of the Indian Company Act demonstrate

corporate criminal liability. A company, or corporation, exists separate from its owners and people in charge of its everyday operations. Even though a company's autonomous legal personality is a well-established concept, the question of whether a company's wrongdoing can be penalized under criminal law has remained a mystery. While it is common knowledge that individuals in charge of a corporation can be held accountable for their conduct, the more challenging question is whether the company's actions can be attributed to it (because of its autonomous legal establishment), rendering it liable for the repercussions of a criminal offense²³⁵¹.

Although the principle of strict liability is not explicitly stated in legislation, it has been established by courts in various situations. In today's global environment, this concept asserts that a founder can be held liable for criminal activity committed by one of its workers if the individual acted within the scope of his position and meant to benefit the company in some way. In the case of **United States v. Park**²³⁵², a business executive is held rigorously liable for criminal behaviour performed by one of the staff members if the executive's position provided her with the capacity to prevent or rapidly fix the offense.

Section 447 of the Company Act, 2013 provides the punishment for corporate fraud which stipulates that "person" who found guilty of fraud would be punished. "Person" is defined as "companies," which are also mentioned in Section 2(42) of General Clauses Act of 1897. This suggests that business may face fines but not jail time. Employees, directors, and other significant holders, however, might go to jail. Consequently, companies could be held responsible in both criminal and civil proceedings.

²³⁴⁷ John T. Byam, "The Economic Inefficiency of Corporate Criminal Liability" (1982) 2 Journal of Legal Studies 582.

²³⁴⁸ N.V. Paranjape, Company Law (Central Law Agency, Allahabad, 5th edn., 2012) 74.

²³⁴⁹ James Fitzjames Stephen, A History of the Criminal Law of England (Macmillan & Co., London, 1883).

²³⁵⁰ Sowmya Suman, "Corporate Criminal Liability: An Indian Perspective" (2011).

²³⁵¹ Conceição Soares, "Can Corporations be Criminally Responsible?" (2013)

3(6) International Journal of Humanities and Social Science 45.

²³⁵² United States v. Park, 421 U.S. 658 (1975)

Legal rulings like **Moussell Bros. v. London** and **North Western Railway**²³⁵³, the first instance in which a business was held vicariously liable for a mens rea conduct outside of strict liability and nuisance, have also established a company's vicarious obligation. This case stood out as an anomaly among rulings made during that time period in which courts acknowledged their unwillingness to impose criminal culpability on companies, despite the fact that it was intended to serve as a foundation for future judicial dicta in that direction.

1.4 LEGAL BASIS OF CORPORATE CRIMINAL LIABILITY

Criminal culpability refers to the legal obligation or accountability to society that is enforced by a criminal penalty²³⁵⁴. A company's legal personality is distinct from that of its members. Although this is sufficient to hold them accountable, there are a number of theories that serve as the foundation for assigning the artificial person responsible for the actions of directors of company, workers, or promoters²³⁵⁵. Recognizing the validity of holding firms criminally responsible under several Indian legislation is also critical.

Theories rationalizing Corporate Criminal Liability:

There are two ways to hold businesses criminally responsible. The Derivative Model is ranked second, after the Organizational Model. These two methods allow the corporation, which is a legal person, to be attributed with the necessary mens rea²³⁵⁶. These two methods are as below:

1.4.1 DERIVATIVE MODEL

The derivative model is essentially a method of determining a company's criminal liability

based on the individual criminal liability of its employees through the shared connection²³⁵⁷. Vicarious Liability and Identification Doctrine are components of the derivative model²³⁵⁸.

In essence, vicarious responsibility implies that the employer will be held liable for the conduct of the employee. Lord Chelmsford's comments best describe it:

*"Every action taken by an employee while performing their duties is considered to be the result of their employer's directives, and as such, it is equivalent to the employer's own actions."*²³⁵⁹

Two maxims serve as the foundation for this one. The first is *qui facit per alium facit per se*, which states that an individual acting via another will be considered to have acted independently. The second maxim is "let the master answer," or *respondet superior*. This idea has been fully accepted in tortious liability jurisprudence, but its application to criminal law is still relatively new and has been repeatedly rejected by the court²³⁶⁰. Its relevance was initially acknowledged in the **Beneficial Finance Co.**²³⁶¹ case, wherein three companies were found legally responsible for a bribery conspiracy because of the acts of their director, employee, and vice president, respectively.

