

A COMPARATIVE CROSS-JURISDICTIONAL STUDY OF LAWS ON CORPORATE CRIMINAL LIABILITY

Mohd Abdul Sabur Khan¹

ABSTRACT

A corporation is a legal entity that exists separately from its founders and shareholders and is operated by an elected board of directors. A corporate organization that runs a business can bring legal action, be sued, and borrow money. When a company gets incorporated it limits the owner's personal liability and turns into its own unique tax entity. With regards to the Companies Act, 2013 the term "body corporate" encompasses companies registered outside the Indian territory but precludes registered cooperative societies as defined by any other law or a body corporate that was designated by a central government notification.

Corporate crime refers to the criminal act of corporate directors or managers for the benefit of the corporation. The fundamental principle of criminal liability is based on the Latin proverb

"actus non-facit reum, inconclusive mens sit re," which states that to hold someone accountable, it must be proven that their action was unlawful and motivated by guilt. Corporate crimes are different from traditional crimes, they include bribery, corporate fraud, embezzlement, counterfeiting, forgery, and tax evasion. In the 21st century, corporations have become an integral part of our society and they hold the position that in case of any wrong, they can impact the economy. With new technological developments, there is a huge risk of society being exploited by corporates for monetary gains. It can be said that apart from being an asset, corporations can also be hazardous to society. Thus. It's pertinent to deter corporate crimes and hold the miscreants liable for the betterment of society. The history, nature, and various forms of corporate crime are all covered in the current study. The researcher would also intend to elaborate on the

1. 5th year, Student of B.A L.L.B. (Hons) , The ICAI Foundation for Higher Education, Hyderabad, Telangana, India.

theory, prototypes, and governing legal framework surrounding corporate criminal liability in India and other nations.

Key words: Accountability; Imprisonment and Penalties; Vicarious liability; Regulatory compliance; Global harmonization.

INTRODUCTION

A corporation is a group of people coming together to carry a business. Corporations are led by natural persons and actions of these natural persons could lead to criminal activity and could also result in economic as well as human loss. Corporate crime is a white-collar crime of a socio-economic nature committed by the body corporates which can have a grave impact on societies at large. The world is globalized, as all countries have become interdependent in the global supply chain from food, and crude oil to technology, which are mostly managed and controlled by large body corporates. Corporations are run by the professionals appointed by the shareholders, thereby, detecting their criminal acts possesses a challenge to the criminal justice system. Corporate criminal liability is also determined by the same criteria as a conventional crime, as whether there was an unlawful act or omission and whether there was a mens rea, are the criteria that determine whether an act is criminally culpable. Conventionally, Corporations were out of the scope of criminal liability because they were an artificial person and does not possess a guilty mind but with corporate crimes surfacing on a day-to-day basis, it became evident that corporations can commit a criminal act. The reason why corporate crimes are taken in a less formal way is the lack of awareness among the public on the nature and impact of corporate crimes as compared to conventional crimes like murder and kidnapping. In the 21st century, corporate crimes are as perilous as traditional crimes because of the harm they generate in society. From environmental

degradation, tax evasion, money laundering, insider trading, and shares manipulations, all these crimes are not alarming for common people as conventional crimes which make the headlines and are topics of discussion. Sutherland in White collar crimes² employed the definition of corporate crime which implies as

“The core characteristic of crime is a state-prohibited action that is against the security, sovereignty, and integrity of the state and to which the state is entitled to act and may curb it with retribution and penal action. An act by the Individual which is detrimental to society as per the laws and the state’s legal retribution with penal action is essential mechanisms to define a crime legally”.

The above definition of crime contradicts in essence the conventional definition of crime under the law of crimes. In the eyes of the law, corporate offenses that are subject to criminal law enforcement can only be considered “criminal”. Prosecution of corporations would act as a curbing force to corporate crimes as compared to the fines, as prosecution brings a negative view in society about how corporate works as compared to the compensations and fines. The above definition encompasses insignificant corporate misdoings, but even much less serious offenses are under the umbrella of criminal law and are fined and punished. Corporate crime is one of the forms of white-collar crime. It encompasses both organizational and occupational crimes³. Criminal acts committed by someone in an esteemed position while engaged in their line of work are referred to as occupational crime. Corporate offenses are those committed for the financial benefit of the incorporated body. When a person commits a crime for personal benefit then occupational liability will be imposed but when a crime is committed by the person in charge of the corporate body then it is not only his liability but the liability of the corporate body also.

