

CORPORATE CRIMINAL LIABILITY IN THE CONTEMPORARY WORLD

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Corporate criminal liability came to the limelight with the enhancing prejudicial impact of the corporations in the society. With the increase in industrial accidents, environmental concerns, financial crimes associated with corporations etc. the need was felt under various jurisdictions to deal with their hazardous consequences. Though most of the jurisdictions had recognized the civil liability of the corporations, the dissent lied in respect of the criminal liability of the same. The judiciary has played a significant role in establishing doctrines for dealing with the criminal liability of the corporations but further steps are paramount for filling the empty space and to strengthen the deterrent effect.

Introduction

Corporations are an incumbent part of the society without which steady economic growth is unattainable. They are a significant and indispensable part of our lives everywhere and anywhere. Globalization, information and technological developments have contributed in the expansion of the corporate sector across the globe resulting in the establishment of the multinational corporations¹. These multinational corporations having immense power are controlling and influencing the economic, industrial and sociological sectors². However, the corporations apart from being an asset, can have a hazardous impact on the society³. These corporations can be a boon as well as a bane for the society. The expansions in the corporate activities have even aggravated the commission of the white-collar crimes⁴. This all led to the development of Doctrine of Corporate Criminal Liability. From the times in 16th and 17th century where no criminal liability was attached to the corporations, we have come to a situation where the corporations can be prosecuted and held liable for maximum of the crimes⁵. This is important to achieve the objective of the criminal laws of deterrence

¹ John T. Byam, 'The Economic Inefficiency of Corporate Criminal Liability' (1982) 73 J. Crim. L. & Criminology <<http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=6306&context=jclc>> accessed 5 September 2015

² *ibid*

³ G. Stessens, 'Corporate Criminal Liability: A Comparative Perspective' (1994) 43 ICLQ 493

⁴ Ellen S. Podgor, 'Corporate And White Collar Crime: Simplifying The Ambiguous' [1994] Crim. L. Rev 391

⁵ Thomas J. Bernard, 'The Historical Development of Corporate Criminal Liability', (1984) 22 Criminology 3 <http://onlinelibrary.wiley.com/doi/10.1111/j.1745-9125.1984.tb00285.x/epdf?r3_referer=wol&tracking_action=preview_click&show_checkout=1&purchase_referrer=www.google.co.in&purchase_site_license=LICENSE_DENIED> accessed 1 September 2015

which is not only applicable to the natural persons but also the corporations as even they have the capacity to inflict harm⁶.

Corporate crime can be referred to as the liability imposed on the corporation or the members of the corporation for the acts or omissions punishable under the law⁷. The liability of a corporate under the criminal law is decided on the basis of the extent to which the company can be held responsible for crimes of its employees and members⁸. This doctrine has now been translated into a prevailing rule⁹.

1. Problems in the Evolution of the doctrine of Corporate Criminal Liability

Corporations are the legal persons and are separate from the people working within the company¹⁰. But attaching criminal liability to the corporation has not been a smooth process. Starting with the 16th and 17th century, there were nebulous and ambivalent issues existing then in respect of corporate criminal liability which lead to the acceptance of non- imposition of any criminal liability on corporations. The principle of "*societas delinquere non potest*" which means that the legal person can't be blamed¹¹ was implemented. However with the passage of time, there was a change in the traditional belief of shielding the corporations from the criminal liability¹². Corporations must be held liable under the law for the purposes of deterring these powerful entities¹³. Despite of the necessity to hold the corporations criminally liable, the courts were reluctant to do so because of the following major problems:

- The corporations didn't possess the *mens rea* which is an essential element to be held liable for an offence of intent.
- Imposing of sentences was another problem. As the corporations didn't possess any body, it was impossible to put them behind the bars¹⁴.

Thus as a corporate body didn't have any soul or body, the criminal law was not applicable to it¹⁵. However, these problems which very well existed till the early 21st century have been resolved with the help of the judicial decisions which shall be discussed under the second chapter.