Over time, the courts have established a norm that stipulates that a business would be held responsible for a crime committed by its employees if:

- They violate the law
- While working
- With the goal of supporting the business²³⁶²

1.4.2 ORGANIZATIONAL METHOD:

²³⁵⁷ Sumit Baudh, "Corporate Criminal Liability" (1988) 10 The Student Advocate 45–46.

²³⁵⁸ Pieth, Mark & Ivory, Radha (eds.), *Corporate Criminal Liability: Emergence, Convergence, and Risk*, Vol. 9, Springer Science & Business Media, 2011.

²³⁵⁹ *Bartonshill Coal Co. v. McGuire*, (1853) 3 Macq 300

²³⁶⁰ *Barker v. Levinson*, (1920) 2 All ER 823

²³⁶¹ *W.R. LaFave*, *Modern Criminal Law* 775 (West Publishing Co., 1971).

²³⁶² *United States v. A. P. Trucking Co.*, 358 U.S. 121 (1958).

²³⁵³ (1917) 2 KB 836

²³⁵⁴ Black's Law Dictionary, 997 (Bryan A. Garner ed., 9th ed., Thomson Reuters, 2009).

²³⁵⁵ *Salomon v. Salomon & Co. Ltd.*, (1897) AC 22 (HL).

²³⁵⁶ Colvin, E., "Corporate Personality and Criminal Liability", *Criminal Law Forum*, Vol. 6, No. 1, 1995, pp. 1–44.

The second structure, known as the Organizational paradigm, is based on the notion that a company either fostered an atmosphere that promoted criminal action or provided psychological support for it²³⁶³. It is crucial to emphasize that the courts have not acknowledged this and that it is solely academic²³⁶⁴.

1.5 EVOLUTION OF CORPORATE CRIMINAL LIABILITIES

The growth of corporation criminal accountability as well as jurisprudence can be traceable back to significant case laws²³⁶⁵. The Supreme Court ruled in the Iridium case that the men's rea of the firm's 'alter ego' (the person or group in charge of the company's business) would be imputed to the company. Previously, a firm could not be tried for offences requiring mandatory imprisonment²³⁶⁶.

Indian Judiciary on corporate criminal liability

Corporate criminal liability, penalty, and purpose are two fundamental legal concerns. The court's comprehension of these matters is also crucial to the formation of jurisprudence.

In **State of Maharashtra v. Syndicate Transport**²³⁶⁷, the Supreme Court ruled that corporations cannot be prosecuted for crimes that carry jail time since doing so would be pointless. In the same vein, it was stated in **Assistant Commissioner v. Velliappa Textiles Ltd.**²³⁶⁸ that it would be improper to penalize a company with a fine alone when a clause calls for both mandatory imprisonment and a fine.

The court established two standards for prosecuting corporate entities in **A.K. Khosla v. S. Venkatesan**²³⁶⁹.

- Mens rea attribution
- The authority to issue a mandatory jail sentence

However, a notable step occurred when the Allahabad High Court declared that, while an entity cannot be incarcerated, a penalty may be imposed for offenses that require both mandatory imprisonment and a punishment because "a sentence which is in excess of the sentence prescribed is always illegal, but a sentence which is less than the sentence prescribed may not in all cases be illegal"²³⁷⁰. In terms of mens rea, Indian courts have traditionally favored the Identification model, which attributes the company's actions to its alter ego. Courts have consistently upheld corporations' liability for crimes requiring mens rea²³⁷¹. "A corporation may be criminally liable for the acts of an officer or agent, assumed to be done by him when exercising authorised powers, and without proof that his act was expressly authorised or approved by the corporation," the bench explained in the **Standard Chartered Bank Case**²³⁷². Corporations and natural people are treated equally in offences that do not require mens rea.

The company's vicarious liability would only emerge when the statute provided for it. In the landmark decision of **Sunil Bharti Mittal v. CBI**, the Supreme Court has clarified reverse responsibility and reiterated **Iridium India Telecom Ltd v. Motorola Incorporated Co**²³⁷³.

