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# EXPLORING CORPORATE CRIMINAL LIABILITY IN THE INDIAN LEGAL CONTEXT

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Bidisha Kole, B.A.LL.B, University of Calcutta & LL.M (Corporate law), Bankura  
University, West Bengal, India

## ABSTRACT

Large-scale corporations have become increasingly prevalent worldwide due to industrialization and globalization, gaining dominance over the past two centuries. With their growing significance, individuals are more susceptible to being affected by corporate wrongdoing. The evolution of corporate criminal liability in India reflects a lengthy judicial process aimed at attributing responsibilities to non-fictitious entities. Initially, during the 16th and 17th centuries, it was believed that corporations could not be held criminally liable. However, through landmark judgments like *Standard Charter Bank v. Directorate of Enforcement*, the concept of corporate criminal liability has undergone significant development. It has been recognized that a company, acting through its agents, can commit crimes and be held accountable. Common law jurisdictions like England, the United States, and Canada were among the pioneers in introducing corporate criminal liability. The acceptance of corporate criminal liability began in English courts in 1842 when a company was penalized for failing to fulfil a legal obligation. In India, the judiciary has gradually shifted its stance on corporate criminal liability, with precedents playing a crucial role in its development. This paper offers a thorough examination of Corporate Criminal Liability, tracing its historical evolution and legal ramifications in India. It meticulously analyses the principles and key case laws that have shaped this concept while also identifying existing deficiencies and proposing recommendations for its constructive advancement.

**INTRODUCTION:**

*“Any system that values profit over human life is a very dangerous one indeed. Simply put, it lacks values, and such a system will eventually collapse once its true light is discovered by the masses. Though some say that capitalism is a modern system, corruption has been the source for the demise of every great civilization.”<sup>1</sup>*

— Suzy Kassem

‘Money’ is a powerful word. The word ‘money’ conjures us thoughts of lavishness, extravagance, and power. Money is undoubtedly a societal requirement, yet in order to obtain it, the line between need and desire is frequently blurred. Greed manifests itself in a number of ways, including theft, criminal misappropriation, corruption, tax evasion, law-breaking, and excessive political favours that benefit an entity while defrauding and sometimes injuring human resources and environment or natural resources.

The corporate sector plays a pivotal role in driving economic growth and societal progress. Yet, the corporate entity must not operate in isolation from its moral and legal obligations to society. While profit remains a fundamental objective, contemporary business imperatives necessitate a broader focus on responsible resource utilization and community welfare.

However, the evolving legal landscape acknowledges the imperative of corporate accountability. The distinction between the physical act (*actus reus*) and the mental intent (*mens rea*) inherent in criminal liability underscores the complexity of attributing culpability to corporate entities. Despite advancements in legal jurisprudence, challenges persist in defining and enforcing corporate criminal liability, particularly concerning the recognition of corporations as distinct legal entities with their own responsibilities and liabilities.

**OBJECTIVES OF THE STUDY:**

- i. To learn about the various kinds of crimes that can be attributed to a company;
- ii. To evaluate, analyse, and identify laws, as well as the way they are implemented and

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<sup>1</sup> Rise Up and Salute the Sun: The Writings of Suzy Kassem, Suzy Kassem, <https://www.goodreads.com/work/quotes/14994756-rise-up-and-salute-the-sun-the-writings-of-suzy-kassem>, Accessed on 4<sup>th</sup> of April 2024.

enforced in India and other nations on the issue of Corporate Criminal Liability;

- iii. To conduct a thorough examination of the cases decided by courts in India and other countries;
- iv. To recommend steps that the relevant authorities should take in order to implement a proper legal situation of criminal liabilities of corporate bodies in India.

### **RESEARCH METHODOLOGY:**

This study employs an analytical and doctrinal methodology to understand corporate criminal liability in India. Secondary sources such as scholarly books, research papers, and legal databases is scrutinized, adhering to the citation guidelines of the International Law Institute (ILI).

