Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

Corporate Criminal Liability for Homicide and Economic Growth: A Doctrinal and Comparative Study

Prithivi Raj[1]*, Dr. Arun Kumar Singh[2]
[1*]ICFAI Law School, The ICFAI University, Dehradun, India
ORCID: https://orcid.org/0000-0003-2464-2852
Corresponding E-Mail: pr9191@gmail.com
[2]ICFAI Law School, The ICFAI University, Dehradun, India

Abstract

The corporation occupies a paradoxical position in modern legal and economic life: it is simultaneously the principal engine of growth and a recurring source of catastrophic harm. Nowhere is this paradox sharper than in the field of corporate homicide, where organisational failures in the management of safety produce death on a scale that no individual offender could achieve. This paper examines the relationship between regimes of corporate criminal liability for homicide and the broader objective of economic growth. Adopting a doctrinal and comparative methodology and drawing exclusively on secondary data, it analyses the legal frameworks of five representative jurisdictions; India, the United Kingdom, the United States, Australia and Canada, against the backdrop of the leading theories of corporate fault: the identification doctrine, vicarious (respondeat superior) liability, and the organisational or 'corporate culture' model. The study advances three central claims. First, the conventional framing of corporate criminal liability as a brake on enterprise is incomplete; properly calibrated liability internalises the social cost of unsafe production, protects the human and physical capital on which growth depends, and strengthens the legal certainty that attracts long-horizon investment. Second, the relationship between the severity of corporate criminal liability and economic growth is non-linear: both under-deterrence (impunity) and over-deterrence (disproportionate or unpredictable sanctions) impose growth costs, suggesting an optimal 'calibration zone'. Third, India having recodified its general criminal law through the Bharatiya Nyaya Sanhita, 2023 without enacting a dedicated corporate homicide offence continues to occupy the under-deterrence end of this spectrum, generating an accountability deficit that is itself a source of regulatory uncertainty. The paper concludes with calibrated reform proposals, including a statutory corporate homicide offence, a corporate-culture standard of attribution, structured sentencing, and negotiated-resolution mechanisms designed to reconcile deterrence with enterprise.

Keywords: *Corporate criminal liability; corporate homicide; corporate manslaughter; identification doctrine; respondeat superior; corporate culture; economic growth; deterrence theory; Bharatiya Nyaya Sanhita 2023; Corporate Manslaughter and Corporate Homicide Act 2007.*

1. Introduction

Since the House of Lords confirmed in *Salomon v A Salomon & Co Ltd* that an incorporated company is a legal person distinct from those who compose it, the corporate form has become the dominant vehicle through which economic activity is organised.[1] That separation — of the entity from its members, and of corporate assets from personal ones — is the foundation of limited liability, capital aggregation and the diffusion of enterprise risk that together make large-scale production possible. Yet the very features that make the corporation an efficient instrument of wealth creation also make it an efficient instrument of harm. A corporation can pursue profit through systems, routines and incentive structures that no single human author fully controls, and those systems can fail in ways that kill. Corporate homicide death caused by the manner in which a corporation manages or organises its activities represents the gravest expression of this problem. Industrial disasters such as the Bhopal

[1]Salomon v A Salomon & Co Ltd [1897] AC 22 (HL). The decision established the doctrine of separate legal personality and limited liability that underpins the modern company.

Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

gas leak of 1984, the capsizing of the *Herald of Free Enterprise* in 1987, and a long sequence of mine collapses, factory fires and structural failures across the developing and developed world demonstrate that organisational fault can produce fatalities on a scale, and with a moral character, that ordinary individual liability cannot adequately capture.[2] The challenge for the criminal law is that its central concepts — act, intention, knowledge, fault — were forged for natural persons. As Professor Coffee memorably observed, the corporation has 'no soul to damn, no body to kick', and the law has struggled for more than a century to determine how, and how far, a fictional person may be held criminally responsible.[3]

This paper situates that doctrinal struggle within a question that is too often treated as separate: what is the relationship between corporate criminal liability and economic growth? The dominant intuition, frequently voiced in policy debate, is that expansive corporate criminal liability deters investment, raises the cost of doing business, and chills the risk-taking on which innovation depends. On this view, criminal sanctions against companies are a tax on enterprise to be minimised. The contrary intuition, equally familiar, is that impunity for corporate killing externalises the cost of unsafe production onto workers and the public, destroys the human and physical capital on which growth ultimately rests, and corrodes the institutional trust that markets require. The truth, this paper argues, lies in the structure of the relationship rather than at either pole.

The argument proceeds in five movements. After reviewing the scholarship (Part 2) and identifying the gap this study addresses (Part 3), the paper states its objectives, research questions and methodology (Parts 4 and 5). Part 6 develops a conceptual framework that links the principal models of corporate fault to the channels through which liability touches growth. Parts 7 to 9 conduct the doctrinal and comparative analysis, examining the Indian framework, contrasting it with four comparator jurisdictions, and discussing the governing case law. Part 10 sets out the findings, Part 11 the recommendations, and Part 12 concludes.