"The above-mentioned hypothesis suggests that the illegal intent of the company's "alter ego" (the personal group of individuals that direct the company's actions) will be imputed to the corporation. The Iridium India case [**Iridium India Telecom Ltd. v. Motorola Inc., (2011) 1 SCC 74: (2010) 3 SCC (Cri) 1201**] It has been recognized that if the person or group in command of an institution conducts an illegal

²³⁶³ A. Singhvi, "Corporate Crime and Sentencing in India: Required Amendments in Law," International Journal of Criminal Justice Sciences, Vol. 1, No. 2 (2006), p. 23.

²³⁶⁴ Cristina De Maglie, "Models of Corporate Criminal Liability in Comparative Law," Washington University Global Studies Law Review, Vol. 4 (2005), p. 547.

²³⁶⁵ Iridium India Telecom Ltd. v. Motorola Inc. and Others, (2011) 1 SCC 74.

²³⁶⁶ Asstt. Commr. v. Velliappa Textiles Ltd., (2003) 11 SCC 405.

²³⁶⁷ State of Maharashtra v. Syndicate Transport Co., 1963 Bom LR 197.

²³⁶⁸ Standard Chartered Bank v. Directorate of Enforcement, AIR 2004 SC 86.

²³⁶⁹ A.K. Khosla v. S. Venkatesan, Cr LJ. 1448, 1992

²³⁷⁰ Oswal Vanaspati & Allied Industries v. State of Uttar Pradesh, (1993) 1 Comp LJ 172.

²³⁷¹ State of Maharashtra v. Syndicate Transport Co., 1963 Bom LR 197.

²³⁷² Standard Chartered Bank v. Directorate of Enforcement, (2005) 4 SCC 530.

²³⁷³ Maksud Saiyed v. State of Gujarat, (2008) 5 SCC 668

act with criminal intent, their crime can also be imputed to the company because they are the firm's "alter ego." The law stipulates that corporations can be held criminally liable for violations of vicarious liability laws, such as foreign exchange rules, tax, labour, and environmental laws, provided the individual's intent can be attributed to the corporation.

1.6 LEGISLATIVE FRAMEWORK ON CORPORATE CRIMINAL LIABILITY IN INDIA

The Corporate Criminal Liability is recognised under the following statutes:

1.6.1 PREVENTION OF MONEY LAUNDERING ACT, 2002

Money laundering is defined as "any attempt, assistance, or participation in any process or activity related to the proceeds of crime, including its concealment, possession, acquisition, or use, and projecting or claiming it as untainted property" in Section 37 of the Prevention of Money Laundering Act, 2002 (PMLA). The majority of instances of converting black money into white money are covered by the phrase "money-laundering" in India. However, stringent restrictions that are subject to court scrutiny must be enforced by enforcement authorities. Shell Petroleum corporations, foreign investments, organizational misconduct, insider trade, and bribery are a few instances of money laundering in the business sector.

Section 70- Offences committed by Companies

This section deals with offenses committed by companies, stating that if someone violates any of the Act's provisions or any Rule, Direction, or Order made thereunder, that person is a company (a "company" is any corporate entity, including a firm or other association of individuals); and Everyone who, at the time of the violation, was in charge of and accountable to the company for the conduct of the company's business as well as the company, shall be deemed to be guilty of the offense and

may face legal action and punishment under the PMLA.

This regulation is only exempt if the person can show that the infraction happened without his knowledge or that he took all reasonable efforts to prevent it. Furthermore, regardless of what is said in sub-section (1) of Section 70 of the PMLA, if a company violates any of the provisions of this Act or any Rule, Direction, or Order made thereunder and it is shown that the contravention took place with the knowledge or consent of, or is attributed to, any of the Managing Director, the Manager, Executive, Secretary, or another corresponding officer of any corporation, then that Managing Director, Supervisor, Executive, Secretary, or other Officer will also be determined to be guilty of the violation and will be subject to legal action and punishment.