⁶ C Kennedy, *Criminal Sentences for Corporations: Alternative Fining Mechanism* (1985) 73 Calif Law Review 443

⁷ John Braithwaite, *Corporate Crime in the Pharmaceutical Industry*, (Routledge & Kegan Paul Books 1984)

⁸ Reinier H. Kraakman, 'Corporate Liability Strategies and the Costs of Legal Controls', (1984) 93 Yale L.J. 857

⁹ *ibid*

¹⁰ P J Fitzgerald, *Salmond on Jurisprudence* (12th edn, Universal Law Pub Co.P.Ltd 1966)

¹¹ Bernard (n 6)

¹² Amanda Pinto Q.C. & Martin Evans, *Corporate Criminal Liability* (3rd edn, Sweet & Maxwell 2013)

¹³ *Gt Northern Railway CO. Case* [1846] 9 Q.B. 315

¹⁴ Engobo Emeseh, 'Corporate Responsibility For Crimes - Thinking Outside The Box' (2005) 1 U.B.L.J. 28

¹⁵ *ibid*

2. Jurisprudence developed in UK

The origin of concept of corporate criminal liability can be traced to the United Kingdom. The concept is more settled there than in any other country. The inception of the corporate criminal liability in UK can be traced back to the case *Royal Mail Steam Packet v. Braham*¹⁶ where the company was said to be a person. In another landmark case, it was held that the business of the company could not be considered as the business of defendant because the company possesses a separate legal personality if company is duly established under the law¹⁷. Hence, attributing a separate corporate personality to the company is the cornerstone of the doctrine of corporate criminal liability.

To deal with the problems specified above in the first chapter, the courts developed two doctrines i.e.

- **The Doctrine of Vicarious Liability:** Under the doctrine, the principal/company could be held civilly responsible for the wrongful acts committed by their servants/employees provided the condemned act is done within the course of employment¹⁸. Doctrine of vicarious liability also known as respondent superior was applicable under civil law but didn't find any place under the criminal law as the criminal law provided that every person must be liable for their own acts and behavior and not for the acts of others¹⁹. However, it was a matter of time when it was extended to the criminal law for determining the corporation's liability.
- **The Doctrine of Identification:** Under this doctrine, the acts of the corporate officers are identified with that of the company. As a company is an impalpable fictitious entity having no brain or body, the guilt of the senior officers of the company who are its embodiment are said to be of the company for which the company is accountable²⁰.

Vicarious Liability for the Offences Requiring Mens Rea: Scenario Before 1944

Holding companies absolutely or strictly liable didn't pose much difficulty before the courts as the strict liability offences imposing absolute duties lacked the requirement of *mens rea*. Issue arose with regard to holding the company liable for the offences requiring the criminal intent. This hindrance was further resolved as the court while interpreting the statute held that there is nothing which prohibits the company to be held liable as a principal for the prohibited acts requiring *mens rea* of its employees working within the course of employment²¹. Hence, a time was reached where the corporations were vicariously liable for the strict offences as well for the offences necessitating criminal state of mind.

Personal Liability of the Corporations: Scenario after 1944

¹⁶ [1877] 2 App Cas 381

¹⁷ *Salomon v. Salomon & Co Ltd* [1897] AC 22

¹⁸ *Ranger v. The Great Western Railway Company* [1854] 5 HLC 72

¹⁹ *Gunston and Tee Ltd v. Ward* [1902] 2 KB 1

²⁰ *H.L. Bolton (Engineering) Co. Ltd. v. T.J. Grahams and sons Ltd.* [1957] 1 QB 159

²¹ *Mousell Bros Ltd. v. London & North West Ry Co. Ltd* [1917] 2 K.B. 836

Doctrine of Identification : *actus reus* attributed - In 1994, there were three revolutionary cases which settled the principle of indicting a corporate body even for the non-regulatory offences demanding intent as the intent of the managing or controlling officers of the company were attributed to the company²². The corporations were held personally liable for the offences of intent.

The origin of the doctrine can be traced back to 1915 i.e. *Lennard's Carrying Co. Ltd. v. Asiatic Petroleum Co. Ltd.*²³. In this case the question before the court was if the fault of Mr. Lennard who was the director as well as the managing owner could be equated to the fault of the company. The company was considered liable on the ground that when the agent in question is such that he is the brain and will of the company then the company can be very well identified with him²⁴.

