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# **DECRIMINALISATION AND CORPORATE ACCOUNTABILITY IN INDIA: A CRITICAL STUDY OF THE CORPORATE LAWS (AMENDMENT) BILL, 2026**

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## **ABSTRACT**

The Corporate laws (amendment) bill 2026 introduced on March 23 2026 and currently under Joint Parliamentary Committee seeks to introduce many groundbreaking changes to the Companies Act, 2013, particularly decriminalisation of various offences. This fundamentally changes the deterrence transforming Indian corporate law which has the potential to be both boon and problem, that needs to be scrutinised properly. This paper employs doctrinal legal analysis to examine how decriminalisation affects corporate accountability. It argues that while decriminalisation benefits startups by eliminating the fear of criminal sanction, it may also allow large corporations to exploit civil penalties as a routine cost of doing business, given that such penalties may be far less than the benefit derived from non-compliance. The paper acknowledges that decriminalisation carries genuine benefits, including alleviating judicial burden, fostering entrepreneurship by removing the fear of imprisonment, also it position India in alignment with international corporate law standards. However the paper critically analyse that the amendment "diminished deterrence effect" especially among repeat offenders, also it may weaken the minority shareholder protection as well as it seems ill timed given the rise of white collar crimes. The paper recommend that India should not abandon the decriminalisation criteria entirely, instead important thing is to find a middle ground so that corporate accountability not to be compromised as well as the regulatory framework should create a safe haven for small businesses to flourish.

## INTRODUCTION

The Companies Act<sup>1</sup> replaced half century old 1956 act to make India compatible with International business standards<sup>2</sup>. The act mainly enacted to address changes brought by globalisation<sup>3</sup> and to ensure smooth foreign investment<sup>4</sup>. The new act focused to bring transparency, accountability in business by adding CSR mandatory provisions, stringent compliance and punishment, more stakeholder protection<sup>5</sup> in the backdrop of Satyam scandal<sup>6</sup>. The Act has since undergone several rounds of legislative revision, including the Companies (Amendment) Acts of 2017<sup>7</sup> 2019<sup>8</sup> 2020<sup>9</sup> and 2021<sup>10</sup> along with a series of further amendments between 2022 and 2025,<sup>11</sup> reflecting the legislature's continuing effort to calibrate the balance between regulatory rigour and commercial flexibility.

The Corporate Laws (Amendment) Bill, 2026 proposes to change almost 88 section, one of its primary objectives being Decriminalisation, that is to remove criminal liability for certain offences under the Act where the defaults are objectively determinable and do not involve fraud or affect broader public interest<sup>11</sup>. The strategic shift toward decriminalizing minor procedural defaults under the Companies Act is reflected in India's significant improvement in rank in the World Bank's Ease of Doing Business rankings, which improved from 142nd in 2014 to 63rd in 2022<sup>12</sup>. Many amendments creates considerable changes in decriminalisation, unfortunately 2019 and 2020 decriminalization efforts were inadequate, as the initial introduction of criminal penalties for CSR violations was later reversed due to backlash, and the reforms overall remained limited in scope, failing to comprehensively address minor and technical defaults<sup>13</sup>.

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<sup>1</sup> Companies Act, No. 18 of 2013 (India).

<sup>2</sup> PRS Legislative Research, The Companies Bill, 2012, PRS India (2013), <https://prsindia.org/> (last visited Apr. 17, 2026).

<sup>3</sup> Umakanth Varottil, The Companies Act 2013: An Assessment, 1 Indian L. Rev. 1 (2014).

<sup>4</sup> Ministry of Corporate Affairs, Annual Report 2013–14 (2014).

<sup>5</sup> Companies Act, No. 18 of 2013, §§ 135, 149, 166 (India).

<sup>6</sup> Varottil, *supra* note 3.

<sup>7</sup> Companies (Amendment) Act 2017 (India)

<sup>8</sup> Companies (Amendment) Act 2019 (India)

<sup>9</sup> Companies (Amendment) Act 2020 (India)

<sup>10</sup> Companies (Amendment) Act 2021 (India)

<sup>11</sup> Divesh Goyal, Key Takeaway: The Companies (Amendment) Bill, 2026, CSDiv Esh Goyal (blog), <https://csdiveshgoyal.com/Blog/1216/KEYTAKEAWAYTHECOMPANIESAMENDMENTBILL2026.aspx> (last visited Apr. 22, 2026).