1.6.2 THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

One important law in India that controls how individuals, groups, and some corporate entities accept and utilize money or hospitality from overseas sources is the Foreign Contribution (Regulation) Act of 2010 (FCRA). This law's main objective is to guarantee that foreign monies entering the nation are used for justifiable and open purposes and do not endanger India's security, democracy, or sovereignty. The Act also imposes numerous obligations on those who are entitled to accept foreign contributions. Organisations must open a bank account expressly for accepting foreign funds and guarantee that the funds are used for the intended reasons. To ensure openness and accountability, they must keep accurate financial records and submit frequent reports and annual returns to the Ministry of Home Affairs. These regulations assist the government in monitoring how foreign funds are used and ensuring that they are not misused or diverted for actions that may harm the public interest.

The Act completely forbids certain individuals from accepting foreign contributions. Candidates for elections, members of political

parties, judges, government employees, and lawmakers are all barred from receiving such contributions in order to prevent foreign influence in India's political and administrative systems. If violations of the Act are discovered, the government may review finances, perform audits, and suspend or cancel an organization's registration. While protecting the nation's interests, the FCRA's regulatory processes aim to improve transparency, accountability, and responsible use of foreign donations.

1.6.3 COMPANIES ACT, 2013

The Companies Act and Criminal Liability Businesses are a significant part of our society. The Companies Act, 1956, as amended by the Companies Act, 2013, is the primary law that governs businesses in India. It regulates a wide range of activities, such as the establishment, dissolution, and winding up of a business. The Act establishes the legal framework for a number of the company issues, which include operational, economic, and other managerial aspects. It grants the federal government the power to examine a company's financial records, carry out a special audit, launch an investigation into the business's activities, and file a lawsuit against the company for breaking the Companies Act of 2013²³⁷⁴.

The criminal penalties for making false statements in a prospectus are covered in full in Section 34 of the Companies Act. The sole punishments listed in several other sections are jail time or detention plus a fine. The Company's Act is primarily regulatory in character and does not support criminal prosecution for infractions of its provisions, as may be seen by examining the offenses and penalties under the Act. Before filing charges, the Board of Company Law takes into account instances of recurrent defaults, particularly those involving businesses in which there is substantial public involvement. The board prefers that management fix minor technological mistakes based on suggestions from regional directors

and the business registrar rather than pursuing legal action²³⁷⁵.

Section 447 of Companies Act, 2013 provides that "Any person found guilty of fraud shall be punished with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud, without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force." Corporate Deception Penalties Section 447 of the Companies Act defines fraud as an act or omission that negatively impacts the business's interests due to the company exploiting or misusing its power²³⁷⁶.

The Committee suggested that only frauds having a minimum amount of rupees 10,00,000 or 1% of the company's sales, whichever is lower, be subject to Section 447 punishment (which is not compoundable). Concerns that the provision might be misused and negatively impact the hiring of experts for director positions, among other roles, led to this recommendation. Since the cost of prosecution may exceed the amount involved, frauds below the threshold that do not impact the public interest may be handled differently and compounded.

1.6.4 THE PREVENTION OF CORRUPTION ACT, 2018

Both governmental employees and those who support corruption are punished under India's primary statute. "Any person in the service of the government or compensated by the government for the performance of a public duty and statutory corporations" is what the Prevention of Corruption Act defines as a "public servant." The Prevention of Corruption Act, which excluded bribery from private companies,

²³⁷⁴ M. Ram Mohan, "Corporate Criminal Liability in India," SAGE Business Cases, SAGE Publications Ltd. (2019).

²³⁷⁵ M. Ram Mohan, "Corporate Criminal Liability in India," SAGE Business Cases, SAGE Publications Ltd. (2019).

²³⁷⁶ Pradeep Kumar Singh, "Corporate Criminal Liability in India," Athens Journal of Law, Vol. 8, No. 1 (January 2022), pp. 31–4

made it illegal for public employees to accept bribes but not to give them until 2018²³⁷⁷.

The Prevention of Corruption (Amendment) Act was amended in 2018 to cover businesses and their workers who bribe public officials.

- a) to obtain or retain business or
- b) gain an advantage in conducting business²³⁷⁸.

1.6.5 BHARATIYA NYAYA SANHITA, 2023

The Bharatiya Nyaya Sanhita permits corporate prosecution under Section 2(26). Before imposing penalties, judges must take their severity into account. The Bharatiya Nyaya Sanhita, 2023 defines "person" in Section 2(26). A company, association, or group of people is defined in this section. Additionally, it is applicable to all corporations, whether or not they are incorporated²³⁷⁹. As was previously mentioned, corporations are subject to criminal culpability under the Companies Act, 2013, which is founded on the Bharatiya Nyaya Sanhita.