2. EDWIN H. SUTHERLAND, WHITE COLLAR CRIMES 31 (Yale University Press 1983).

3. MARSHALL B CLINARD, PETER C YEAGER, CORPORATE CRIMES 16 (Free Press, New York 2006).

The major question is on the imposition of liability for corporate crimes. The person taking the decisions should be held liable or the corporations. Both the company and the individual who is who oversees making choices and running the company are held accountable under the Indian criminal justice system. Both natural and legal persons are subject to criminal culpability under Section 11 of the IPC. It also includes corporations that are permitted by law and those that are not. The criminal liability of businesses was overlooked in developed nations because they view corporations as artificial people, but now the seriousness to hold corporate criminally liable is evident even in developed nations. As a developing country, India has seen multiple corporate crimes like the Harshad Mehta scam, Satyam scandal, CWG Scandal, 2G scam, etc., and with new technological development and a rising number of startups in each Industry, India is particularly prone to corporate crimes and has a great challenge in prosecuting corporate offenders in the criminal justice system.

Overall, the study focuses on corporate criminal liability and the laws related to it. The aim of the study is to contribute to the existing body of knowledge and facilitate informed discussions on legal reforms, best practices, and the promotion of corporate accountability in a global context. The subject of the study includes the history, nature, and doctrines of corporate criminal liability and the laws related to it in different jurisdictions by indulging into a comprehensive and comparative understanding of the legal landscape surrounding corporate criminal liability in Jurisdictions like India, the USA, and the UK. The study ends with recommendations on the measures needed to be taken to tackle corporate crimes.

HISTORY OF CORPORATE CRIMINAL LIABILITY

Over the years, there has been a significant evolution in the laws and regulations both nationally and internationally regarding corporate criminal liability. Corporates were previously identified as artificial and non-legal persons under the law due to which there was an absence of men's rea. Corporations could not be imprisoned or given in custody under criminal law, nor they could be produced in court as in the case of natural persons. Corporates in English law prior to the Renaissance were associations with the responsibility of administering church properties, and they were considered fictional and distinct from their members and couldn't commit any wrong or sins⁴. The 16th & 17th centuries include hospitals and universities as body corporates⁵. When Industrialization began the courts face difficulties in making corporates criminally liable, and with increasing cases of corporations, the English courts only allowed public corporations like municipalities to be held criminally liable and not private corporations. However, this was altered when English courts decided that commercial corporations could be adjudged responsible for criminal activities. Corporations may be subject to criminal prosecution for obstructing the railway and creating a nuisance as held by rulings of Lord Denman⁶. In the USA the situation was different as the criminal liability of corporates does not extend to one of the essential factors of crime which is mens rea. However, the position changed after the ruling⁷, which endorsed that since corporations are held liable for civil wrongs, they can be held liable for criminal wrongs also. After this decision, the principle of respondent superior was followed which held the corporations liable for the actions of their agents. In India laws like, the Environment Protection Act of 1986, and

4. WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND BOOK THE FIRST (Clarendon Press, Ireland 1765).

5. W.S. HOLDWORTH, ENGLISH CORPORATIONS IN 16TH AND 17TH CENTURY (Yale Law Journal 1992).

6. R. v. Great North of Eng. Rly. Co. (1846) 9QB.

7. New York Central and Hudson River Railroad Co. v. United States, US 481 (1909).

the Essential Commodities Act of 1955, make workers as well as companies accountable for their offenses and impose punitive prison sentences. Section 11 of IPC, 1860 includes any person, body, or association whether incorporated or not to be held criminally liable. Section 53(21) of the Companies Act provides punishment in case of contravention of the provisions, it also includes the officer's punishment, which may consist of a fine, an imprisonment, or both. A firm cannot be tried for conduct requiring mens rea or those involving mandatory imprisonment since it is a legal person, the High Court of Calcutta repeatedly ruled in A.K. Khosla and Others.