### **MEANING OF COMPANY AND CORPORATION:**

The term ‘company’ has its roots in the Latin word ‘*Companis*’. The word ‘*com*’ signifies togetherness, while ‘*panis*’ pertains to bread. Originally, it denoted a group of individuals who dined together. In contemporary usage, a company refers to an organization formed by like-minded individuals with the primary objective of conducting business activities. It is a legal and corporate entity, possessing a separate existence and identity as distinct from the individuals comprising it.<sup>2</sup> The term ‘company’ has not been legally or technically defined. According to Section 2(20) of the Companies Act, 2013<sup>3</sup>, ‘a company’ is defined as “a company incorporated under this act or any previous company law.”<sup>4</sup>

The term ‘corporation’ derives from the Latin phrase ‘*corpus*’, meaning ‘body’. Thus, a corporation is a legal entity created through means other than natural birth, and is sometimes referred to as an artificial legal person. As a legal person, a corporation possesses numerous rights and obligations akin to those of a natural person.<sup>5</sup>

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<sup>2</sup> Mallappa, Kubakaddi Basavaraj, An analytical study of corporate criminal liability under Indian legal system, (2014) (<http://hdl.handle.net/10603/62222>, University of Mysore) p.31

<sup>3</sup> The Companies Act, 2013 (Act No. 18 of 2013) S. 2 (20)

<sup>4</sup> S. Balachandran, A Critical Study on Corporate Criminal Liability, (2021) (<http://hdl.handle.net/10603/354079>, Sastra University) p.01

<sup>5</sup> Avtar Singh, Company law 17 (Eastern Book Company, Lucknow, Fourteenth Edition, 2004)

## **CHARACTERISTICS AND NATURE OF A COMPANY:**

- **Corporate Personality:** A corporation has its own legal identity, established by law.
- **Separate Legal Entity:** Recognized under the Companies Act of 2013, a company is distinct from its members, shielding them from personal liability.
- **Separate Property:** A corporation owns assets independently, not subject to shareholder claims.
- **Capacity to Sue:** Corporations can initiate legal action independently and be sued, distinct from their members.

## **PIERCING THE CORPORATE VEIL:**

The concept of the “corporate veil” serves as a fundamental principle, offering protection to shareholders and executives from personal liability for the corporation’s obligations. This legal safeguard, entrenched in the doctrine of limited liability, draws a distinct line between the corporation itself and its stakeholders, shielding them from being held personally accountable for the company’s debts, liabilities, or legal duties.

However, in cases where individuals exploit this protective structure for fraudulent or dishonest purposes, courts possess the authority to pierce the corporate veil. Piercing the veil is a legal doctrine that empowers courts to look beyond the corporate entity and hold individuals liable for the company's wrongful actions or obligations.<sup>6</sup>

## **CORPORATE CRIME:**

According to the renowned Australian criminologist John Braithwaite, corporate crime encompasses “any action committed by a corporation or its employees, on behalf of the corporation, which is prohibited by law and subject to punishment.” This definition has stood the test of time.<sup>7</sup>

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<sup>6</sup> Anurag Sinha, Piercing of Corporate Veil: An Overview, Journal of Legal Research and Juridical Sciences, Vol. 2 Issue 1, p. 11 Available at <https://jlrjs.com/wp-content/uploads/2022/12/2.-ANURAG-SINHA.pdf>.

<sup>7</sup> Abhinandan Bassi, Corporate criminal liability an analytical study with special reference to penal laws in India, (2016) (<http://hdl.handle.net/10603/200004>, Rajiv Gandhi National University of Law Punjab) p. 71

## TYPES OF CORPORATE CRIME:

### A. Industrial Disasters:

As corporations have become increasingly prevalent in our everyday existence, there has been a corresponding increase in the potential risks and harms associated with their activities. These risks encompass various stages of corporate operations, including manufacturing, processing, storage, and disposal. Even a minor oversight in handling chemicals, radioactive materials, or other sources of energy can result in substantial damage to the environment and surrounding areas. The potential for destruction exists at each step, emphasizing the importance of responsible management and diligent practices to mitigate these risks effectively.<sup>8</sup>

**Bhopal gas Tragedy<sup>9</sup>:** The Bhopal gas tragedy, occurring in 1984 at the Union Carbide India Limited (UCIL) pesticide plant, remains one of the worst industrial disasters globally, with over 500,000 people exposed to toxic gases, resulting in thousands of deaths and extensive injuries. The incident, attributed to UCIL's disregard for safety measures, prompted both civil and criminal proceedings, culminating in the conviction of seven former employees for manslaughter due to negligence. However, the compensation awarded to victims was deemed insufficient, highlighting systemic shortcomings in addressing corporate accountability and ensuring adequate restitution for the affected community.<sup>10</sup>