The Indian Penal Code of 1860 has been replaced with the Bharatiya Nyaya Sanhita, 2023 (BNS), a major update to India's criminal law system. Despite lacking a specific chapter on corporate criminal liability, the BNS's definitional and substantive sections offer a legal basis for holding companies criminally accountable²³⁸⁰. The Act acknowledges the concept of a "person" in general, which encompasses associations, corporations, and groups of people, whether or not they are incorporated.

Courts can now prosecute companies for crimes they commit while conducting business thanks to this recognition. By keeping this broad definition, the BNS assures that businesses

cannot avoid accountability simply because they do not have physical presence. Furthermore, general concepts of criminal responsibility under the BNS allow for the prosecution of corporations and their directors, managers, or officials when offences are committed with their consent, connivance, or negligence. Thus, the BNS promotes the modern view that companies, as strong economic players, must operate within the confines of criminal law and may face penalties such as fines or other statutory consequences if they engage in illicit behaviour²³⁸¹.

1.7 CHALLENGES OF CORPORATE CRIMINAL LIABILITY

Even if corporate criminal liability has grown, there are still barriers that keep corporations from being held accountable:

a) Complex structure of Corporations:

According to the Principle of Identification theory, for a corporate body to be held criminally liable for crime, it must have resulted from the guilty deed or guilty mentality of people in charge of the organization. This is challenging, though, because corporate structures have changed and become more complex than they were in the past, when they were centred around a single head²³⁸². A decision that affects the entire company cannot be made by a single director; a full board is required. How can we identify the direct player with criminal intent in such a scenario? In order to hold a defendant accountable under criminal law, the prosecution must establish beyond a reasonable doubt that he committed the crime (*actus reus*) and that he intended to commit it (*mens rea*). Because criminal culpability cannot be distinguished between two individuals, this can be challenging²³⁸³.

²³⁷⁷ Himaz Matta and Anjali Dixit, "A Critical Study of Anti-Corruption Law in India with a Special Reference to Anti-Corruption Bureau, Faridabad," Vol. 2, Issue 3, May 2025, pp. 180–185.

²³⁷⁸ Anonza Priyadarshini, "Combating Corruption in India's Corporate Landscape: Evaluating Anti-Corruption Legislation and Economic Implications," International Journal of Law, Management & Humanities, Vol. 7, Issue 4, 2024, pp. 791–805, available

²³⁷⁹ Bharatiya Nyaya Sanhita, 2023, s. 2(26).

²³⁸⁰ N.V. Paranjape, *Criminology and Penology* (18th edn., Central Law Publications, Allahabad, 2022).

²³⁸¹ A. Singhvi, "Corporate Crime and Sentencing in India: Required Amendments in Law," International Journal of Criminal Justice Sciences, Vol. 1, No. 2 (2006), p. 23.

²³⁸² Oshitokunbo I. Lai, *An Almanac of Contemporary Judicial Restatements with Commentaries* (Spectrum Books Ltd., 2010).

²³⁸³ Cyril Nkolo, "Challenges of Corporate Criminal Liability in Nigeria," available at: <https://eprints.gouni.edu.ng> (visited on 5 February, 2026 at 1:30 P.M.)

b) Difficulty of attributing criminal intent to corporations:

A firm is a legal entity distinct from its members and cannot act on its own. A firm cannot achieve its goals without a natural person. These natural individuals' mental states are the company's mental states, and the law treats them as such. Yet what happens if "mens rea" and "actus reus" cannot be connected to a particular person yet it is clear that a corporation's acts have led to criminal culpability? It is very difficult to assign criminal responsibility to a specific directing mind or will or any individual's negligent acts when there is no employee or controlling officer to be held directly liable, particularly in situations where different departments handled the production of a product. Corporate misbehaviour has not been incorporated into the penal code. A company cannot possess "mens rea" or even conduct crimes by itself, according to standard law. Nonetheless, there are instances where a company's careless behaviour cannot be linked to a single person, and the legal system cannot continue to use the argument that a corporation is an "artificial person" that is unable to engage in executing crimes. Because the condition of act and intent assigned to a natural person cannot be met, some businesses may actually avoid criminal culpability despite the harm produced²³⁸⁴.

