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INDEPENDENT DIRECTORS AND CORPORATE FRAUD: LIABILITY WITHOUT CONTROL? A CRITICAL STUDY UNDER THE COMPANIES ACT, 2013

AUTHOR - HARITH DAS, LLM (BUSINESS LAW), AMITY UNIVERSITY, NOIDA.

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Abstract

Independent directors are becoming more important in India for improving corporate governance and combating corporate fraud. But when they aren't running firms on a daily basis, their role in fraud cases raises a lot of problems. This article critically examines the legal framework regulating independent directors' responsibility under Section 149(12) of the Companies Act, 2013.

The research examines if the existing regulations foster a state of "liability without control" or if they achieve an appropriate equilibrium between accountability and safeguarding. It looks at the legal requirements, court decisions, and real-world problems that independent directors face, like not being able to get all the information they need and having to rely on what management says. The report meticulously analyzes prior research and adopts a comparative approach to discern deficiencies in the Indian system.

The findings indicate that independent directors face excessive liability notwithstanding statutory safeguards, attributed to ambiguous legal stipulations and inconsistent enforcement. This hurts corporate governance by making it less likely that qualified people will take these jobs, which also hurts fairness. The article's conclusion calls for stronger safe harbor protections, clearer legal standards, and better governance methods to make sure the system is fair and works well.

Keywords: Independent Directors; Corporate Fraud; Director Liability; Corporate Governance; Companies Act, 2013; Section 149(12); Liability without Control; Due Diligence; Board Oversight; Legal Framework; Safe Harbour Protections; Judicial Interpretation

Introduction

Corporate fraud is a big problem for corporate governance in India, especially now that the economy is getting more complicated and there have been a lot of high-profile financial crises. These events have led to serious issues about how well corporate supervision works and what directors can do to stop fraud. Independent directors are one of the most significant sorts of directors since they are intended to be fair defenders of accountability, openness, and the interests of all stakeholders.

The firms Act of 2013 set up a solid framework for corporate governance by requiring the appointment of independent directors in certain types of firms and clearly defining their roles, responsibilities, and duties. The goals were to make the board more independent and make sure that management decisions were more watched after. Independent directors have a number of obligations, including protecting

minority shareholders, making sure that the company follows the law, and adding objectivity to board deliberations.

Even if these are the expectations, independent directors are not involved in the day-to-day running of the company. They mostly supervise, based on what senior management tells them and what they share. When corporate fraud happens, this structural limit raises an important question: how much may independent directors be held responsible for things they didn't do or had full control over?

One method that the legal system tries to fix this problem is through Section 149(12), which limits the responsibility of independent directors to actions they knew about, approved, or helped with, or when they didn't act carefully. But because these ideas can be understood in different ways, they are not always used in the same way in practice. Because of this, independent directors often have to deal with legal concerns and damage to their reputations, even when their role is small or indirect.

This puzzle brings up the fundamental topic of this study: Are independent directors really "liable without control" under the law as it stands now? Too much responsibility can make qualified experts not want to take on such roles. This raises worries not only about fairness but also about how it would affect company governance as a whole.

In light of this, the current article critically examines the liability of independent directors under the Companies Act of 2013 in instances of corporate fraud. To find a balance between accountability and protection, it wants to look at how well the current laws work, how courts have interpreted them, what problems they cause, and what changes should be made.

Research Problem

Because there is more corporate fraud in India, people are paying more attention to what independent directors do and what their job is. Even though they are responsible for making sure that the company is accountable and open, independent directors do not work there every day. This makes us wonder if it is fair to hold them responsible for what upper management did wrong.

Under the Companies Act, 2013, Section 149(12), liability is limited to activities taken with knowledge, consent, connivance, or carelessness. Independent directors have legal issues even if they aren't directly involved because these terms are unclear, which often leads to different interpretations.

So, the primary concerns of the study are whether keeping independent directors accountable leads to "liability without control" and if the current legal system does a good job of balancing accountability and fairness.

Research Objectives

1. To look at the legal framework for independent directors in the Companies Act of 2013.
2. To look into how much responsibility independent directors have in cases of corporate malfeasance.
3. To evaluate the interpretation of Section 149(12), particularly with the concepts of knowledge, authorization, connivance, and due diligence.

4. To find out if the current court system leads to "liability without control."
5. To look for problems and gaps in how independent directors are held accountable.
6. To suggest measures that would protect independent directors while still holding them accountable.