Another landmark case is the *Tesco Supermarkets Ltd. v. Nattrass*²⁵. This case specifically provided the limited persons²⁶ within the company whose actions could be assigned to the corporations in accordance with the identification principle. It was held that the people who actually have control and who are not answerable to anybody else within the company must be considered the company as they are performing as the same. They are the ones directing the company. It is settled that the doctrine of identification is applicable in respect of all the offences whether regulatory or non-regulatory offences on the fulfillment of the condition i.e. when the acts or omissions of the one in question can be attributed to the company itself²⁷. The courts have now adopted a more liberal approach for recognizing the directing mind of the company i.e. the MOA or AOA of the company must be taken into account and the statutory context must be given due importance²⁸.

Hence, the doctrine of identification is the well-settled principle and the basis for the corporate criminal liability in UK. The corporations can be indicted for the offences that provide for punishment with fine²⁹. The punishments that can be inflicted on corporations are fines, compensation orders, restitution order, confiscations, remedial orders etc.

Corporate Manslaughter

From the times when it was considered that corporations can't be charged, we have come to the time where the western countries have adopted and purported the concept of corporate manslaughter. UK can be regarded as the one who initiated corporate manslaughter. The judge agreed to apply the doctrine of identification to hold the

²² *DPP v. Kent and Sussex Contractors* [1944] KB 146, *R v. ICR Haulage Ltd* [1944] KB 551, *Moore v. Bresler* [1944] 2 All ER 515

²³ [1915] A.C. 705

²⁴ *ibid*

²⁵ [1971] UKHL 1

²⁶ Board of Directors, the Managing Director as well as superior officers of the company

²⁷ *R v. Regis Paper Co Ltd* [2012] 1 Cr. App.R. 14

²⁸ *Meridian Global Funds Management Asia Ltd v. Securities Commission* [1995] 2 AC 500

²⁹ CPS, 'Corporate Prosecutions', <http://www.cps.gov.uk/legal/a_to_c/corporate_prosecutions/> accessed 7 September 2015

corporation responsible for the manslaughter³⁰. In 2008, UK even passed the Corporate manslaughter and corporate homicide Act (CMCHA) to prevent the miscarriage of justice.

3. Jurisprudence as developed in India

The concept of corporate criminal liability in India came to light much later than in the other western countries³¹. The economic development of India depends on the industries to a much greater extent. With the rise in the companies establishing business, the need was felt to control and regulate their activities as they have the potential to endanger the life, health of the people not only who are engaged in the factory but also of the society. Section 9 of Companies Act 2013 recognizes company as a separate juristic entity³². The concept of corporate criminal liability evolved in the following stages:

Limited Application

Offences Requiring the Intent: Issue Of Mens Rea

Initially the corporations were not held responsible for the crimes of intent under the criminal law. The courts opined that as company doesn't possess the mental element, they couldn't be punished for the crime demanding *mens rea*³³. It was pursued that there are certain crimes which can never be committed by the company. These included certain crimes such as rape as the company can't be fitted within the requirements of sections contemplating such crimes³⁴. It was considered impossible to hold the corporations responsible for committing fraud under IPC because of the very nature of the corporate bodies as they being legal persons neither could have had the indispensable criminal intent nor be imprisoned³⁵.

Imposing Sanctions

The corporations can be easily punished for offences punishable with fine. But the dilemma arose in respect of offences imposing imprisonment as well as fine. The court held that the juristic person's culpability could be restricted to only few offences where the element of intent is not required and where the court is capable of imposing fine³⁶. The corporations were not prosecuted for the violation of those sections of statutory acts if their violation imposed compulsory imprisonment as punishment³⁷. This was opined on the view that the courts have been empowered to interpret the statues but they can't do so in a way so as to

³⁰R v. HM Coroner ex parte Spooner [1987] 88 Cr App 418

³¹ Sumit Baudh, 'Corporate Criminal Liability: A Review In Light Of Tata-Ulfa Nexus' (1998) 10 Student Advocate 44 <<https://www.nls.ac.in/students/SBR/issues/vol10/1007.pdf>> accessed 27 August 2015

³² Companies Act 2013, s 9

³³ Kalpanath Rai v. State (1998) CriLJ 369 (SC)

³⁴ Ananth Bandhu v. Corporation of Calcutta (1952) AIR 759 (Cal)

³⁵ A.K. Khosla v. T.S. Venkatesan (1992) CriLJ 1448 (Cal)

³⁶ Badsha v. ITO (1987) 168 ITR 332 (Ker)

³⁶ Modi Industries Ltd. v. B. C. Goel (1983) 54 CompCas 835 (All)

³⁷ Kusum Products Ltd. v. S.K. Sinha (1980) 126 ITR 806 (Cal)

limit the minimum punishment provided for a statute³⁸. Also implementing the rules of strict construction requires deciding in the favour of the accused when two absurd interpretations are possible³⁹. Hence, the rule was laid down that if the offence for which the artificial persons are prosecuted calls for mandatory imprisonment then in such a scenario, no responsibility could be attributed to them, as they are incapable of being imprisoned⁴⁰.