c) Need for continued monitoring and adaptation of corporate criminal liability:

The corporate criminal liability rules must be continuously monitored and adjusted due to a number of important reasons. First of all, changing company practices necessitate legal frameworks that can successfully handle these changing issues, including new types of corporate malfeasance like cybercrimes and financial innovations. The legal system must handle cross-border concerns and conform to

international norms for uniform enforcement due to the globalization of Indian businesses and the existence of multinational enterprises operating within India. Furthermore, corporate criminal liability rules must be adjusted in accordance with the evolving regulatory landscape and the continuing adaptation of regulatory bodies to new compliance standards. The growing use of technology in business operations creates new avenues for wrongdoing, including cybercrimes and data breaches, necessitating technological know-how and legal adaptability. Through continuous monitoring, India can gain from studying and implementing international best practices, especially in areas like individual accountability, whistleblower rights, and the balance of sanctions with collateral repercussions. Adapting corporate criminal responsibility laws requires strengthening the legal framework for holding individuals within organizations accountable, balancing punishments, guaranteeing legal clarity, and doing economic and social effect evaluations prior to imposing penalties²³⁸⁵.

1.8 RECENT DEVELOPMENTS

Due to high-profile scandals like the PNB fraud and the IL&FS crisis, there has been an increase in instances involving vicarious liability in the post-2020 period, which has forced the judiciary to clarify the limits of corporate and directorial accountability²³⁸⁶. In *Sanjay Dutt v. State of Haryana* (2025), the Supreme Court quashed summonses against corporate managers for tree-felling offenses, ruling that specific allegations of directorial control over the infringing conduct are required for vicarious culpability under environmental statutes. The Court dismissed actions against directors in *Sunil Bharti Mittal v. CBI* (2015) because there was no proof of their active participation.²³⁸⁷

²³⁸⁴ Chiemezie Okonya and Sylvester Anya, "Management or Organization: The Synthesis of Corporate Criminal Liability in Nigeria", available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3602636 (accessed on 6 February, 2026 at 3:00 P.M.).

²³⁸⁵ R.S. Afshan and Pavithra Prakash, "Corporate Criminal Liability in India," *International Journal for Multidisciplinary Research (IJFMR)*, Vol. 5, Issue 6, November–December 2023, pp. 0–10.

²³⁸⁶ SEBI Report on IL&FS Crisis, Securities and Exchange Board of India (2019).

²³⁸⁷ *Sunil Bharti Mittal v. Central Bureau of Investigation*, (2015) 4 SCC 609, *Sanjay Dutt v. State of Haryana*, (2025) INSC 456.

Similar to this, corporate officers were protected from automatic accountability under the SARFAESI Act in **Anil Khandelwal v. M/s Phoenix India (2025)**, highlighting the fact that positional status is insufficient for criminal imputation²³⁸⁸. **Kamalkishor Shrigopal Taparia v. India Ener-Gen Private Limited (2025)** reiterated that proof of the director's involvement at the time of the offense is necessary for vicarious culpability under Section 141, quashing proceedings under the Negotiable Instruments Act against an ex-director whom had no role in the check's issuance²³⁸⁹.

1.9 CONCLUSION

Due to judicial interpretation and statutory acknowledgment, corporate criminal liability has undergone tremendous change in India. business criminal liability is becoming a more urgent issue due to the rapid growth of the business sector and the rise in corporate misbehaviour. Initially hesitant, the judiciary has gradually accepted corporate accountability, even for actions lacking mens rea. However, enforcement continues to encounter obstacles, such as attribution of corporate intent, insufficient punishments, and the possibility for abuse of corporate identity. Despite progress made under the Companies Act of 2013, which increased corporate accountability, loopholes persist in providing effective deterrence. To meet the criteria of a developed democratic society, more stringent regulations and enforcement measures are required. If implemented correctly, these regulations have the potential to dramatically inhibit unlawful corporate practices, improving both economic growth and public welfare in India.

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