<sup>12</sup> Lalit Kumar, Compliance Reduction & Decriminalization of Legal Provisions Will Foster Ease of Doing Business, JSA Advocates & Solicitors (Feb. 10, 2023).

<sup>13</sup> Decriminalising Companies Act Offences – Striking a Balance Between Ease of Doing Business and Corporate Governance, Cyril Amarchand Mangaldas (Sept. 23, 2019), <https://corporate.cyrilamarchandblogs.com/2019/09/decriminalising-companies-act-offences-ease-of-doing->

The biggest problem it seems is that imposing civil penalties like fine may elevate the ease of doing business but if profit from violation is more than the cost of penalty, the law may lose its deterrent purpose and thereby blurring the corporate accountability<sup>14</sup>. Decriminalisation may affect the investor trust mostly because this may affect the market confidence<sup>15</sup> and in addition to this decriminalisation move seems ill-timed because of the rise in white collar crimes<sup>16</sup> raising serious concerns about governance<sup>17</sup>.

This paper seeks to achieve three objectives. First, it examines how decriminalisation affects corporate accountability under the Companies Act, 2013. Second, it analyses the asymmetrical impact of decriminalisation on startups versus large corporations, particularly the risk that civil penalties may become a routine cost of doing business for well-resourced entities. Finally, it recommends a principled middle ground, one that allows ease of doing business and corporate accountability to go hand in hand, without one being sacrificed at the expense of the other. The remainder of this paper is organised as follows in Section II gives an overview of decriminalisation under the 2026 Bill, Section III undertakes in critical analysis on deterrence, startup versus corporations, minority shareholders, white collar crimes and finally Section IV presents Conclusions and Recommendations.

## DECRIMINALISATION UNDER THE 2026 BILL

Decriminalisation in corporate law refers to the substitution of criminal sanctions. This is not the first time when India adopted a decriminalisation process related to corporate crime, amendments in 2019 and 2020 inclined towards decriminalising several offences<sup>18</sup> and replaced

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business-and-corporate-governance/; Decriminalisation of Corporate Offences Under Indian Law, Record of Law (Nov. 16, 2025), <https://recordoflaw.in/decriminalisation-of-corporate-offences-under-indian-law/>.

<sup>14</sup> See Gary S. Becker, Crime and Punishment: An Economic Approach, 76 J. Pol. Econ. 169, 176–79 (1968) (explaining that when penalties are lower than the gains from violations, deterrence is ineffective); Umakanth Varottil, The Companies Act 2013: An Assessment, IndiaCorpLaw (2014) (discussing concerns that reduced penalties may weaken corporate accountability in India).

<sup>15</sup> See Serious Fraud Investigation Office, *Annual Report* (Ministry of Corporate Affairs) (noting increasing instances and complexity of corporate fraud and their impact on investor confidence); Reserve Bank of India, *Report on Trend and Progress of Banking in India* (various years) (highlighting rising financial frauds and systemic risks to market stability).

<sup>16</sup> Global Investigations Review, 'India: Regulators Take Proactive Measures to Tackle White-Collar Crime' (Global Investigations Review, 2026) <https://globalinvestigationsreview.com/review/the-asia-pacific-investigations-review/2026/article/india-regulators-take-proactive-measures-tackle-white-collar-crime> accessed 22 April 2026.

<sup>17</sup> Edwin H. Sutherland, *White Collar Crime* (1949) (emphasizing the broader societal and economic harm caused by white-collar offences and the need for effective enforcement to sustain public trust in markets).

<sup>18</sup> See Companies (Amendment) Act, 2019, No. 22 of 2019, §§ 2–36 (India); Companies (Amendment) Act, 2020, No. 29 of 2020, §§ 2–66 (India) (reflecting a legislative shift towards decriminalisation of several offences by reclassifying them and substituting criminal sanctions with civil penalties); Ministry of Corporate Affairs, *Report*

it with civil penalties, also IAM was adopted for settlement mechanism<sup>19</sup>. This has elevated the ease of doing business as well as it alleviated the burden on the judiciary<sup>20</sup>. However, a principled balance must be maintained by leaving some offences untouched by decriminalisation<sup>21</sup>.