Evolving Scenario

However, eventually the above-mentioned situations underwent a change with the jurisprudence developed by the courts as the combination of the vicarious liability and doctrine of identification was followed. Though the corporation were not capable of committing certain crimes such as rape, bigamy as they can be committed by a natural person only but they were indicted for crimes of intent as the corporations performs their functions through the directors and other agents whose belief, actions or intent can be attributed to the company⁴¹.

The advancement of the recent landmark judgment in the *Iridium India Telecom Ltd v. Motorola Incorporated & Ors*⁴² has further confirmed the above judgment. In this case the complainant company instituted a case under section 420 and 120-B of IPC against the other company. The Supreme Court applying the Doctrine of attribution and principle of alter ego said that the company can be indicted even in cases of offences mandating the criminal state of mind by attributing the actions and the mind of those who have such enormous control over the company such that their mind, knowledge and actions can be considered as that of the company itself⁴³.

Further with regard to the imprisonment, the view was implemented that the court inflicting more than what is stated is prohibited but it can impose lesser punishment. Hence, in cases of imprisonment and fine, only fine may be imposed on the company⁴⁴. *Standard Chartered Bank and Ors v. Directorate of Enforcement*⁴⁵ has further unfolded and settled the issue of prosecuting the corporations when mandatory imprisonment is provided in the statute. The court expounded the intention of legislature in respect of prosecuting the company on the grounds that the intention of the legislature can never be to prosecute the corporations only for minor offences which gives the discretion to the court to impose imprisonment or fine and not for graver offences requiring the obligatory imprisonment as companies can't be jailed. It was held that the companies could be prosecuted and held liable for the offences providing for compulsory imprisonment by

³⁸ *Assistant Commissioner, Assessment-II, Bangalore & Ors. v. Velliappa Textiles Ltd & Anr* (2005) AIR 2622 (SC)

³⁹ *ibid*

⁴⁰ *Municipal Corporation of Delhi v. J.B. Bolting Company (P) Ltd* (1978) RLR 94 (Del)

⁴¹ *State of Maharashtra v. Messers Syndicate Transport Co. (P) Ltd.* (1964) AIR 195 (Bomb)

⁴² [\(2011\) 1 SCC 74 \(SC\)](#)

⁴³ *ibid*

⁴⁴ *Oswal Vanaspati & Allied Industries v. State of U.P* (1992) 75 CompCas 770 (All)

⁴⁵ (2005) 4 SCC 530 (SC)

simply imposing fines on them on the proof of the guilt. Hence, the concept of corporate criminal liability is here to stay. This is evident from the judgment given in the Bhopal gas tragedy case⁴⁶ where one of the accused was itself the corporation i.e. Union Carbide India Ltd. and was held liable⁴⁷.

Hence the present framework in respect of corporate criminal liability states:

- Corporations can be punished for the *mens rea* offences for the fault of the people who are said to be the alter ego or the organs of the corporation as they are the ones directing the day-to-day matters of the company but this is not applicable vice-versa.⁴⁸
- The penalty that can be imposed on the corporations is fine⁴⁹.
- The corporations can't be indicted for certain offences by their very nature like murder, rape etc⁵⁰.
- Corporations are not only liable under the Indian Penal Code but under multifarious enactments specifically imposing liabilities on the company⁵¹.

4. Analysis of Laws under Companies Act, CrPC & IPC

Due the vital role played by the corporations and increasing scandals in the corporate world along with the hazardous impact of industrial accidents, stringent laws were required to protect the society as well as the interests of the shareholders and investors. Scandals like Satyam scam shook the whole corporate sector and threw light on the inadequacy of the existing laws to protect the concerned interest. Hence, the legislature passed the **Companies Act 2013** to introduce the corporate criminal liability and intensify the corporate governance.

