

# Comparative Analysis of Corporate Manslaughter Laws in India and United Kingdom

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**Abstract:** Corporate manslaughter laws, a relatively new legal concept in India, have garnered increasing attention due to the need for greater corporate accountability and responsibility for deaths resulting from corporate negligence. This research seeks to analyse and evaluate the current state of corporate manslaughter laws in India, tracing their historical development and examining their practical implications. The study also explores international best practices and offers recommendations for potential legal reforms. In doing so, it aims to shed light on the complexities surrounding this issue, addressing the challenges of holding corporations accountable for fatalities caused by their actions. The topic of corporate manslaughter has gained prominence in recent years as incidents of corporate negligence leading to the loss of human life have brought to the forefront the need for more robust legal measures in India. This research explores the evolution and current status of corporate manslaughter laws in the country, examining their efficacy in promoting corporate responsibility and justice for victims and their families. The historical development of corporate manslaughter laws in India can be traced back to the Bhopal gas tragedy in 1984. The aftermath of this disaster, in which thousands of people lost their lives, highlighted the inadequacies of existing legal frameworks to hold corporations accountable for such large-scale catastrophes. Subsequently, the need for more robust legislation led to the enactment of the Bhopal Gas Leak Disaster Act 1985. This act, while a significant step forward, needed to be expanded in its scope and applicability. In the present day, India lacks a comprehensive corporate manslaughter law. Prosecutions against corporations for causing deaths through negligence are typically pursued under other legal provisions, such as the Indian Penal Code and various environmental and labour laws. The absence of a dedicated statute specific to corporate manslaughter raises questions about the adequacy of current legal measures in addressing this issue. This research delves into the practical challenges law enforcement agencies and courts face in using existing laws to hold corporations accountable for fatalities. To gain a broader perspective, this study conducts a comparative analysis of other countries with well-established corporate manslaughter laws, such as the United Kingdom and Australia. By examining their legal frameworks and case studies, it is possible to draw valuable insights regarding the strengths and weaknesses of different approaches. The analysis aims to provide a foundation for developing more effective corporate manslaughter legislation in India. The research identifies several challenges and limitations in the current legal landscape of corporate manslaughter in India. These include the lack of a clear legal definition of corporate manslaughter, limited awareness and enforcement of existing laws, and the lengthy and complex legal procedures involved in prosecuting corporations. The study also highlights the importance of public awareness and advocacy in bringing cases to the forefront and pressuring

corporations to take responsibility for their actions. In light of the findings, this research offers several recommendations for reforming corporate manslaughter laws in India. These suggestions include the need for a dedicated legislative framework that defines corporate manslaughter, streamlines the prosecution process, and imposes significant penalties on corporations found guilty of such offences. Furthermore, it emphasizes the importance of creating awareness campaigns and training programs for law enforcement agencies to effectively address corporate negligence cases. Corporate manslaughter laws in India remain a topic of great importance in ensuring corporate accountability and justice for victims and their families. While progress has been made since the Bhopal gas tragedy, there is still much work to be done to bring India's legal framework in line with international best practices. This research contributes to the ongoing discourse surrounding corporate manslaughter laws and provides a comprehensive analysis of the challenges and opportunities for reform in India. Ultimately, the aim is to pave the way for a legal system that holds corporations accountable for their actions, thus promoting a safer and more responsible corporate culture in the country.

**Keywords:** corporate manslaughter, corporate entities, criminal liability, legislation.

## 1. Introduction

Corporate entities are often viewed as more prone to corruption and wrongdoing than individuals due to their significant power and lower susceptibility to shame or punishment. Corporate criminal liability has been a contentious subject, receiving limited attention in discussions surrounding criminality. While corporate development is integral to a country's progress, it has also led to increased associated crimes and fraud, which may worsen over time. The introduction of corporate criminal liability can be traced back to common law countries, with each nation following a distinct path in adopting and developing these laws.