A company was discharged from liability in a case of defamations because of the absence of mens rea⁸. In Standard Charter Bank Case⁹ The Court decided that courts have the authority to impose fines for crimes carrying mandatory prison sentences and fines because corporations are not allowed to sentence people to prison. However, it was decided in the case of MCD v. J.B. Bolting Co. Ltd¹⁰. that a company could get a fine instead of the statutory fine and jail.

NATURE AND TYPES OF CORPORATE CRIMES

Corporate crime refers to deliberate criminal activity by legitimate corporations for monetary gains through direct or indirect violation of law by the persons responsible in the corporations. Corporate crimes are understood in relation to active crimes as well as being of the general nature of white-collar crimes. Corporate crimes are a one-time crime because criminal conduct is not their occupation but rather carrying out businesses as their primary aim, and when they engaged in certain types of criminal activity it's classified as corporate crime. To Understand corporate crimes,

it's critical to differentiate between different crimes like white collar crimes, fraud, etc. The criminal nature of these types of crime is similar and shares a common trait but their distinctions lie in the criminal liability. Conservative/ Traditional corporate crime is a type of crime that includes battery, assault, robbery, etc., and is committed by individuals and there is no such branch committed by corporates. Occupational crime is committed by a group of high-class people who are usually involved in white-collar jobs. The crime is committed when they occupy a position of responsibility while doing their jobs. It includes the Individual employees who are against the corporation itself¹¹. Organizational crimes refer to those types of crimes that are committed by persons who are in a great position of power and responsibility.

Types of corporate crimes include fraudulent marketing, bribery, corporate manslaughter, Tax evasions, money laundering, manipulations in stocks and shares, environmental pollution, trade secret theft, embezzlement, racketeering, antitrust violations, counterfeiting, bank fraud, and blackmail.

DOCTRINES IN CORPORATE CRIMINAL LIABILITY

There are 3 models which govern corporate criminal liability in India.

- 1. Derivative Model:** The actions are derived from the actions of an individual employed by the company. Because the offender is connected to the organization, the organization is held accountable. or the Individual who works for the organization. This model includes the following.
 - a. Vicarious Liability:** According to this theory, the master is held indirectly

8. Zee Telefilms Ltd V. M/S Sahara India Commercial (2001) 1 CALLT 262 HC.

9. Standard Chartered Bank v. ED, 2005 SC 2622.

10. Municipal corporation of Delhi v. J.B Bolting Co Pvt, Ltd, ILR 1978 Delhi 428, 1978 RLR 94.

11. PROFESSOR SARA SUN BAELE, THE DEVELOPMENT AND EVOLUTION OF US LAW OF CORPORATES CRIMINAL LIABILITY, SSRN (2013).

accountable for the conduct of the servants. Similarly, wrongful actions of individual employees are responsible for wrongful acts. It's based on the Latin maxim that "he who acts through another shall be deemed to have acted on his own". This doctrine was only applied in civil cases but now it applies to criminal liability also. In *Ranger's case*¹², It was decided that the company is vicariously liable for a worker's acts committed in the course of employment.

- b. Identification doctrine:** Under this doctrine, the acts of managers and directors are identified as the acts of the enterprise, and they are accountable for the acts of the company. This doctrine also implies that the act done should be within the limit and scope of employment.
- c. The doctrine of collective blindness:** In this doctrine, corporations were held liable even for a single employee is not at fault, the liability would apply to each employee of the company. The court takes into account what is "Collective knowledge of the entire firm". Under this doctrine, it's not necessary that a single individual must be at fault.
- d. Doctrine of willful blindness:** This doctrine applies to those cases when the employee of the company saw unlawful activity and does not take action to prevent criminal conduct. Then in this case the doctrine of willful blindness will apply. If it's found that corporations were in possession of knowledge of illegal activities and turned a blind eye, even then they are held liable for it.
- e. The Doctrine of Attribution:** This doctrine applies to those cases which involve imprisonment or sentencing for criminal

acts then the guilty mind is attributed to the corporations and those people under the corporation o whose direction the criminal act was committed. The controlling mind and will of the companies are held accountable guilty mind.