### B. Economic Corporate Crimes:

**Satyam Computer Scam<sup>11</sup>:** Satyam Computers, once honoured with the prestigious “Golden Peacock Award” for its exemplary governance, faced one of India's most significant corporate scandals. CEO Ramalinga Raju and family members orchestrated a fraud resulting in a staggering loss of Rs. 14,162 crores for investors, potentially India's largest corporate fraud case. The fraud involved inflating the company's income through fraudulent means, including falsifying bank statements and sales invoices, with the complicity of statutory and internal auditors. Raju and his brother, Managing Director B. Rama Raju, managed to keep the deception hidden from the company's board, senior managers, and auditors while orchestrating deceptive acquisitions. Raju's admission of manipulation led to his apprehension and

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<sup>8</sup> Id at p 187

<sup>9</sup> Union Carbide Corporation Etc. vs Union of India Etc, 1992 AIR 248

<sup>10</sup> Supra Note 4 at p.51

<sup>11</sup> M/S. Satyam Computer Services vs Directorate of Enforcement, Writ Petition No.37487 of 2012

subsequent legal proceedings, resulting in a seven-year prison sentence for both him and his brother.<sup>12</sup>

### C. Insider Trading:

Insider trading involves the exploitation of confidential company information for securities trading. This unethical practice leverages non-public data to gain an unfair advantage in securities transactions, potentially resulting in unjustified gains or losses. The information used is typically “price-sensitive”, meaning its disclosure could significantly impact a company’s stock market price. As per the SEBI (Prohibition of Insider Trading) Regulations, 1992, an “insider” includes individuals associated with the company, past or present, who may have access to unpublished price-sensitive information. This encompasses individuals who have received or accessed such information due to their affiliation with the company.<sup>13</sup>

Insider Trading in India is strictly regulated by the Securities and Exchange Board of India under the SEBI (Prohibition of Insider Trading) Regulations, 1992, outline the guidelines and provisions to prevent insider trading. Violators of these regulations may face substantial fines imposed by the government agency. According to the SEBI Act 1992<sup>14</sup> (Section 15G) and the Companies Act 2013 (Section 195), the punishment for insider trading cannot be less than INR 10 lakhs and may extend up to INR 25 crores or three times the profits gained from the illegal activity, depending on the circumstances. If an individual or someone else misuses insider information for personal gain, it is considered a violation and will be prosecuted as a criminal offense. The penalty for this offense can include imprisonment for up to ten years or a fine of up to 25 crores. Additionally, the SEBI has the authority to impose penalties under its regulations on individuals who violate the rules apart from criminal charges.<sup>15</sup>

### D. Investment Trends:

In the case of *Harshad S. Mehta vs Central Bureau of Investigation*<sup>16</sup> one of the most significant financial scams in India’s history involved fraudulent activities that amounted to

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<sup>12</sup> Supra Note 4 at p.51

<sup>13</sup> What Is Insider Trading? <https://upstox.com/learning-center/trading-account/what-is-insider-trading/>, Accessed on 10<sup>th</sup> April, 2024.

<sup>14</sup> Securities and Exchange Board of India Act 1992 (15 of 1992)

<sup>15</sup> Ibid

<sup>16</sup> 1992 (24) DRJ 392

nearly 5,000 crores. Harshad Mehta, a stock and money market broker, was the central figure behind this scam. The scam caused a major crash in the Indian stock market and was characterized by deceptive practices such as the creation of false bank receipts and the misuse of stamp papers.