Research Questions

1.Under the Companies Act of 2013, how responsible are independent directors for corporate fraud cases?

2.Can independent directors still be held responsible for fraud even if they don't have full control over day-to-day operations?

3.Specifically, how have judges and regulatory authorities interpreted the words "knowledge,"

"consent," "connivance," and "due diligence" in Section 149(12)?

4.Does the way the law works now make it possible to be "liable without control"?

5.What real-world problems do independent directors have to deal with in order to find and halt corporate fraud?

6.What has to be changed to make sure that independent directors are protected and held accountable in a fair way?

Research Methodology

This study employs a doctrinal and analytical research technique. It primarily relies on the analysis of relevant laws and regulations governing independent directors, alongside statutory frameworks, particularly the Companies Act, 2013.

To understand how independent director accountability has been used in cases of corporate fraud, the research looks closely at court decisions and how rules have been interpreted. To critically evaluate prevailing perspectives, secondary sources such as books, journal articles, reports, and legal commentaries are employed.

A comparative method is also used to find flaws and suggest improvements to the Indian framework. This strategy looks at relevant practices from other nations for a short time.

To find out if the current system leads to "liability without control" and to suggest the right changes, the method is qualitative and focuses on critically analyzing and interpreting legal ideas.

Key Findings

The Companies Act of 2013 gives independent directors a legislative framework, but in practice, it often doesn't work the way it was meant to.

Section 149(12) tries to limit liability, however words like "due diligence," "knowledge," and "connivance" are not clear and are hard to understand.

Independent directors are often held responsible for the frauds of executive directors, even though they don't run the company on a daily basis. This is what we call "liability without control."

Independent directors have more legal risk and uncertainty because of different norms for judges and regulators.

Independent directors have to cope with real-world problems like limited access to information, relying on what management says, and not being able to investigate things. Liability worries hinder qualified professionals from taking independent directorships. The Act's current protections don't work since independent directors are still often sued and their reputations are hurt.

When comparing countries, it is clear that the US and UK have stronger protections and clearer standards than India does right now.

To keep independent directors from working too hard, there needs to be a better balance between accountability and protection.

To improve the current structure, we need to add safe harbor safeguards, make legal language clearer, and strengthen governance systems.

Literature Review

In the field of law, the role and duties of independent directors have become a hot topic, especially as corporate fraud and bad governance are becoming more common.[1352] The implementation of better corporate governance standards in the Companies Act of 2013 led to a big change in how India regulates businesses. This led to a lot of scholarly research into how effective the changes were and what they meant.

A lot of research says that independent directors are seen as fair watchdogs in the corporate structure. Scholars assert that they can offer unbiased oversight and protect the

1352 Umakanth Varottil, "Evolution and Effectiveness of Independent Directors in Indian Corporate Governance" (2013) 6 *NUJS Law Review* 281.

interests of minority shareholders due to their autonomy from management and promoters. This theoretical function has been examined, and several authors have noted a discrepancy between normative expectations and actual circumstances. Independent directors are intended to be honest and find problems, but their practical influence is often constrained by their dependence on senior management and the fact that they don't have access to all the information they need.[1353]

A lot of legal experts are interested in Section 149(12) of the Companies Act, 2013, which tries to limit the responsibility of independent directors. The clause says that someone is only guilty if they did something with their knowledge, approval, or collusion, or if they didn't conduct their due diligence. Scholars have consistently criticized the phrase for its vagueness and lack of clarity in interpretation, even if it seems to protect. Unclear meanings of words like "due diligence" and "knowledge" lead to inconsistent court decisions and put independent directors at risk of legal trouble even when they aren't directly involved in fraud.[1354]

Additionally, literature on corporate fraud cases in India shows that enforcement authorities and regulatory bodies have sometimes taken a broad view of director accountability, holding independent directors responsible along with executive directors. People have said that this trend makes it harder to tell the difference between the people who run the business and the people who just watch it run. Writers say that this kind of approach would undermine the whole aim of hiring independent directors and make it less likely that talented experts will want to take on these posts.[1355]

From a governance standpoint, numerous studies underscore the structural constraints encountered by independent directors. These include relying on board meetings, relying on what management says, not having the power to investigate, and not having enough time because of having more than one directorship. Scholars contend that anticipating independent directors to identify complex fraud under these circumstances may be impractical. This has led to the notion that culpability should be based on how much control and access to information a person has, rather than being the same for everyone.