The Corporate Laws (Amendment) Bill, 2026<sup>22</sup> decriminalises five specific offences under the Companies Act, 2013<sup>23</sup>, shifting them from criminal prosecution to civil penalties under the IAM. These include: (i) wilful failure to furnish information relating to the affairs of a producer company; (ii) contravention of Rules; (iii) failure to furnish information or documents required by the Registrar; (iv) violation of requirements relating to books of account; and (v) failure to comply with a requisition, other than a summons, of the Registrar<sup>24</sup>. Notably, these offences share a common characteristic they are procedural and administrative in nature, involving no element of fraud or public harm, making them prima facie suitable candidates for decriminalisation.<sup>25</sup> The legislative intent behind the decriminalisation provisions is expressed in Statement of Objects and Reasons of the Bill, which declares the government's endeavour to facilitate greater ease of doing business for corporates<sup>26</sup>. By shifting procedural defaults to civil penalties and the IAM, the Bill simultaneously seeks to alleviate the burden on an already overburdened judiciary, channelling judicial resources towards offences of greater gravity and public consequence.<sup>27</sup>

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*of the Committee to Review Offences under the Companies Act, 2013* (2018) (recommending re-categorisation of offences into compoundable, non-compoundable, and those suitable for administrative adjudication to facilitate ease of doing business).

<sup>19</sup>See Companies Act, 2013, § 454(1)–(3) (India) (providing for appointment of adjudicating officers and empowering them to impose civil penalties for statutory defaults under the In-House Adjudication Mechanism); id. § 454(5)–(6) (providing for appeals to the Regional Director); id. § 441 (governing compounding of offences as a distinct settlement mechanism); Ministry of Corporate Affairs, *Report of the Committee to Review Offences under the Companies Act, 2013* (2018) (recommending recategorisation of offences and administrative adjudication through IAM to reduce criminal prosecution for technical defaults).

<sup>20</sup> Sneha Mahawar, Decriminalization of Corporate Offences, iPleaders (May 20, 2023), <https://blog.iplayers.in/decriminalization-of-corporate-offences/> (last visited Apr. 23, 2026).

<sup>21</sup> Id.

<sup>22</sup> The Corporate Laws (Amendment) Bill, 2026, Bill No. 85 of 2026 (India).

<sup>23</sup> Companies Act, 2013.

<sup>24</sup> Corporate Laws (Amendment) Bill 2026, cls 3–7 (India); PRS Legislative Research, 'Corporate Laws (Amendment) Bill 2026' (prsindia.org, 2026) accessed 22 April 2026.

<sup>25</sup> Divesh Goyal, 'Key Takeaway: The Companies (Amendment) Bill 2026' (csdiveshgoyal.com, 2026) accessed 22 April 2026.

<sup>26</sup> Corporate Laws (Amendment) Bill 2026, Statement of Objects and Reasons (India).

<sup>27</sup> Mahawar, supra note 20.

## A CRITICAL ANALYSIS OF DETERRENCE, STARTUPS VS. CORPORATIONS, MINORITY SHAREHOLDER PROTECTION, AND WHITE-COLLAR CRIME

In civil penalties, the deterrence is through financial discentives, whereas criminal deterrence is through personal risk and harm in reputation etc, Thus creates a profound impact may have corporate accountability<sup>28</sup>. Unless there are strict penalties, there will be weakened corporate accountability, and it may create governance issues. Various incidents like The Sterlite Copper (Tuticorin) case illustrates that despite of continuously violating various environment regulations there were weak or delayed enforcement of environmental regulations, expected profits outweigh potential penalties, until stringent action is ultimately imposed<sup>29</sup>.

Imposing criminal sanctions on small offences involving technical errors and procedural delays may hinder a healthy business ecosystem. This particularly affects startups, one person companies which all may not be able to afford any expenses that come along with criminal proceedings like appointing a legal counsel<sup>30</sup>. In addition to this criminal proceedings may lead to loss of reputation which may negatively affect investor confidence. This also disallow founders to invest their capital and time in these expenses instead of directing it towards core business activities<sup>31</sup>. On the other hand, decriminalisation may create a monetary shield for big corporations because of cost-benefit analysis, as it can become a profit-maximising decision, also social stigma of criminal deterrence may also be removed because of the impersonal nature of civil penalties. This leads to offences being repeated continuously<sup>32</sup>.