Corporate criminal liability has ancient origins, gaining prominence in the late 19<sup>th</sup> century. Its evolution took different routes in Roman law and common law jurisdictions. Common law countries, including Canada, England, and the USA, were among the first to develop corporate criminal liability, while civil law nations neglected the concept until the 20<sup>th</sup> century. In Roman law, corporate liability for *universitas* was established between the 12<sup>th</sup> and 14<sup>th</sup> centuries, with emperors imposing punishments such as fines, loss of rights, and dissolutions on corporations.

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From the 14th to the 18th century, a prevailing theory in continental European doctrine asserted that all corporations should be liable for both civil and criminal acts committed by their members, resulting in fines for their crimes. France played a pivotal role in advancing corporate criminal liability when it introduced it in the French penal code in 1976. Other European countries, including Belgium and the Netherlands, later followed this example.

Initially, England resisted the idea of corporate criminal liability, citing the belief that corporations lacked the capability to form intentions or possess mens rea, making it impossible to attribute blame or impose punishment. However, as corporations became increasingly influential in the socio-economic landscape during the 16th and 17th centuries, the need to control their misconduct became evident.

The development of corporate liability in English law began in 1848, and the High Court of Justice imposed strict liability on corporations in 1944, choosing to hold corporations directly liable. Over time, the issue of establishing clear criteria for proving mens rea was addressed, further clarified in a 1972 case. In contrast, the United States initially followed England's example but later developed its approach to corporate criminal liability, which evolved more slowly than civil liability for corporations.

The 18th century witnessed various joint-stock companies engaging in stock speculation, fraud, and bribery. In 1720, an investigation was launched into corporate fraud and bribery, leading to the enactment of the Bubble Act, which regulated the establishment and constitution of corporations. This act was replaced in 1825, spurring the growth of corporations.

English courts established principles such as the Identification principle, Principle of Attribution, Doctrine of Respondent Superior, and Vicarious Liability principle to determine corporate liability. The Identification principle, emphasizing that a company's intentions could be formed through its agents, gained prominence. Many times, the Principle of Attribution was used interchangeably with the Identification principle. The Doctrine of Respondent Superior, initially developed in American courts, was borrowed from tort law and applied to corporate liability.

The concept of corporate criminal liability began to gain recognition in India after the landmark judgment of *Standard Chartered Bank v. Directorate of Enforcement*.<sup>1</sup> Corporate criminal liability was properly introduced in India with the Companies Act of 2013, replacing the Companies Act of 1956. Indian courts had previously been reluctant to adopt the concept of corporate criminality and holding corporations criminally liable, mainly due to the Latin maxim 'actus non facit reum, nisi mens sit rea,' emphasizing the need for a guilty mind to establish liability, a challenge in the case of corporations.

Corporate criminal liability in India operates under two models: the Derivative model and the Organizational model. Before the Companies Act of 2013, corporations could only be penalized with fines but not imprisonment. After the enactment

of the 2013 Act, corporations can now be held liable for both imprisonment and fines. In the case of *Standard Chartered Bank v. Directorate of Enforcement*, it was established that corporations could be prosecuted for criminal offences in India.

In the Indian legal system, the recognition of corporate criminal liability took time to develop. The delayed recognition stemmed from the belief that proving that corporations committed crimes with a guilty mind was difficult, unlike natural persons. Indian Penal Code (IPC) Section 11 defines a 'person' to include any company or, association or body of persons, providing the basis for corporate criminal liability under the IPC.

Corporate crimes in India refer to the unlawful conduct of a corporation or its employees acting on behalf of the corporation, as prescribed and punished by law. Corporate criminal liability, while well-established in common law countries, was less developed in India until the introduction of the Companies Act of 2013.

In India, the concept of corporate criminal liability is increasingly recognized, albeit not to the same extent as in common-law countries. The Corporate Manslaughter and Corporate Homicide Act of 2007 in the United Kingdom may serve as a reference point for Indian legislation. While Indian laws, such as the Companies Act of 2013, address corporate criminal liability and sentencing, the concept of corporate homicide is not specifically addressed in Indian legislation.