- f. Doctrine of Alter Ego:** This doctrine applies to the hidden motives of the corporations from other people. The directors and managers who is in charge of taking decisions are held liable under this doctrine. The owners and directors of the company are seen as alter egos of the company.
- 2. Organizational Model:** This model talks about the environment in an organization that encourages the commission of crime. The corporate culture which leads to crime comes under this model. A corporation as an artificial person is not capable of committing a crime but the culture of the organization can be conducive to committing a criminal act. Corporations in this case would be considered as having the required mens rea for committing a crime.
 - 3. Identification doctrine:** This doctrine also implies that the act done should be within the limit and scope of employment. According to this doctrine, managers and directors have accountability for the company's actions, which are defined as their actions as well.

CORPORATE CRIMINAL LIABILITY IN INDIA

If a crime was committed by the employee in question in the course of his own professional life, it would be considered a crime executed by him in his capacity as a representative of the corporate body, and the brunt of the criminal responsibility would be placed on the perpetrator of the crime, the person in charge of managing the corporate body's

12. *Ranger v. Great Western Railway Co*, S.C 28 L. J. CH. 741; 5 Jur. (N.S), 1191; 7 W.R 426.

operations, and everyone else associated with the corporate body. Imputed culpability is imposed on the person in charge of a corporate entity when a criminal act is done whilst performing the role of an employee of the corporation. It functions as both a vicarious liability rule and a variant of a constructive liability rule. The fundamental tenet of criminal culpability is well defined as follows: A person who executes a crime is exclusively liable for the offense and holds himself or herself responsible for the consequences of it. Nevertheless, the imputed liability rule is an exception because if a staff member commits an offense that is associated with the business of a corporate body, the corporate body likewise is deemed to have perpetrated the crime. In the case of *Standard Bank*¹³, The Supreme Court ruled that a company can be charged with and found guilty of an offense even if it carries a mandatory smallest jail sentence. A corporate body cannot escape responsibility on the pretext that the offense's punishment is a prison sentence, and it lacks organization or a body. If both a penalty and prison sentence is required consequently for any offense, only a monetary penalty will be imposed on the corporate body. Punishments outlined in criminal laws may be imposed on natural persons who committed corporate crimes. In the *Iridium Telecom* case¹⁴, where the intent is a significant factor, the Supreme Court's ruling stated that corporate criminality can be established, emphasizing that the corporation can be held accountable. The company would be held accountable for the bad intentions of its alter ego, which refers to the people or group in charge of overseeing the company's operations, as the court determined that the rule of attribution and imputation would be relevant. In the *Sunil Mittal* case¹⁵, the Supreme Court decided that unless vicarious liability has been specifically and expressly imposed for the crime committed by a specific and express provision of law, In India, it is not relevant

to the enforcement of criminal liability. A link between the person who is accused of executing the harmful and negligent act and the corporate entity in question must be established to apply the strict liability, absolute liability, and imputed liability rules. The "controlling and willful mind" test is frequently used in this context, though it may not always be appropriate. That's why additional tests like the benefits test and due diligence test are used to ensure a thorough assessment.

A key piece of legislation to address the issue of the commercialization of organ transplants is the Transplant of Human Organ Act of 1994 (THO Act). Section 19 of the THO Act states that anyone who places ads for the supply of human organs is responsible and subject to criminal prosecution. The hospital is a corporate body, as stated explicitly in Section 21, and criminal liability of body corporates is placed on the Hospitals Along with those in charge of operating a business entity that engages in the unlawful extraction and transplant of organs. Presumption clauses are therefore relevant for the enactment of penalties on hospitals and the officers of such facilities according to the considering rules and laws. If hospital employees can demonstrate that they had no knowledge of the offense or that they took reasonable precautions to prevent it from occurring, they may not be held accountable.

Prevention of Corruption Act under section 8 (1) provides for such commercial organizations to be put a fine or monetary penalty. When a person connected to such a corporate entity benefits a public servant improperly, the commercial organization faces corporate criminal culpability. According to Section 62 of the Act, if a company commits any act involving Benami property, the firm faces corporate criminal culpability. Additionally, every individual in charge of and in control of the company's activity is also subject to imputed liability. According to Section 62 (3)

13. *Standard Chartered Bank v. Directorate of Enforcement*, (2005) SC 2622.

14. *Iridium India Telecom Ltd v. Motorola Incorporated & Ors*, (2010).

15. *Sunil Bharti Mittal v. Cbi*, (2015).

of the Act, the director, manager, or secretary will also be considered culpable if there is evidence of their consent, complicity, or negligence. In Section 56 (1) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act of 2015, under which, in the event that a company commits an offense, the company and those in charge of the company's operations at the time of the offense are subject to criminal prosecution.