The threat of filing a criminal sanction creates a bargaining power between minority shareholders and directors. In this case, directors may buy out or settle for minority fair prices<sup>33</sup>. Also fear of reputation damage is more deterrent than civil penalties obligating directors to make fair and unoppressive decisions<sup>34</sup>. But on the other hand civil penalties is the

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<sup>28</sup> John C. Coffee Jr., *Paradigms Lost: The Blurring of the Criminal and Civil Law Models—And What Can Be Done About It*, 101 Yale L.J. 1875, 1881–85 (1992)

<sup>29</sup> Tamil Nadu Pollution Control Board, *Orders and Reports relating to Sterlite Plant Closure* (2018)

<sup>30</sup> Ministry of Corporate Affairs, *Report of the Committee to Review Offences under the Companies Act, 2013* (2018).

<sup>31</sup> World Bank, *Doing Business* (various years).

<sup>32</sup> Ministry of Corporate Affairs, *Report of the Committee to Review Offences under the Companies Act, 2013* (2018)

<sup>33</sup> Reinier Kraakman et al., *The Anatomy of Corporate Law: A Comparative and Functional Approach* 35–39 (3d ed. 2017).

<sup>34</sup> Dan M. Kahan, *What Do Alternative Sanctions Mean?*, 63 U. Chi. L. Rev. 591, 597–602 (1996)

best solution for faster resolution, and there are specialised tribunals and civil remedies have restitution effect<sup>35</sup>.

As India moves more towards “trust-based model” in place of “mistrust based criminalization”, the merits of ‘ease of doing business’ and timely resolution opposed to longer criminal adjudication process may last for 10 to 15 years if decriminalisation is not implemented in minor default area<sup>36</sup>. Keeping this in mind, one should not ignore the fact that “white collar crimes” are not decreasing but only evolving in the backdrop of digital surge<sup>37</sup>. However, India is not the first country to impose civil rather than criminal sanctions to combat with corporate offences, but countries like USA<sup>38</sup> and UK impose huge amount, India have to take this into consideration so that it won't lead to any rise in white collar crimes while adopting decriminalisation<sup>39</sup>.

## CONCLUSION AND RECOMMENDATIONS

The Corporate Laws (Amendment) Bill, 2026 is neither inherently good or bad, the actual impact lies entirely in the manner of its implementation. This paper has displayed that decriminalisation of minor procedural defaults is necessary reform, lowering judicial burden, encouraging entrepreneurship, and aligning India with international corporate law standards. However, merely substituting criminal sanctions with uniform civil penalties risks will create a cost-benefit calculus that strengthen large corporations while offering only minimal relief to startups and small businesses.

Three recommendations emerge from this analysis. First, decriminalisation must be made applicable only to selected defaults limited to procedural and technical defaults involving no element of fraud or public harm, while saving criminal sanctions for fundamental governance violations. Second, civil penalties must be regulated according to the financial capacity of the offending entity, larger corporations must face proportionately higher penalties than startups

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<sup>35</sup> Ministry of Corporate Affairs, Report of the Committee to Review Offences, supra note 32.

<sup>36</sup> Government of India, *Ease of Doing Business Reforms* (various policy statements) (emphasizing decriminalisation and administrative adjudication to reduce regulatory burden and improve business climate)

<sup>37</sup> Edwin H. Sutherland, *White Collar Crime* (1949) (establishing that white-collar crimes adapt and evolve with changing economic and technological conditions); Reserve Bank of India, *Report on Trend and Progress of Banking in India* (recent years) (noting increasing instances of digital and financial frauds in the banking system); Ministry of Home Affairs, *National Cyber Crime Reporting Portal Reports* (highlighting the rise of cyber-enabled economic offences in India).

<sup>38</sup> U.S. Securities and Exchange Commission, *Enforcement Division Annual Report* (various years)

<sup>39</sup> Kraakman et al., supra note 32.

and one-person companies for identical defaults, ensuring that penalties retain their deterrent character regardless of corporate size<sup>40</sup>. Third, the Joint Parliamentary Committee currently scrutinising the Bill must ensure strong safeguards protecting minority shareholder protection and must address the paradox of decriminalising corporate conduct amid a demonstrable rise in white collar crime in India.

At the cost of creating a more business-friendly environment, the Bill must not pave the way for increased corporate immunity. The ultimate measure of this reform will not be its impact on India's ease of doing business ranking, but whether it succeeds in building a corporate legal framework where accountability and enterprise advance together not at each other's expense.

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<sup>40</sup> Gary S. Becker, 'Crime and Punishment: An Economic Approach' (1968) 76 *Journal of Political Economy* 169

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