Comparative literature offers significant insights into how various countries tackle analogous issues. Countries like the UK and the US have laws that make it easier for non-executive and independent directors to know what is expected of them and protect them from lawsuits. The business judgment rule in the United States, for example, protects directors who act in good faith and with reasonable care. Scholars propose that implementing analogous principles in India may facilitate a more effective equilibrium between accountability and protection.[1356]

Research on corporate governance and evaluations of policies also show that board evaluation mechanisms, audit committees, and disclosure rules should be made stronger to assist independent directors do their duties well. To enhance their supervisory authority, numerous authors advocate for enhanced training, clearer guidelines, and increased access to information.[1357]

When you look at everything, the literature always talks about the risk of "liability without control." People agree that responsibility is important, but they also agree that putting too much or unclear duty on independent directors might be harmful. This study builds on earlier research to see if the Companies Act of 2013's current legislative framework strikes a good balance between these opposing factors and if any modifications need to be made to ensure

[1353] Sanjai Bhagat and Bernard Black, "The Non-Correlation Between Board Independence and Long-Term Firm Performance" (2002) 27 *Journal of Corporation Law* 231.
[1354] Umakanth Varottil, "Independent Directors and Their Liability under the Companies Act, 2013: A Critical Analysis" (2014) 7 *NUJS Law Review* 389.
[1355] Pooja Ravinder Devidasani v. State of Maharashtra, (2014) 16 SCC 1.
[1356] Paul L. Davies and Sarah Worthington, *Gower & Davies' Principles of Modern Company Law* (10th edn., Sweet & Maxwell, 2016).
[1357] Securities and Exchange Board of India, *Report of the Committee on Corporate Governance (Uday Kotak Committee)* (2017).

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both fair treatment of independent directors and good corporate governance.[1358]

Concept of Independent Directors

Independent directors play a special and expanding role in the contemporary corporate governance framework. As non-executive board members, they are supposed to provide neutrality, impartial judgment, and an external perspective to business decision-making. Unlike executive directors, who are involved in day-to-day management of the company, independent directors are assigned a supervisory and consultative function, acting as a check on managerial power and promoter dominance. Their involvement is intended to improve the integrity of board procedures by ensuring that choices are taken in the best interests of the company as a whole rather than being influenced by concentrated ownership or internal managerial interests.

The overall objective of increasing accountability, transparency, and investor confidence justifies the presence of independent directors. In nations like India, where business ownership is often concentrated in the hands of promoters or family groups, minority shareholder harassment is particularly perilous. As a result, independent directors are viewed as guardians of equitable treatment, charged with safeguarding the interests of minority shareholders and ensuring that corporate activities adhere to just and legal standards. Their role becomes crucial in circumstances where conflicts of interest are most likely to arise, such as related party transactions, executive salaries, and financial disclosure.

The concept of independence is given a legal foundation by the eligibility requirements outlined in Section 149 of the Companies Act, 2013. Among the objective criteria used to prove independence—which is more than just a nominal designation—are the lack of financial ties to the company, its promoters, or its subsidiaries, as well as the absence of any major association that could impair judgment. Additionally, by mandating that independent directors serve on significant board committees like the audit committee and the nomination and compensation committee, the Act institutionalizes their participation in the governance structure.[1359]

The role of independent directors is theoretically closely linked to agency theory, which highlights the inherent conflict of interest between shareholders (principals) and management (agents). Independent directors act as monitoring tools designed to reduce agency expenses by keeping an eye on managerial behavior and ensuring compliance with shareholder interests.[1360] However, the theoretical promise of independent monitoring is often tempered by practical limitations. Just as crucial to independent directors' effectiveness as their statutory independence is their capacity to exert autonomy in real-world situations, which can be influenced by unofficial relationships, board dynamics, and the dominance of controlling shareholders.

Furthermore, the independence of such directors is frequently questioned in practice due to institutional and behavioral constraints. Independent directors often rely heavily on information from top management despite legal protections, which limits their ability to independently verify corporate performance. Subtle pressures from social and professional networks can sometimes undermine objectivity, especially in closely held or promoter-driven businesses. In some circumstances, the selection and removal process itself may jeopardize independence since directors may be reluctant to challenge management for fear of losing their positions.[1361]

[1358] Umakanth Varottil, "The Independent Director in India: A Critical Evaluation" (2012) 5 *NUJS Law Review* 285.