Giving advertisements for prenatal sex determination is defined as an infraction in Section 22 of the (PCPNDT Act)¹⁶, and it makes advertising companies, hospitals, and medical professionals liable if an offense is committed. Any clinic that engages in or permits its use for sex determination is subject to a penalty. Manufacturers and dealers are forbidden under Sections 24 and 3-A of the Act from selling any ultrasound scanners or other equipment that could be used for sex detection until there has been a violation of an offense at a premise of the hospital or any other establishment that is identified and listed under the registry of the Act. According to Section 26 of the PCPNDT Act, the medical professional, other clinic personnel, the clinics, other corporate entities, and individuals in charge of the clinic's business are all subject to criminal prosecution.

It is the responsibility of the person who is found to have the property to demonstrate that it is not of that kind when it is determined that they obtained it illegally or from sources other than their known ones, as stated in Section 8 of the 1974 Conservation of Foreign Exchange and Prevention of Smuggling Activities Act.

Everyone who violates the IPC's rules is subject to criminal prosecution, according to Section 2 of the IPC. The individuals who can be recognized as persons by the Crime Commission, as defined in Section 2 of the IPC, and upon whom criminal liability can be imposed, are listed in Section 11 of the Indian Penal Code (IPC). In accordance with the

provisions outlined in Section 11 of the IPC, not only are natural people subject to criminal liability, but also lawful corporate entities and illegal enterprises.

Overall, corporate criminal liability in India is based on the imputing of responsibility for the actions and intentions of natural persons connected to a corporate body. It implies that a corporate body is criminally liable when a natural person acting in the capacity of the corporation's human agent commits a crime. The corporate body is held liable for the deeds and intentions of the people in charge of the business. When it comes to holding businesses accountable for the crimes committed by their employees or agents, the concept of imputed liability is crucial. Indian criminal law does not explicitly recognize the concept of vicarious liability, which holds corporations accountable for the deeds of their employees or agents unless expressly provided for legislation. This restricts the extent to which corporate bodies may be held accountable for the deeds of their employees, particularly when those employees defy their authority. This means that a person is not automatically vicariously liable for the crimes of others just because they are an employer or have control over a corporate body. Instead, the emphasis is on holding the corporate body criminally liable by attributing the intentions and deeds of the people managing the corporation's affairs.

When it comes to the legal framework on criminal liability of corporates, the Indian Penal Code (IPC) and other specific laws like the Prevention of Corruption Act, the Prohibition of Benami Property Transaction Act, and others make it possible to hold corporate entities criminally liable. However, the ability to be held criminally liable is primarily restricted to a small number of crimes, and corporate wrongdoing is not always covered by criminal law. As a result, there may be a gap in the ability to hold businesses accountable for damaging behaviors that aren't necessarily crimes.

16. Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, No. 57, Acts of parliament, 1994 (India).

For criminal offenses, corporate bodies frequently only face fines; unless specifically prohibited, no jail time is given. As a result, certain corporate crimes may not be sufficiently deterred from occurring in the future. To effectively deter future wrongdoing, it is important to make sure that the penalties for corporate criminal offenses are proportionate to the harm they cause.

It's pertinent to note that due to the complexity of corporate operations and decision-making processes, proving the mens rea or criminal intent of a corporate entity is frequently difficult. The prosecution has the burden of proving the involvement and intent of the corporate body, which can be challenging in the absence of strong evidence. This creates a significant barrier to holding businesses responsible for their deeds.

Lastly, the current legal system does not offer a comprehensive focus on corporate criminal liability and instead primarily focuses on specific offenses. A broad and unified legal framework is required to address a variety of corporate offenses, such as fraud, corruption, environmental violations, and other economic crimes. A strategy this all-encompassing would improve the clarity, consistency, and efficiency with which corporate wrongdoing is addressed.

CORPORATE CRIMINAL LIABILITY IN THE USA

According to US federal law, businesses, and most other types of legal entities may be held feloniously accountable for the wrongdoings of their workers and representatives in the course of employment¹⁷. It applies to common law offenses such as maintaining a brothel in violation of the Mann Act, economic offenses such as crimes against the securities laws as well as regulatory offenses such as crimes against the Federal Food, Drug, and

Cosmetic Act. Usually, the agents and workers who commit crimes for which their employers and principals have responsibility are also investigated and punished.