In the case of *Ketan Parekh vs. Securities and Exchange Board of India*<sup>17</sup> Ketan Parekh is a stock market broker who engaged in insider trading, circular trading, and price manipulation. The sum involved is Rs.1250/- crores. He replicated Harshad Mehta's strategy. The Scam first appeared in 2001. Ketan Parekh is responsible for the failures of Global Trust Bank and the local Co-operative Bank in Maharashtra. and SEBI had banned Parekh and associated firms from trading in the market for 14 years.<sup>18</sup>

### **E. Corporate Manslaughter:**

Corporate manslaughter, also known as corporate homicide or corporate killing, occurs when a business or organization's negligence or wrongdoing leads to the death of individuals. It encompasses instances where senior management's actions or lack thereof contribute to fatal incidents. Legal frameworks for corporate manslaughter vary among nations, with some jurisdictions recognizing it as a distinct offense while others prosecute it under existing laws like negligence statutes. In India, corporate responsibility for causing death is primarily addressed through provisions in the Indian Penal Code (IPC) and other relevant legislation, relying on concepts such as vicarious liability, criminal negligence, or the identification principle to establish corporate accountability. Conversely, in the United Kingdom, corporate manslaughter is a criminal offense outlined in the Corporate Manslaughter and Corporate Homicide Act of 2007, applicable when a corporation's breach of duty of care results in death.<sup>19</sup>

### **Grenfell Tower Fire case (United Kingdom):**

The Grenfell Tower fire in London on June 14, 2017, stands out as a harrowing example of corporate manslaughter, claiming the lives of 72 individuals and causing extensive damage to the residential skyscraper. Triggered by a refrigerator fire and exacerbated by flammable

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<sup>17</sup> 2006

<sup>18</sup> Supra Note 4 at p. 49

<sup>19</sup> Corporate Manslaughter And Corporate Homicide: A Comparative Analysis And Its Exigency In India, <https://www.lawcolumn.in/corporate-manslaughter-and-corporate-homicide-a-comparative-analysis-and-its-exigency-in-india/>, Accessed on 11<sup>th</sup> April, 2024.

cladding installed during renovations, the blaze highlighted systemic failures in fire safety protocols and regulatory enforcement. Investigations revealed negligence among various parties, including the building's management, contractors, and regulatory agencies. Legal repercussions ensued, with the local government and other stakeholders facing charges related to corporate manslaughter and fire safety violations. The tragedy underscored the dire consequences of corporate negligence and spurred heightened scrutiny and legislative reforms to enhance high-rise fire safety standards in the United Kingdom.<sup>20</sup>

### CONCEPT OF CORPORATE CRIMINAL LIABILITY:

*“Corporate bodies are more corrupt and profligate than individuals, because they have more power to do mischief, and are less amenable to disgrace or punishment. They neither feel shame, remorse, gratitude nor goodwill”<sup>21</sup>* - Hazlitt

The concept of “*respondent superior*” plays a crucial role in establishing corporate criminal liability. It signifies that a company can be held responsible for the conduct of its employees and agents. Moreover, under Section 11 of the Indian Penal Code, the term “person” is defined to include not only individuals but also companies, associations, and unincorporated bodies of persons. This recognition acknowledges that companies possess their own distinct identity and legal personality separate from their members, thereby providing a basis for holding them accountable for their actions. It encompasses the notion that a company can be subject to criminal prosecution and legal consequences for its involvement in unlawful activities. In addition to the liability of individual employees.

Critics of corporate criminal liability argue its inefficiency for two primary reasons. Firstly, they assert that individuals, not corporations, are the ones who commit offenses, casting doubt on the attribution of criminal liability to corporations. Secondly, they argue that the retributive consequences, such as fines and sanctions, ultimately burden the investors and customers of the company, imposing repercussions on innocent parties for the corporation’s actions.<sup>22</sup>

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<sup>20</sup> Grenfell Tower fire – a tragic case study in health inequalities, <https://www.nature.com/articles/sj.bdj.2017.785>, Accessed on 7<sup>th</sup> April, 2024.

<sup>21</sup> Kunal Kaushik, “A Critical Study on Corporate Criminal Liability with Special Reference to US and Indian Laws”, Available at [file:///C:/Users/User/Downloads/SSRN-id3524189%20\(2\).pdf](file:///C:/Users/User/Downloads/SSRN-id3524189%20(2).pdf), p. 01

<sup>22</sup> V. Vijaya Lakshmi, “Corporate Criminal Liability – A Critical Legal Study”, Pen Acclaims, Volume 5, Available at <http://www.penacclaims.com/wp-content/uploads/2019/03/V-Vijaya-Lakshmi.pdf>, (2019) p. 03.