## 2. The Origin of Concept of Corporate Manslaughter

The concept of corporate manslaughter has emerged as a significant legal issue within the realm of criminal law. The development of corporate manslaughter laws can be traced back to the imperative need to establish corporate entities' responsibility for their actions, despite their distinct legal status as separate entities. For the very first time in any civil law one code, that was the French new penal code established, for the corporate criminal liability and sanctions.<sup>2</sup>

The origins of corporate manslaughter, as a concept, have ancient roots, with different legal systems addressing it in diverse ways. The idea of holding corporations liable for fatalities stemming from their actions began its evolutionary journey over several centuries. To gain insight into its origin, it is essential to explore its evolution within both common law and civil law jurisdictions.

### A. Common Law Origins

In common law nations, including the United Kingdom, Canada, and the United States, the concept of corporate manslaughter took shape during the 19th century. Initially, there was reluctance to ascribe criminal liability to corporations, as they were perceived as artificial entities lacking the capacity for mens rea, or a guilty mind. One of the earliest cases to examine the question of corporation liability for homicide was *R.V. Cory Bros.* (1927). The issue of corporate manslaughter was not brought up again until the *R.V.P. & O.*

<sup>1</sup> *Standard Chartered Bank v. Directorate of Enforcement*, AIR 2005 SC 2622

<sup>2</sup> Leonard Orland and Charles cachera,'essay and translation, corporate crimes and punishment in France, criminal responsibility of legal entities under the new french criminal code

ferries case.<sup>3</sup>

The turning point in common law's approach to corporate manslaughter came in the mid-19th century in the United Kingdom. Notably, in a 1842 case, English courts levied corporate manslaughter charges, marking a significant departure from earlier reluctance. Before this, there had been a prevailing hesitancy to criminally implicate corporations.

In common law jurisdictions, the evolution of corporate manslaughter laws was characterized by several key factors:

*Identification Principle:* A fundamental principle that emerged was the Identification Principle. This principle posited that a corporation could form intentions through its agents, such as directors or employees who managed the company. Consequently, the guilty minds of these individuals could render the corporation itself culpable.

*Clarity on Mens Rea:* Initially, there was confusion surrounding the criteria for establishing mens rea, or the guilty mind, in cases of corporate manslaughter. However, through legal developments and court decisions, this issue gradually became clearer.

*Direct Corporate Liability:* In the mid-20th century, a significant development occurred when the High Court of Justice in the United Kingdom began imposing direct corporate liability on corporations. This marked a return from the previous practice of borrowing liability principles from tort law.

### B. Civil Law Origins

Civil law jurisdictions, comprising many European countries, took a more gradual approach in acknowledging corporate criminal liability. This gradual acceptance was mainly due to the absence of a clear demarcation between criminal and civil liability. The concept of holding corporations criminally accountable was less prominent until the 20th century.

A noteworthy development within civil law occurred with the enactment of the French New Penal Code in 1810. This legal framework introduced the notion of corporate criminal liability and associated penalties. The French example subsequently influenced other European nations, including Belgium, the Netherlands, and Germany. Nevertheless, civil law systems tended to proceed with caution, evolving at a more measured pace compared to their common law counterparts.

The evolution of corporate manslaughter laws was characterized by significant milestones and shifts in legal thought. These developments marked a shift from a reluctance to impose corporate liability to the recognition of the imperative need to hold corporations accountable for actions leading to fatalities.

The development of corporate manslaughter laws has been influenced by both common law and civil law traditions. This evolution reflects an increasing awareness of the necessity to hold corporations accountable for actions that result in loss of life. In numerous countries, this development signifies a shift from perceiving corporations as immune to criminal liability to recognizing their culpability in specific cases of manslaughter.