Any person who breaches a federal criminal statute is subject to its prohibitions, regardless of who committed the offense. Although "person" typically refers to a human being in everyday speech, the law frequently expands its definition. The Dictionary Act provides that¹⁸, "In construing any Act of Congress, the words 'person' or 'whoever' include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as people unless the context plainly indicates otherwise. " The words "person" or "whoever" have been given meaning in the context of criminal laws by the courts using the Dictionary Act definition.

In accordance with federal law, a corporation's criminal responsibility is often limited to actions that were, committed by its officers, employees, or agent, while acting in the course of their employment, and were at least partly working for the corporation's profit. If an individual performs tasks "on the corporation's behalf in the course of his regular employment, those acts must be motivated, and that action will probably fall inside that person's purview of authority if it is motivated, at least in part, by a purpose to benefit the corporation. If the requirement is met, the corporation will be held accountable even if it specifically instructed that a representative, employee, or officer not commit the alleged crime. Pursuant to the Model Penal Code and many states penal codes, corporate criminal responsibility may depend on senior management officials' wrongdoing, and lower-level employees' wrongdoing is not necessarily sufficient, even when they act within the bounds of their power for the corporation's advantage. The 'knowledge and

17. Andrew Tuson, ET. AL, Corporate criminal Liability- Perspective from the US, UK and France, Bryan Cave Leighton Paisner, 1, 1, (2018).

18. Charles Doyle, Corporate criminal Liability, An overview of Federal law, Congressional Research Service, CRS R43293 1, 1 (2013).

intent' of a corporation's workers is generally what determines whether it will be held accountable for particularly intended offenses. Furthermore, the rule only applies in situations where an employee or agent acts or learned something while performing duties as part of their jobs with the intention of, at the very least, helping the company. The law is a little less clear on whether a corporation's culpability depends on the collective actions or knowledge of multiple employees rather than the knowledge or intent of a single employee.

Criminal liability in the US applies to workers and agents of corporations and employers also have the responsibility and are investigated and punished. As per US laws, the persons include individuals and organizations, but to hold corporates responsible the actions of the individual must be motivated and must fall within his authority. Thus, it can be analyzed that knowledge and intent play a crucial role in corporate criminal liability in the USA.

CORPORATE CRIMINAL LIABILITY IN THE UK

In Wales as well as England, A company could be held accountable for engaging in an offense perpetrated by people working for it in one of the following manners¹⁹. If the Criminal Finances Act of 2017 or the Bribery Act of 2010 have both established specific criminal offenses for corporations or parliament has created the specific law. The 2nd way is through the identification doctrine, which is applied when someone is well-thought-out to be the directing mind and will of an organization, engages in the offense, and the 3rd way is, the principle of vicarious liability, which is frequently used for regulatory offenses that don't need proof of fault.

The "identification doctrine," a well-known legal doctrine, governs how businesses are held accountable for criminal misconduct in English law. In situations where the mental state is a significant component of an offense, the corporate entity may be held accountable for the mental state of a powerful individual who represents the company's choices and goals or directing mind and will. This person who is an authority and influences the decisions could be a single person, a group of people, or even the board of directors²⁰. This has resulted in prosecuting a corporation for a crime difficult, especially for larger corporations, as there are evidential challenges in attributing the mental element of the crime to the "directing mind and will" of an organization. In Barclays²¹, the inadequacies of the identification doctrines were demonstrated. The court held that to prove culpability, it was necessary to demonstrate that certain defendants either had the "directing mind and will" for the defendant organization as a whole or for the relevant function²². Specific "failure to prevent" charges for corporations and failure to prevent bribery and tax evasion, respectively, were added by the Bribery Act of 2010 and the Criminal Finances Act of 2017. Because they are strict liability breaches, the corporate defendant's only line of defense is to demonstrate that it had adequate procedures and guidelines in place to thwart the pertinent offense.

CONCLUSION

Corporations have become an integral part of our society and due to new technological development corporates holds a strong influence on our daily lives. Corporate crimes have a great impact on Individuals, society, and the environment than conventional crime. The criminal liability of corporates has grown slowly in common law jurisdictions as compared to civil law countries.