**DEVELOPMENT OF CRIMINAL LIABILITY OF CORPORATE BODIES IN INDIA:**

Company law in India traces its origins to the Joint Stock Companies Act of 1850, marking the initial step towards formal regulation of corporate entities. Over time, this legislation underwent revisions, eventually leading to the enactment of the Companies Act in 1956. Despite its comprehensiveness, alternative incorporation methods persisted, including procedures outlined in Special Acts of Parliament. The Companies Act of 1956 underwent multiple revisions to address evolving business practices and regulatory requirements. However, it was eventually replaced by the Companies Act of 2013, reflecting the need for modernization and alignment with global standards.<sup>23</sup>.

**a. Position of CCL in India: Pre-Standard Chartered Bank Case:**

Before the Standard Chartered ruling, Indian courts adhered to the principle that companies were immune from prosecution for offenses requiring *mens rea*, or guilty intention, as they lacked the capacity for such a mental state. Furthermore, since imprisonment was not applicable to artificial entities, they were deemed exempt from criminal liability in such cases.<sup>24</sup>

***A.K. Khosla v. T.S. Venkatesan***<sup>25</sup>: This case exemplified the prevailing legal stance regarding corporate liability for offenses demanding *mens rea*. Here, the defendants argued that corporations could not be held accountable for Indian Penal Code (IPC) offenses requiring *mens rea*. The court sided with this argument, emphasizing the inability of artificial entities to possess the requisite guilty intention, thus shielding them from prosecution.

***MV Javali v. Mahajan Borewell & Co***<sup>26</sup>: This case addressed the issue of criminal liability of the corporate when offenses carried both imprisonment and fine as penalties. The court determined that imprisonment could not be imposed on corporations due to their non-physical nature, resulting in punishment being limited to fines. This ruling established a framework for determining corporate liability in cases involving dual penalties.<sup>27</sup>

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<sup>23</sup> (1889) 14 AC 337

<sup>24</sup> Corporate Criminal Liability in India, Indian Law, Courts, And the Constitution: A Brief Introduction, <https://www.joshiattorneys.com/articles-and-publications/cross-border-and-international-law-topics/applying-revised-mre-702-703/>, accessed on 9<sup>th</sup> of April, 2024.

<sup>25</sup> (1992) Cr.L.J. 1448.

<sup>26</sup> AIR 1997 SC 3964

<sup>27</sup> Arti Aneja, "The existing conundrum of corporate criminal liability need for penal legal regime", (2016) (<http://hdl.handle.net/10603/374748>, University of Delhi) p. 176

**b. Standard Chartered Bank and Ors V. Directorate of Enforcement:**

The Supreme Court's landmark ruling in *Standard Chartered Bank and Ors v. Directorate of Enforcement*<sup>28</sup> marked a pivotal shift in corporate liability, establishing that corporations could be prosecuted and fined, even in cases mandating imprisonment. This decision, overturning previous interpretations, underscored the court's commitment to hold corporations accountable through appropriate penalties. Additionally, the court considered recommendations by the Law Commission to address legal dilemmas in corporate prosecutions, proposing provisions enabling fines as penalties for corporate offenders. Standard Chartered Bank argued against prosecution, citing legislative intent and futility in imposing sentences on corporations. The Court acknowledged inconsistent views among High Courts on Criminal liability of corporate bodies, emphasizing the legislature's explicit intent to prosecute corporate entities for offenses. It rejected interpretations granting immunity to corporations and highlighted disparities in punishments for different offenses, cautioning against illogical outcomes.<sup>29</sup>

**CONDITIONS FOR ESTABLISHING CORPORATE CRIMINAL LIABILITY:****a. Act within the scope of employment:**

Corporate criminal liability necessitates specific conditions for its establishment. Firstly, the employee must be operating within the scope of their employment, creating a master-servant relationship and triggering vicarious liability. Secondly, the employee must be executing the authorized responsibilities delegated to them by their parent company. These prerequisites are essential for the evolution of CCL.<sup>30</sup>

In the case of *Moussell Bros Ltd v London and North-Western Railway Co*<sup>31</sup>, the court determined that although the ticket was sold by their employee, Mr. Hobday, and not directly by Mr. Shah or Mrs. Shah, the principles of vicarious liability held that his offense was ultimately attributed to them. This establishes that the company can be held liable for the actions of its employees under certain circumstances.