Indian Penal Code 1860 (IPC) is the substantive criminal statute of India consisting of the offences for which the punishment may be imposed including on the corporations⁵². **Code of Criminal Procedure 1973 (CrPC)** prescribes the procedure that is to be followed in case of a violation of any criminal law i.e. IPC or any other statutory law⁵³. Section 63 of the CrPC provides the manner in which the summon is to be served in case of company

⁴⁶ *Union Carbide Corporation v. Union Of India Etc* (1990) AIR 273 (SC)

⁴⁷ IPC 1860, s 304-A , s 336, 337 , s 338

⁴⁸ *Sunil Bhatti Mittal v. Central Bureau of Investigation ("CBI") and Others* (2015) AIR 923 (SC)

⁴⁹ Prateek Andharia 'Corporate Criminal Liability: Finding Settled Shores?-A Comment On Iridium India Telecom v. Motorola Inc' [2011] NALSARStuLawRw 57

⁵⁰ *ibid*

⁵¹ Negotiable Instruments Act, 1862, s 141; The prevention of food adulteration act 1954, s 17; Essential Commodities Act 1955, s 7 ; The Income Tax Act 1961, s 276-B

⁵² IPC 1860, s 11: The word "Person" encompasses Company.

⁵³ CrPC 1976, s 4

defendants⁵⁴. Also section 305 provides for the appointment of a representative in case of company defendants⁵⁵.

Just like CrPC provides for the classification of offences as bailable and non-bailable, compoundable and non-compoundable, cognizable and non-cognizable, the Companies Act 2013 has even classified the offences as the same. The Companies Act 2013 provides a provision for the constitution of the **National Company Law Tribunal** and **Appellate Tribunal** which are required to follow the Code of Civil Procedure 1908. Chapter 28 further provides for the establishment of the **Special Courts** by the Central Government which follows the procedure as laid down in Code of Criminal Procedure. As recently laid down by the supreme court, only the Special Courts have the power of not only trying the offences under the Companies act but also under IPC ⁵⁶.

Following table depicts the criminal liability of the corporation under the companies act 2013, Indian Penal Code and Code of Criminal Procedure:

Companies Act 2013 (sections)	Indian Penal Code 1860	Code Of Criminal Procedure 1973
7 provides the documents to be filed with the registrar for the purpose of the incorporation of the company. It provides the punishment in case the incorporation is done on untrue basis.		Non-bailable, cognizable and Non-compoundable
34 provides for the liability of the company in case of false information stated in the prospectus.	418 provides for cheating having the knowledge that wrongful loss may be caused to another person whose interest is required to be protected by the offender 420- Cheating	Non-cognizable, Bailable and Compoundable Cognizable, Non-bailable and Compoundable

⁵⁴ CrPC 1976, s 63

⁵⁵ CrPC 1976, s 305

⁵⁶ *S. Satyanarayana v. Energo Masch Power Engineering & Consulting Pvt. Ltd. & ors* (2015) 4 SCALE 214 (SC)

		Under the act: Cognizable , Non-bailable and Non- Compoundable
36 deals with punishment in case of inducing people fraudulently in investing money.	418 provides for cheating having the knowledge that wrongful loss may be caused to another person whose interest is required to be protected by the offender 420-Cheating	Non-cognizable, Bailable and Compoundable Cognizable, Non-bailable and Compoundable Under the act : Cognizable Non-bailable and Non-compoundable
46(5)- Certificate of shares. The corporation is under a duty to issue certificate of shares to the shareholders but if they issue duplicate share certificate to deceive, the company can be held criminally liable for the same.	418 provides for cheating having the knowledge that wrongful loss may be caused to another person whose interest is required to be protected by the offender 420-Cheating 406- Criminal breach of trust	Non-cognizable, Bailable and Compoundable Cognizable, Non-bailable and Compoundable " Under the act: Cognizable Non-bailable and Non-compoundable
53(3) prohibits the company from issuing shares at discount. If the company violates the		Non-cognizable, Bailable and Compoundable