## 3. Origin and Development in India

The inception of corporate manslaughter laws in India was prompted by a series of tragic incidents, compelling the nation to address the necessity of holding corporate entities responsible for actions leading to fatalities. Among these incidents, the Bhopal Gas Tragedy of 1984 is a defining moment. This catastrophic industrial disaster, arising from a gas leak at the Union Carbide pesticide plant in Bhopal, resulted in the loss of thousands of lives and left numerous others with enduring health complications. The magnitude of this tragedy brought to light the shortcomings of India's legal framework in dealing with corporate accountability for such calamities.

The Bhopal Gas Tragedy ignited widespread public outrage and impassioned demands for justice. The calamity's scale and the extensive suffering it caused captured national and international attention. It swiftly became a rallying point for advocates championing corporate responsibility and accountability. The public outcry and the imperative need for justice became potent drivers for legal reform.

Subsequently, India embarked on legal reforms primarily aimed at addressing corporate manslaughter. In 2019, amendments to the Companies Act were introduced, ushering in a pivotal change. These revisions, including the addition of Section 446B, explicitly addressed corporate manslaughter. This legislative provision laid the groundwork for prosecuting companies or their officers when a person's death resulted from corporate negligence or willful misconduct. This transformation in India's legal landscape broadened the scope of corporate accountability, emphasizing that corporations could be held legally answerable for actions leading to injury or death due to negligence or misconduct. It underscored India's commitment to corporate responsibility and the safeguarding of human life.

The introduction of corporate manslaughter laws conveyed a robust deterrent message to corporations operating within India's jurisdiction. It accentuated the paramount significance of giving precedence to safety, health, and environmental considerations. Corporations were made cognizant of their legal responsibilities to forestall incidents that could culminate in fatalities. The imminent threat of prosecution and the potential legal ramifications formed a formidable deterrent against negligence or misconduct. These laws showcased the government's resolve to prevent events that could imperil human lives. The legal framework provided a mechanism to enforce stringent safety standards and bolster risk management practices within corporate operations, urging companies to adopt proactive measures to protect human life. The introduction of corporate manslaughter laws in India represented a substantial step toward ensuring justice and upholding the rights and well-being of its citizens. Nonetheless, the effectiveness of these legal provisions hinges on their diligent implementation, the consistent prosecution of erring corporations, and an unwavering commitment to justice to realize their intended objectives.

<sup>3</sup> R.V.P &O ferries Crim. App.72 [1990] 93

The corporate manslaughter laws in India, while a significant step toward corporate accountability, have certain limitations. These include challenges related to legal complexity, the need for clear definitions, and ensuring fair trials. The legal system's ability to effectively implement and prosecute corporations for manslaughter remains a concern. There is a need for consistent enforcement, and the legal framework must adapt to address the complexities of corporate operations. Additionally, ensuring that justice is served without undue delays and that corporations receive fair treatment in the legal process is crucial. The effectiveness of these laws will depend on their rigorous application, addressing legal ambiguities, and upholding the principles of justice and accountability.

#### **4. The Corporate Manslaughter and Corporate Homicide Act 2007**

The Corporate Manslaughter and Corporate Homicide Act 2007 is one of the legislations in the United Kingdom that addresses corporate accountability for deaths resulting from gross negligence. The UK's response to several catastrophic events in the 1990s led to the introduction of the Corporate Murder and Corporate Homicide Act of 2007, which holds companies criminally liable when an employee dies as a result of egregious carelessness. The 2007 Corporate Manslaughter Act covers a broader range of offences than the old common law crime. The new offence will add a new component to the corporate management of health and safety even if it is not covered by health and safety law. The legislation covers organisations.<sup>4</sup>It is a significant shift in the legal landscape, introducing a distinct offence for corporate manslaughter. This Act provides a framework for holding organizations, including companies and government bodies, liable for deaths caused by serious management failures.

The primary purpose of the corporate manslaughter and corporate homicide act, 2007 to reduce corporate killings. The purpose of the act was to complement rather than replace health and safety law, and companies can still be charged with health and safety offences in addition or alternatively to a charge of corporate manslaughter.<sup>5</sup>

The Act introduces the offence of corporate manslaughter, under which an organization can be prosecuted if a death occurs as a result of its gross negligence. It sets a high threshold for liability, requiring proof that the organization's failures in its duty of care were a substantial factor in the fatality. The Act focuses on the overall management of the organization and the systemic failures that contributed to the death rather than targeting individual employees.