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<sup>28</sup> A.I.R. 2005 S.C. 2622

<sup>29</sup> Shashank P. Kumar, Standard Chartered Bank Case: A Jurisprudential Analysis, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1348425](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1348425), Accessed on 12<sup>th</sup> April 2024.

<sup>30</sup> Rohit Dhingra and Shruti Kakkad, Corporate Criminal Liability: An Emerging Issue, 4 (2) IJLMH Page 1005 (2021), Available at: <http://doi.org/10.1732/IJLMH.262311>.

<sup>31</sup> [1917] 2 K.B 836

**b. Benefit to the corporation:**

For corporate criminal liability to be applicable, the second condition stipulates that the corporation must have received benefits from the actions of its employees or agents. Although the company is not required to gain a specific advantage, the actions must be undertaken by the employee or agent with the intention of benefiting the corporation.<sup>32</sup>

**WHITE COLLAR CRIME & CORPORATE CRIMINAL LIABILITY:**

The term “White Collar Crime” was first introduced by Edwin Sutherland, who concentrated on criminal activities committed by individuals in the upper social strata. While white collar crimes are typically associated with the professional and privileged classes, there is a correlation between white collar crime and corporate crime. Both types of offenses involve illicit activities within the business domain. However, there is a distinction between them in terms of the beneficiaries. White collar crime tends to benefit individuals, whereas corporate crime primarily serves the interests of corporations. When examining the relationship between white collar crime and corporate crime, it becomes evident that the term “White Collar Crime” is a broader concept that encompasses Corporate Crime. To differentiate between the two, white collar offenses are defined as “acts that are both socially harmful and morally reprehensible, committed by individuals or groups in authoritative positions within corporations and businesses, with the intention of personal gain at the expense of the company and the organizations they represent.” On the other hand, corporate crimes refer to socially harmful and morally reprehensible acts committed by corporations and businesses against their employees, consumers, ecosystems, other businesses and corporations, the government, or other countries.<sup>33</sup>

**CRIMINAL LIABILITY OF CORPORATIONS UNDER INDIAN STATUTES:**

- **Companies Act, 2013<sup>34</sup>:** The Companies Act, 2013 is foundational in establishing the legal framework for corporate governance and liability. It includes provisions specifying

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<sup>32</sup> Pranavi Agrawal, “Corporate Criminal Liability in India: A Pressing Issue” Summer Program for Undergraduate Research (SPUR). Available at <https://repository.upenn.edu/spur/42>, (2022).

<sup>33</sup> Kathleen F. Brickey & Jennifer Taub, *Corporate & White-Collar Crime* 31 (Aspen Publishers, New York, Seventh Edition, 2021)

<sup>34</sup> Companies Act, 2013, (Act No 18 of 2013)

finances and penalties for offenses committed by companies, along with provisions for individual liability of officers.<sup>35</sup>

- **Money Laundering Act, 2002<sup>36</sup>:** This Act addresses offenses related to money laundering and imposes vicarious criminal liability on both the company and its directors. It establishes penalties for individuals or companies convicted of such offenses, including imprisonment and fines.
- **Environmental Protection Act, 1986<sup>37</sup>:** Enacted to safeguard the environment, this Act holds companies absolutely liable for environmental degradation caused by their activities. It imposes penalties on companies for violations, emphasizing their responsibility to remediate environmental damage.
- **Prevention of Food Adulteration Act, 1954<sup>38</sup>:** Aimed at combating food adulteration, this Act holds individuals responsible for company actions and places the burden of proof on the accused. It is significant in ensuring food safety and consumer protection.
- **Securities Exchange Board of India Act, 1992<sup>39</sup>:** While not explicitly addressing corporate criminal liability, this Act empowers SEBI to investigate and prosecute securities market violations. It imposes accountability on corporations for transgressions committed by their directors, officers, or employees.