provision, it shall be liable for the same.		
66(10) provides the manner in which the company may reduce its share capital. If it contravenes the provision it shall be held liable.	418 provides for cheating having the knowledge that wrongful loss may be caused to another person whose interest is required to be protected by the offender 426- Mischief	Non-cognizable, Bailable and Compoundable Non cognizable, bailable and Compoundable Under the act: Cognizable Non-bailable and Non-compoundable
68(11) emanates the requirements for the buy back of shares, the non-compliance of which imposes liability on the company.		Non-cognizable, Bailable and Compoundable
74(3) imposes a liability on the company if it neglects to repay the deposits to depositors.	406- Criminal breach of trust	Cognizable, Non-bailable and Compoundable Under the act: Non-cognizable, Bailable and Compoundable
86 imposes penalty on the corporation for not complying with the provisions mentioned under chapter IV with regard to registration of charges.		Non- cognizable, Bailable and Compoundable

<p>92(6) emanates the annual return to be filed by the company. If the company doesn't do so in accordance with the section, it is criminally liable.</p>		<p>Non- cognizable, Bailable and Compoundable</p>
<p>128 demands the company to maintain a book of accounts as the book of accounts is essential for the purposes of acknowledging the transactions and affairs of the company.</p> <p>129(7) and 134- These sections focus on the financial statements of the company i.e. the manner in which they are to prepared and laid down. The financial statements must provide the true affairs of the company for protecting the interests of the shareholders. If they are untrue the companies can be held responsible.</p>	<p>406- criminal breach of trust</p> <p>420- cheating</p> <p>477A- Falsification of account</p> <p>467- Forgery of a valuable security</p> <p>468- Forgery for the purpose of cheating</p> <p>471- using as genuine a forged document</p>	<p>Cognizable and non-bailable, Compoundable</p> <p>Cognizable, Non-bailable and Compoundable</p> <p>Non-cognizable and bailable, non-compoundable</p> <p>Non-cognizable and non-bailable, non-compoundable</p> <p>Cognizable and non-bailable,</p> <p>Cognizable and bailable, Non-compoundable</p> <p>Under the act : Non-cognizable, Bailable and non-compoundable(section 134 is compoundable)</p>
<p>135 is titled as Corporate Social Responsibility. This is the new and significant development made for the purposes of enhancing the liability of the company towards the society and the environment.</p>	<p>269-Public nuisance (269-278 dealing with public health)</p>	<p>Cognizable, bailable and non-compoundable</p>
<p>147(1) provides for punishment for non-observance of chapter X relating to audit and audit</p>	<p>406- Criminal breach of trust</p>	<p>Cognizable, Non-bailable and Compoundable</p>

<p>committee. This is important as the auditors have a cardinal role to oversee the financial statements for the purposes of preventing any accounting fraud.</p>	<p>420- cheating 465- Forgery 477-A Falsification of accounts</p>	<p>" Non-cognizable, bailable and non-compoundable " Under the act : Non-cognizable, bailable and compoundable</p>
<p>182 requires the company to communicate the political contributions made by them in accordance with the provision. The violation of which leads to imposition of fine on the company.</p>	<p>403- Dishonest misappropriation of property 406- Criminal breach of trust 477-A Falsification of accounts</p>	<p>Non-cognizable, bailable and compoundable Cognizable, Non-bailable and Compoundable Non-cognizable, bailable and non-compoundable Under the act: Non-cognizable, bailable and compoundable.</p>
<p>185 deals with the loan to directors. 186 provides the manner in which the loan and investment shall be done by the Company. 187 demands that the investment must be done its own name. The infringement of any of these sections can lead to imposition of fine on the company.</p>	<p>403- Dishonest misappropriation of property 406- criminal breach of trust 418 provides for cheating having the knowledge that wrongful loss may be caused to another person whose interest is required</p>	<p>Non-cognizable, bailable and compoundable Cognizable, Non-bailable and Compoundable Non-cognizable, Bailable and Compoundable</p>