[1359] Ministry of Corporate Affairs, *The Companies Act, 2013* (Act No. 18 of 2013), § 149.

[1360] Michael C. Jensen and William H. Meckling, "Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure" (1976) 3 *Journal of Financial Economics* 305.

[1361] Umakanth Varottil, "Independent Directors in India: Towards a Better Corporate Governance Framework" (2010) 3 *Indian Journal of Corporate Law* 1.

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Another key component of the idea is the expectation that independent directors participate in both strategic guidance and oversight. Although their primary duty is monitoring, they are expected to provide experience, industry knowledge, and important ideas that raise the standard of board debates. Because too much involvement in management decisions might make it impossible to distinguish between participation and independence, this dual role—which combines advising and supervision responsibilities—needs to be carefully balanced.

In essence, the concept of independent directors is an attempt to include checks and balances into the framework of corporate governance. However, the gap between the normative expectations associated with their position and the practical reality of corporate operations is a topic of ongoing dispute. The effectiveness of this organization will ultimately depend on how well independence is both legally required and practically implemented, supported by robust institutional procedures, legal frameworks, and a culture of ethical business practices.

Corporate Fraud and Legal Framework

Corporate fraud is one of the major threats to the stability and integrity of today's financial systems. It covers a lot of dishonest and unlawful things that people or groups do inside a business, include financial fraud, insider trading, money laundering, accounting fraud, and hiding important information. These acts not only mislead a company's real financial status, but they also hurt investor trust, make the market less efficient, and, in the end, hurt the reputation of corporate institutions. In growing countries like India, where financial markets are moving swiftly, corporate fraud has very serious effects. These effects hurt not only shareholders but also creditors, employees, and the economy as a whole.

The Companies Act of 2013 brought about a major change in the regulatory environment by adding additional rules and making them stricter. It is now the main law that governs corporate fraud in India. One of the most important parts of the Act is Section 447, which gives a clear definition of "fraud." This word is broad and includes acts, omissions, hiding facts, and abusing a position with the intent to deceive or obtain an unfair advantage. Because the clause is so broad on design, courts and regulators can deal with a wide range of corporate misbehavior. The heavy punishments in this section, which include large fines and prison time, show that the legislature wants to stop dishonest behavior by strictly enforcing the law.[1362]

In addition to legal measures, the development and empowering of specialized regulatory and investigative bodies has substantially strengthened the enforcement system. The Serious Fraud Investigation Office (SFIO) is very important for looking into big corporate fraud cases that include many people and complicated financial transactions. The enforcement regime works better since it can do coordinated investigations and send prosecution reports. The Securities and Exchange Board of India (SEBI) also keeps an eye on listed companies, especially when it comes to insider trading, market manipulation, and disclosure requirements. SEBI's rules, which include the Listing Obligations and Disclosure Requirements (LODR), make corporations keep disclosing information on a regular basis. This makes things more open.[1363]

The Companies Act of 2013 also puts a lot of focus on preventive governance techniques that decrease the risk of fraud. These include stricter rules for financial reporting and internal controls, the setting up of surveillance systems (whistleblower policy), and the required formation of audit committees with a majority of independent directors. Specifically, audit committees are in charge of making sure that financial reporting is done correctly, checking

[1362] Ministry of Corporate Affairs, *The Companies Act, 2013* (Act No. 18 of 2013), s 447.
[1363] Securities and Exchange Board of India, *SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.*

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internal audit systems, and making sure that all legal and regulatory requirements are met. The vigil mechanism helps firms create a culture of accountability by giving employees and other stakeholders a place to speak up against unethical activity.

But even with a robust legal and administrative framework, there are still a number of problems that make it hard to find and punish corporate fraud. One of the biggest problems is that modern company structures are very complicated and often hard to understand. Fraudulent activity can be camouflaged through several layers of subsidiaries, foreign transactions, and innovative accounting systems. This level of complexity makes the legislation less effective as a deterrent since it makes it harder to enforce and investigate.[1364]

Regulatory overlaps and issues with cooperation between multiple bodies can also cause procedural inefficiencies. It can be hard to settle lawsuits quickly because financial fraud is complicated and investigations and decisions take a long time. Independent directors are supposed to provide an internal check on dishonest behavior,therefor their role is even more important in this case. Still, it's not clear if they can effectively find and halt fraud because they don't have enough information, don't have the power to investigate, and depend on what management tells them.[1365]

The Companies Act, 2013 and other rules have made India's legal response to corporate fraud much better. However, the efficacy of these measures depends mostly on how successfully they are put into action and how proactive the people in charge are. The framework's effectiveness in combating corporate fraud in a comprehensive and enduring manner is ultimately contingent upon the interplay of legislative mandates, regulatory enforcement, and internal governance mechanisms.