A notable aspect of the Corporate Manslaughter and Corporate Homicide Act 2007 is that it allows for the prosecution of various types of organizations. This includes companies, partnerships, trade unions, and government bodies. By encompassing a broad range of entities, the Act ensures that no organization is exempt from accountability for gross negligence leading to loss of life.

The Act introduces significant penalties for organizations

found guilty of corporate manslaughter. This includes an unlimited fine, which serves as a powerful financial incentive for corporations to prioritize safety and minimize the risk of gross negligence. The Act also provides for the possibility of a remedial order, which requires the organization to take specific actions to address the systemic failures that led to the fatality.

In addition to its legal implications, the Corporate Manslaughter and Corporate Homicide Act 2007 has broader social and ethical significance. It sends a strong message that organizations must prioritize the safety and well-being of their stakeholders. This Act underscores the principle that profit should never come at the expense of human lives and that corporations have a moral and legal duty to ensure the safety of those affected by their operations.

The Act also focuses on the importance of transparency and accountability in organizations. It encourages a culture of openness regarding safety issues and failures, promoting the identification and rectification of shortcomings in health and safety practices.

The Act is a pivotal piece of legislation in the United Kingdom that places a substantial onus on organizations to prioritize the safety of their stakeholders. By establishing a distinct offence for corporate manslaughter and imposing severe penalties for gross negligence, the Act encourages a culture of safety and accountability within organizations. It reinforces the idea that no entity is above the law when it comes to protecting human lives, and it serves as a significant step toward ensuring justice and preventing corporate practices that jeopardize safety.

Companies are now more inclined to address systemic failures and rectify safety issues promptly to avoid potential legal consequences. The Act serves as a powerful deterrent, emphasizing that organizations must uphold their duty of care to protect lives.

#### **5. Findings and Conclusion**

The legal frameworks governing corporate culpability for fatal incidents in India and the UK differ significantly, as shown by a comparative examination of their corporate manslaughter legislation. India's approach to holding businesses liable for deadly accidents is disjointed and inconsistent due to the lack of particular legislation addressing corporate manslaughter. Although the Indian Penal Code and the Factories Act have some sections pertaining to corporate companies that are especially designed to prosecute them for culpable activities resulting in the loss of human life, there are still no complete legal mechanisms in place to address this issue.

On the other hand, the United Kingdom's strong legal system—which is mostly reflected by the Corporate Manslaughter and Corporate Homicide Act 2007—showcases a thorough and strict method of holding companies accountable for catastrophic mishaps. The Act provides precise standards for establishing corporate liability, highlighting the significance of corporate culture and management incapacity in proving liability. Furthermore, the legal system in the United Kingdom

<sup>4</sup> Corporate manslaughter and corporate homicide, act 2007, section 1(1)

<sup>5</sup> Section-2,3 of the health and safety at work act 1974

enables the imposition of significant fines and corrective orders on culpable firms, functioning as a powerful disincentive against carelessness and hazardous practises in the corporate sector.

The comparative study emphasises how vital it is for India to pass comprehensive legislation that addresses corporate manslaughter in particular, bringing its legal system more in line with the strong procedures set up in the UK. In addition to establishing a more methodical procedure for prosecuting corporate organisations for deadly accidents, the implementation of a specific Corporate Manslaughter Act in India would promote a responsibility and safety-conscious culture within the Indian corporate sector. Indian policymakers should give top priority to incorporating provisions that stress corporate responsibility, proactive risk management, and the imposition of significant penalties to deter negligent practises and protect the lives of workers and the general public. This is in line with the strengths of the legal framework in the UK, by

bridging the gaps in the existing legal framework, India can take a significant step towards ensuring a safer and more accountable corporate environment.

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