<p>This is important for the purposes of preventing any confusions and opportunity to defraud the concerned persons.</p>	<p>to be protected by the offender</p> <p>420 deals with Cheating</p> <p>477-A Falsification of accounts</p>	<p>Cognizable, Non-bailable and Compoundable</p> <p>Non-cognizable, bailable and non-compoundable</p> <p>Under the act: Non-cognizable, bailable and compoundable</p>
<p>204 requires the company to prepare a secretarial audit report to be attached with the board's report, the contravention of which leads to imposition of fine on the company. This is another tool to strengthen corporate governance.</p>		<p>Non-cognizable, bailable and compoundable</p>
<p>251 provides penalty in case of an application is filed for the purposes of changing the name of the company with the fraudulent intention.</p>	<p>406- criminal breach of trust</p> <p>418 provides for cheating having the knowledge that wrongful loss may be caused to another person whose interest is required to be protected by the offender</p> <p>422- Dishonestly or fraudulently preventing debt being available for creditors</p>	<p>Cognizable, Non-bailable and Compoundable</p> <p>Non-cognizable, Bailable and Compoundable</p> <p>Non-cognizable, bailable and compoundable</p>

		Under the act: Cognizable Non-bailable and Non-compoundable
339(3) provides punishment in case the company's business is carried with intention to defraud the concerned persons.	406- criminal breach of trust 418 provides for cheating having the knowledge that wrongful loss may be caused to another person whose interest is required to be protected by the offender 420-Cheating	Cognizable, Non-bailable and Compoundable Non-cognizable, Bailable and Compoundable Cognizable, Non-bailable and Compoundable Under the act: Cognizable Non-bailable and Non-compoundable
447 provides the punishment for fraud	420-Cheating	Cognizable, Non-bailable and Compoundable Under the act: Cognizable Non-bailable and Non-compoundable
448 provides liability for making a false statement	420-Cheating	Cognizable, Non-bailable and Compoundable Under the act: Cognizable Non-bailable and Non-compoundable
449 provides liability for giving false evidence	193 -Giving false evidence	Non-cognizable, bailable and non-compoundable Under the act: Non-cognizable, bailable and compoundable

450 imposes a penalty on the company in case no specific punishment is provided under the act for the breach of its provisions.		Non-cognizable, bailable and compoundable
	120B- Criminal Conspiracy	Non cognizable, bailable and non-compoundable
	304A causing death by negligence	Cognizable, bailable and non-compoundable
	336- Act endangering life of others	Cognizable, bailable and Non-compoundable
	337 and 338 which deals with causing hurt or grievous hurt respectively by act endangering life or personal safety of others	Cognizable, bailable and Compoundable

Conclusion

The concept of corporate criminal liability has grown by leaps and bounds in all the countries. Though the judiciary and the legislators have even played a significant role in imposing liabilities on the corporations to deter them from committing crime, more concrete steps must be taken in this regard. Despite of the devastating effect of industrial accidents, there is no legislation on it in India. The 47th report of the Law Commission of India suggests that criminal liability should not only be imposed on the few officers but

even on the company⁵⁷. The 41st report of the Law Commission of India specifically dealt with the hindrances faced during prosecutions and punishments and suggested that amendment should be made in the IPC in such a way that if the offence is the one punishable only with imprisonment or imprisonment as well as fine then the court must be in a position to impose fines on the corporation⁵⁸. However these recommendations have not been adopted. Moreover another lacuna is the only punishment that can be imposed is of fine on the company which apart from being a weak penalty is also detrimental to the interests of all the innocent employees working in the company⁵⁹. Hence, new forms of sanctions must be developed to the achieve the desired objective which can include negative publicity, dissolution of the company (corporate death), confiscation, restitution etc.⁶⁰. Moreover better models must be adopted by the other countries such as the aggregation theory of US and corporate culture specified under the model criminal code⁶¹ of Australia. As evident in the Tata-Ulfa Nexus case where the whole corporate culture was involved in the heinous crime of aiding the terrorist group, considering the actions of a single controlling person is of less importance⁶². Hence, the Courts must exploit the opportunity of filling the vacuum in the world of corporate criminal liability.

⁵⁷ Law Commission of India, *Trial and Punishment of Socio-Economic Offences* (Law Report 47, 1972)

⁵⁸ Law Commission of India, *The code of criminal procedure ,1898-Vol 1* (Law Report 41, 1969)

⁵⁹ Markus Wagner, 'Corporate Criminal Liability: National and International Responses' (1999) 25 C.L.B.

<<http://www.icclr.law.ubc.ca/sites/icclr.law.ubc.ca/files/publications/pdfs/CorporateCriminal.pdf>
> accessed 8 September 2015

⁶⁰ibid

⁶¹Baudh (n 32)

⁶² ibid