19. Shalchi A, Corporate criminal liability in England & Wales, HOUSE OF COMMONS LIBRARY, CBP 9027. 4, 4 (2022).

20. Tesco v Natrass, (1971) UKHL 1.

21. SFO Vs Barclays, (2018) EWHC 3055 QB.

22. Sam Eastwood, ET. AL, Corporate criminal liability – UK Law Commission proposal for reform, MAYER BROWN (JUNE 20, 2022).

Corporate bodies in India are subject to criminal prosecution for several offenses under the Indian Penal Code (IPC) and other specific laws like the Prevention of Corruption Act and the Prohibition of Benami Property Transaction Act. To hold corporations accountable, there may be a gap since not all corporate wrongdoing is covered by criminal law, and due to the complexity of corporate operations and decision-making processes, proving the mens rea or criminal intent of a corporate entity can be difficult. Unless specifically stated in specific legislation, under vicarious liability holding corporations accountable for the actions of their employees is not explicitly recognized. Fines are frequently used as punishment for corporate offenses; only expressly prescribed circumstances call for imprisonment. Indian criminal law does not hold corporates legally responsible and in most cases, only a penalty or fine is imposed.

Criminal offenses in the US are punishable by both individuals and organizations, including corporations. The actions of individuals must be motivated and within their power to hold corporations accountable. In the US, determining corporate criminal liability often hinges on knowledge and intent, and for the actions of employees and corporate agents, employers are investigated and penalized.

In the UK, specific laws like the Criminal Finances Act of 2017 or the Bribery Act of 2010 that create criminal offenses for corporations can be used to hold a company accountable for crimes committed by its employees or agents. When a person is thought to be the organization's directing mind and will commit the offense, the identification doctrine is used. When there is no need to prove fault, the vicarious liability principle is frequently applied to regulatory offenses.

Corporate crimes are not effective by the current laws and there is a need to bring new laws and amendments to current laws. The loopholes in the rules and procedures of the judiciary are having less impact and pose an evil threat to society

and nation at large. There is a need to incorporate new forms of punishment with new technological development to make corporates criminally liable. The thresholds of fines and penalties are to be severed. The real challenge we face today is the effective implementation of the laws and rules. There is a need for robust laws and institutions that deal effectively and provide direct orders. The criminal liability imposed on corporate must be of that nature that acts as a deterrent, and for that, there is a need for the imposition of both corporeal and monetary punishments in such a manner that those in the position of responsibility must have a lesson for corporate wrongdoings and misusing their position for monetary gains. The aim of sentencing corporate crimes is to consider achieving the objectives of sentencing. The concepts of corporate social responsibility, the world as a global village, global corporate citizenship, and corporate philanthropy must be promoted to act for societal well-being. To avoid large-scale corporate crimes enough studies must be conducted with active participation from legislative, judiciary, and corporate. There is a need for a consolidated independent body that regulates corporates and publishes independent reports on corporate actions. Active Participation of the government, citizens, and NGOs to be adopted to create public awareness of the impacts of corporate crimes. Corporate crimes are universal in a globalized world; thus, efforts must be made for international cooperation and agreements in compliance.

Recommendations

- There is a need for comprehensive legislation that specifically deals with corporate crimes.
- New forms of crimes to be incorporated with the development of new technologies and should include both imprisonment and fines.
- Incorporated Penalties can be divided into economic and social penalties. The reason for this is that corporate crimes not only harm the country's GDP but also society

at large. Both the government and the section of society that got affected must get compensation.

- Enforcement agencies must be designated with effective powers to deal with corporate crimes and effectively implement the laws.
- Collaborative mechanism of all three organs of government and its agencies to deter corporate crimes.
- Due to the global nature of corporates, there is a need for national and international collaborations and cooperation.
- Promotion and creation of public awareness programs on harm generated by corporate crimes in society.
- Establishment of an Independent body that regulates and reviews corporates.
- Creation of the government-backed **corporate rating system (CRS)** that gives five-star ratings to corporates because of their social performances, crimes committed, implementation of laws and regulations, tax and SEBI compliances, proper auditing, etc. which can act as a deterrent and any wrongdoings by the corporates will catch both the government and public attention.