Liability of Independent Directors

The Companies Act of 2013, Section 149(12), mostly deals with the liability of independent directors and tries to find a good balance between protection and accountability. The clause limits accountability to activities that the director knows about, is responsible for through board processes, has approved or colluded with, or has not used due diligence. This wording is a deliberate attempt by lawmakers to set independent directors apart from executive directors because they don't run the company on a daily basis. It also makes independent directors responsible for being alert, which means they have to be involved in board meetings and run company activities with care. Because of this, the level of guilt under this clause is not fixed but rather conditional. Liability exists when there is a direct connection between the director and the alleged wrongdoing, not merely due to their position. The focus on "knowledge" and "due diligence" creates a fault-based standard. This is supposed to make sure that independent directors are only held liable when they don't do their job of overseeing things in a fair and careful way. In theory, this technique fits with international corporate governance rules that try to protect non-executive directors from too much legal risk while yet holding them to a certain level of care.[1366]

Putting Section 149(12) into action, on the other hand, is quite hard. The absence of clear legislative definitions for significant terms such as "knowledge," "consent," and "due diligence" leads to interpretational ambiguity. Because of this ambiguity, courts and law enforcement may come to different conclusions, which often leads to divergent results. In some cases, the scope of accountability has been broadened beyond what the lawmakers may have meant due to the inference of constructive knowledge derived from a director's position on the board. So, even if independent directors aren't directly

[1364] Serious Fraud Investigation Office, *Annual Report on Corporate Frauds in India* (Ministry of Corporate Affairs, latest available edn.).
[1365] Pooja Ravinder Devidasani v. State of Maharashtra, (2014) 16 SCC 1.

[1366] Paul L. Davies and Sarah Worthington, *Gower & Davies' Principles of Modern Company Law* (10th edn., Sweet & Maxwell, 2016).

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involved in the alleged bad behavior or are only tangentially involved, they could still be sued. This lack of clarity is what people usually call the "liability without control" problem. Management generally functions as a go-between for independent directors who need to see information, even though they are supposed to keep an eye on complicated corporate operations and notice problems. Their ability to independently verify facts is limited by their dependence on reports, disclosures, and guarantees from executive directors and senior officials. So, it is unfair and not equitable to hold them responsible for failures in areas that are not under their direct control.

Another big difficulty is that law enforcement authorities tend to be too general when attributing culpability. In reality, complaints and investigations often encompass all board members without adequately distinguishing between executive and non-executive roles. Because of this, a sort of communal accountability goes against the law's goal of differentiation. This method not only weakens the conceptual barrier between management and monitoring, but it also increases the risk of lawsuits for independent directors. This liability framework has impacts on corporate governance that are more general than just a few cases. Competent specialists may be deterred from assuming positions as independent directors due to the potential for legal liability, reputational damage, and protracted litigation. Adding independent directors as a way to protect governance is not working, and board oversight is not as good as it could be.

In conclusion, Section 149(12) is a step in the right direction toward finding a balance between protection and accountability. However, its success depends on how well it is followed and how clearly it is understood. A more complicated plan that balances liability with real control, access to information, and level of involvement is needed to make sure that independent directors can do their jobs well without being at too much legal risk.

Judicial Interpretation

Court decisions have had a big impact on the limits of responsibility for independent directors. The necessity of demonstrating a clear link between the director's position inside the company and the alleged misbehavior has occasionally been emphasized by Indian courts. For instance, in Pooja Ravinder Devidasani v. State of Maharashtra, the Supreme Court made it clear that just because someone is a director doesn't mean they are guilty unless there are specific charges that show they were involved.

However, there have been instances where courts and investigative entities have adopted a broader stance, allowing legal lawsuits against independent directors to advance based on extensive allegations. This inconsistent attitude by the courts makes people even more worried about how much protection the law gives them, which makes things even more confusing.

There is a conflict between the need for accountability and the idea that independent directors don't run the day-to-day operations of the company. This is becoming clearer in the growing collection of case law. The absence of a consistent interpretation standard complicates the legal issue.[1367]

Challenges Faced by Independent Directors

A number of operational and structural obstacles prevent independent directors from carrying out their responsibilities effectively. Their reliance on management-provided information is one of the main limitations. Since they are not involved in the daily functioning of the company, their understanding of corporate affairs is largely mediated through board meetings and reports prepared by executives.