2. Literature Review

The scholarship relevant to this study falls into three broad streams that have, until recently, developed in relative isolation from one another: the doctrinal literature on the attribution of criminal responsibility to corporations; the law-and-economics literature on the optimal design of corporate sanctions; and the empirical and institutional literature on the relationship between legal quality and economic growth.

2.1 The doctrinal stream

The doctrinal literature is concerned with the central conceptual problem of corporate fault: how the mental state and conduct required for a criminal offence can be located in an entity that has neither mind nor body. Celia Wells' foundational work traces the evolution from the early refusal to recognise corporate crime, through the judicial creation of the identification doctrine, to the search for a genuinely organisational theory of liability.[4] Fisse and Braithwaite advanced the influential argument that liability should attach to the corporation's own policies, systems and culture rather than being derived from the fault of identified individuals, anticipating the 'corporate culture' model later adopted in Australia.[5] A parallel debate, crystallised by Khanna, questions whether corporate criminal liability serves any purpose that civil liability could not serve more cheaply, given that the costs of corporate sanctions ultimately fall on

[2]On the Bhopal disaster and its aftermath, see Union Carbide Corporation v Union of India (1991) 4 SCC 584. On the Herald of Free Enterprise capsize, see R v P&O European Ferries (Dover) Ltd (1991) 93 Cr App R 72.

[3]John C. Coffee Jr., 'No Soul to Damn: No Body to Kick — An Unscandalized Inquiry into the Problem of Corporate Punishment' (1981) 79 Michigan Law Review 386.

[4]Celia Wells, Corporations and Criminal Responsibility (2nd edn, Oxford University Press 2001).

[5]Brent Fisse and John Braithwaite, Corporations, Crime and Accountability (Cambridge University Press 1993).

Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

shareholders, employees and consumers rather than on the abstract entity.[6]

2.2 The law-and-economics stream

The economic analysis of crime, originating with Becker, models the rational offender as weighing the expected gains of an offence against the probability of detection multiplied by the severity of sanction.[7] Applied to the firm, this framework yields the theory of optimal corporate sanctions: a penalty should be set so that the firm internalises the full social cost of the harm it risks, adjusted upward to compensate for the probability that the offence escapes detection. The literature emphasises two failure modes. Under-deterrence arises where sanctions are too low or enforcement too rare, so that unsafe conduct remains profitable in expectation. Over-deterrence arises where sanctions are excessive, mis-targeted or unpredictable, causing firms to abandon socially valuable but legally risky activity, to over-invest in defensive compliance, or to exit the jurisdiction. The recognition that both extremes are costly is the analytical foundation of the non-linear relationship this paper develops.

2.3 The institutional and growth stream

A distinct body of work, associated with new institutional economics, links the quality and predictability of legal institutions to investment and growth. The core insight is that secure property rights, enforceable contracts and — critically — predictable rules of liability reduce the transaction costs and uncertainty premium that deter long-horizon capital. Within this stream, the cost of regulatory and legal uncertainty is treated as a real input cost that depresses investment independently of the substantive content of the rules. This paper draws these three streams together, arguing that a corporate homicide regime should be evaluated not only by its doctrinal coherence or its deterrent efficiency, but by its contribution to the legal certainty that supports growth.

3. Research Gap

Three gaps emerge from the literature. First, the doctrinal and economic streams rarely meet: scholarship on corporate fault tends to treat economic effects as background, while law-and-economics scholarship abstracts away from the specific doctrinal architecture of homicide offences. Second, the existing comparative work on corporate homicide concentrates overwhelmingly on the developed common-law world — principally the United Kingdom, the United States, Australia and Canada — and pays comparatively little attention to large emerging economies where the stakes for both safety and growth are highest. Third, and most acutely, the recodification of Indian criminal law through the Bharatiya Nyaya Sanhita, 2023 has not yet been systematically assessed for what it does, and conspicuously does not do, in the field of corporate homicide.[8] This paper addresses these gaps by integrating the doctrinal, economic and institutional perspectives, by placing India at the centre of a comparative frame, and by evaluating the post-recodification Indian position against international models.

4. Objectives and Research Questions

4.1 Objectives

1. To map the principal doctrinal models through which criminal liability for homicide is attributed to corporations, and to identify their respective strengths and weaknesses.
2. To analyse the Indian legal framework for corporate homicide following the enactment of the Bharatiya Nyaya Sanhita, 2023, and to compare it with the frameworks of the United Kingdom, the United States, Australia and Canada.
3. To theorise the channels through which corporate criminal liability for homicide affects

[6]V.S. Khanna, 'Corporate Criminal Liability: What Purpose Does It Serve?' (1996) 109 Harvard Law Review 1477.
[7]Gary S. Becker, 'Crime and Punishment: An Economic Approach' (1968) 76 Journal of Political Economy 169.

[8]The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023) received presidential assent on 25 December 2023 and came into force on 1 July 2024, replacing the Indian Penal Code, 1860.

Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

economic growth, and to characterise the shape of that relationship.

4. To formulate calibrated reform proposals that reconcile the deterrence and accountability objectives of the criminal law with the legitimate interest in sustained economic growth.