## NEW FACE OF CORPORATE CRIME

- **Ecommerce Fraud:** With the proliferation of ecommerce platforms, fraudulent activities have also increased. Online transactions in various sectors, including travel, are particularly vulnerable to fraudulent practices. The growing internet usage in India provides more opportunities for online fraudsters to target unsuspecting individuals and businesses.<sup>40</sup>

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<sup>35</sup> S. Balachandran, A Critical Study on Corporate Criminal Liability, (2021) (<http://hdl.handle.net/10603/354079>, Sastra University) p.103

<sup>36</sup> Prevention of Money Laundering Act, 2002, Act No.15 of 2003

<sup>37</sup> Environmental Protection Act, 1986, (Act No 29 of 1986)

<sup>38</sup> Prevention of Food Adulteration Act, 1954, (Act No 37 of 1954)

<sup>39</sup> Securities Exchange Board of India Act, 1992, (Act No 15 of 1992)

<sup>40</sup> Arti Aneja, The existing conundrum of corporate criminal liability need for penal legal regime, (2016) (<http://hdl.handle.net/10603/374748>, University of Delhi) p. 203

- **Cloud Computing Fraud:** Cloud computing has become essential for managing data and applications across multiple devices. While it offers convenience and accessibility, the widespread adoption of cloud technology has also increased the risk of online fraud. Shared data stored in cloud platforms is vulnerable to theft, misuse, hacking, and other cybercrimes, highlighting the need for robust security measures.<sup>41</sup>
- **Social Media Fraud:** Social media platforms are widely used by businesses for marketing and customer engagement. However, they are susceptible to data breaches, manipulation by hackers, and negative publicity, posing risks to businesses and advertisers. The potential loss of customer data and negative impacts on brand reputation make social media a risky target for corporate crimes.<sup>42</sup>

#### **REGULATORY INSTITUTIONS IN INDIA RELATED TO CRIMINAL LIABILITY OF CORPORATE BODIES:**

- **Serious Fraud Investigation Office (SFIO):** SFIO is a specialized investigative agency under the Ministry of Corporate Affairs. It is mandated to investigate significant financial frauds and corporate scams. Its investigations aim to expose corporate misconduct and initiate legal actions against wrongdoers.<sup>43</sup>
- **Securities and Exchange Board of India (SEBI):** SEBI is the regulatory body for India's securities market, overseeing listed companies, stock exchanges, and market intermediaries. It promotes equitable and transparent corporate practices in the securities market. SEBI has the authority to investigate and take appropriate actions against companies involved in securities related offenses. Its actions contribute to maintaining the integrity and stability of the securities market in India.<sup>44</sup>
- **Central Bureau of Investigation (CBI):** CBI is the primary investigative agency in India, responsible for probing various crimes, including corporate offenses. CBI's role is crucial in addressing and combating corporate crimes, ensuring accountability, and upholding the

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<sup>41</sup> Ibid

<sup>42</sup> Ibid

<sup>43</sup> Nirmale Gurpreetkaur Daulatsingh, "The concept of Corporate criminal liability in India" (2014)

<sup>44</sup> Ibid

rule of law in the country.<sup>45</sup>

### SUGGESTIONS:

- There is need to enact exclusive criminal laws for corporations to address corporate crimes comprehensively.
- Development of a corporate sentencing policy to outline fines and punitive measures for corporate offenses.
- Implementing economic sanctions, corporate death/winding up, temporary closure, and compensation payments as forms of punishment.
- Safeguarding whistle-blowers with legal protections, anonymous reporting mechanisms, and incentives.
- Collaborating with international jurisdictions to address transnational corporate crimes effectively.

### CONCLUSION:

Corporate Criminal liability is a complex issue, with various legal challenges and differing approaches across nations. Modern corporate crimes, evolving from simple tax evasion to intricate schemes involving organized crime, pose significant societal and economic risks. Corporate criminology has gained importance, focusing on regulatory structures, ownership, and punishment theories to deter unlawful corporate conduct. Legal systems worldwide struggle with holding corporations accountable for criminal acts due to their fictional legal status and lack of *mens rea*. Different countries adopt varied approaches, like the vicarious liability theory in the US and identification theory in India. While some progress has been made globally in imposing corporate liability, India still lacks specific legislation addressing corporate crimes.

Efforts to combat corporate crimes in India include the establishment of Special Courts and proactive measures by regulatory bodies like the CBI and SEBI. However, there is a need for

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<sup>45</sup> Ibid

unified legislation globally to effectively control the operations of multinational corporations. Punishments, though limited due to the nature of corporate entities, play a crucial role in deterring future criminal activities and ensuring justice for victims.