The absence of investigation authority is another major obstacle. Independent directors lack the direct means to independently audit company transactions or confirm the accuracy of information. This restriction becomes more

[1367] Serious Fraud Investigation Office v. Nittin Johari, (2019) 9 SCC 165.

troublesome when complex fraud operations are involved.

Another factor is time constraints, as many independent directors serve on several boards, making it difficult for them to give each company enough attention. Furthermore, proactive engagement may be discouraged by the fear of legal liability and reputational harm, resulting in a more circumspect and ineffective supervision role.[1368]

Critical Analysis

The current laws for independent directors try to find a middle ground between two purposes that are at odds with each other: encouraging qualified professionals to get involved and making sure they are held accountable. But this balance doesn't seem to be right. The goal of laws like Section 149(12) is to minimize liability, but their vague language and unequal enforcement make them less protective.

The concept of "liability without control" is essential in this context. Independent directors are intended to keep an eye on things, but they can't always spot and stop wrongdoing because of structural problems. When obligation is placed on someone without giving them the same amount of power or access to knowledge, fairness and pragmatism are put into question.

According to comparative viewpoints, one way that places like the United States deal with this problem is through the Business Judgment Rule, which protects directors who act in good faith and with reasonable care. The effectiveness of the governance system may be undermined by the absence of an equivalent, clearly delineated standard under Indian law.[1369]

Suggestions & Recommendations

To address the problems identified, several changes could be considered. First, by providing explicit definitions of "due diligence" and "knowledge," the scope of liability under Section 149(12) must be made evident. This would reduce confusion and ensure more consistent implementation.

Second, independent directors should have access to greater information, including the opportunity to employ independent specialists at the company's expense. Strengthening the role of audit committees and ensuring their functional independence is another way to improve oversight procedures.

Third, the introduction of a statutory safe harbor provision similar to the business judgment rule would provide much-needed protection for directors operating in good faith. Frequent training sessions and capacity-building initiatives can help provide independent directors with the skills they need to handle difficult business situations. Finally, enforcement agencies should employ a more sophisticated strategy that distinguishes between levels of engagement and responsibility in order to avoid the indiscriminate imposition of accountability.

Conclusion

The institution of independent directors is an important part of modern corporate governance. It aims to improve accountability, transparency, and investor trust. In nations such as India, where ownership is often concentrated and the potential for conflicts of interest is considerable, their role as impartial overseers is particularly vital. Independent directors are expected to keep things fair in company decision-making by making sure that promoters and managers don't have too much power. However, their effectiveness relies not solely on legislative acknowledgment but also on the alignment of the legal framework with their actual authority, access to information, and operational capacity within the board structure.

The Companies Act of 2013 has made corporate governance much better by putting in place protections like Section 149(12) and making the

1368 Sanjai Bhagat and Bernard Black, "The Non-Correlation Between Board Independence and Long-Term Firm Performance" (2002) 27 *Journal of Corporation Law* 231.
1369 Aronson v. Lewis, 473 A.2d 805 (Del. 1984).

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role of independent directors official. This provision tries to find a middle ground between protection and responsibility, but putting it into practice is still hard. Ambiguity surrounding significant terms like as "knowledge" and "due diligence," along with inconsistent judicial and regulatory interpretations, engenders uncertainty. Because of this, independent directors may be legally responsible even when they don't do much, which goes against the law's goal of protecting people and creates a culture of fear.

One big problem that comes up is "liability without control." Independent directors must find and stop corporate wrongdoing, but they can't do it because they have to rely on information from management, they don't have the power to investigate on their own, and they have to do a lot of other things at the same time. In these cases, holding people responsible could lead to an unfair system that doesn't separate management and monitoring roles. This could not only make people question fairness, but it could also deter capable people from becoming independent directors, which would decrease the standard of corporate governance.

Because of this, a more practical and balanced approach is very important. This means that we need clearer legal definitions, consistent ways of enforcing the law, and strong support structures within institutions, such as better access to information and training. To keep the role's integrity, you need a complicated system that balances responsibility with real power and involvement. In the end, good corporate governance depends on more than just holding people accountable. It also depends on making sure that independent directors can do their jobs with confidence, responsibility, and without too much legal danger.