4.2 Research Questions

RQ1. How do the leading jurisdictions attribute criminal responsibility for homicide to corporations, and where does India stand after the 2023 recodification?

RQ2. Through what channels does a corporate homicide liability regime influence economic growth?

RQ3. Is the relationship between the stringency of corporate criminal liability and economic growth linear or non-linear, and what follows for optimal regime design?

RQ4. What reforms would move India toward an optimally calibrated corporate homicide regime?

5. Methodology

This study employs a doctrinal and comparative methodology resting entirely on secondary data. The doctrinal component analyses primary legal materials statutes and reported judgments to reconstruct the internal logic of each regime. The comparative component sets the Indian framework against four comparator jurisdictions selected for analytical, not merely geographical, reasons: the United Kingdom (the pioneer of a purpose-built organisational homicide offence), the United States (the most expansive vicarious-liability model), Australia (the most developed 'corporate culture' model), and Canada (a hybrid statutory reform enacted in direct response to an industrial disaster). Together these four exemplify the full doctrinal spectrum against which India can be located.

The secondary materials relied upon comprise legislation, reported case law, peer-reviewed scholarship, official sentencing guidance, and institutional and governmental reports. No primary empirical data were collected; where quantitative claims are made for example concerning conviction patterns or sentencing ranges they are drawn from published secondary sources and are used illustratively rather than as the product of original statistical analysis. The comparative analysis follows the functional method: each regime is examined by reference to the same set of analytical variables the test of attribution, the fault threshold, the available sanctions, the treatment of individual liability, and the disaster or reform that catalysed the regime so that like is compared with like.

Limitations.

Three limitations should be acknowledged. First, doctrinal-comparative work cannot establish causal economic effects with the rigour of econometric study; the claims about growth are analytical and are framed as hypotheses supported by mechanism and example rather than as proven causal estimates. Second, the selection of four comparators, though representative, is necessarily partial. Third, because the Indian recodification is recent, judicial interpretation of its provisions in the corporate context remains undeveloped, so the analysis of Indian law is partly anticipatory.

6. Conceptual Framework

6.1 Models of corporate fault

Four models of attribution dominate the field. They differ in where they locate the fault that the criminal law requires.

(a) The identification (alter ego) doctrine.

Developed in English common law, this model treats the acts and mental states of a company's most senior officers — those who constitute its 'directing mind and will' — as the acts and mental states of the company itself.[9] Its virtue is conceptual clarity; its vice, exposed in large and diffuse organisations, is that responsibility evaporates as decision-making is decentralised, so that the bigger and more bureaucratic the firm, the harder it is to convict.

[9]The doctrine derives from Lennard's Carrying Co Ltd v Asiatic Petroleum Co Ltd [1915] AC 705 and was refined in Tesco Supermarkets Ltd v Nattrass [1972] AC 153 (HL).

Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

(b) Vicarious liability (respondeat superior).

The dominant American federal model attributes to the corporation any offence committed by an employee acting within the scope of employment and at least in part to benefit the corporation.[10] Its breadth makes conviction comparatively easy and its deterrent reach wide, but it risks holding the firm liable for conduct it took reasonable steps to prevent, raising over-deterrence concerns.

(c) The organisational or 'corporate culture' model.

This model locates fault in the corporation's own systems, policies and culture, asking whether the organisation, as an organisation, tolerated or encouraged non-compliance. It captures the reality that disasters typically result from systemic failure rather than the discrete wrongdoing of an identifiable individual, and is therefore the model best suited to genuine corporate homicide.

(d) Aggregation and management-failure models.

A fourth approach, exemplified by the United Kingdom's purpose-built homicide statute, asks whether the way the organisation's activities were managed or organised by its senior management caused death and fell far below what could reasonably be expected. This avoids both the evaporation problem of identification and the over-breadth of pure vicarious liability.

6.2 The channels linking liability to growth

Corporate criminal liability for homicide touches economic growth through at least five channels, of which the first two pull in the direction of growth and the remainder may cut either way depending on calibration.

(a) Internalisation of safety externalities.

Where unsafe production imposes the risk of death on workers and the public, liability forces the firm to bear that cost internally, encouraging efficient investment in safety and preventing the destruction of human and physical capital that disasters cause. Bhopal illustrates the converse: an uninternalised catastrophe that destroyed lives, capital and confidence on a scale dwarfing any compliance saving.

(b) Legal certainty and the rule of law.

A clear, predictable liability rule lowers the uncertainty premium that deters long-horizon investment. Paradoxically, the absence of a defined corporate homicide offence can itself be a source of uncertainty, leaving firms exposed to ad hoc prosecution under general provisions and inconsistent outcomes.

(c) Compliance and administrative cost.

Liability generates compliance costs — safety management systems, audits, documentation. Within reason these are productive investments; beyond it, disproportionate or duplicative requirements become a deadweight burden, particularly for smaller firms.

(d) Reputation, trust and capital flows.

Credible accountability for corporate killing signals a trustworthy institutional environment, supporting domestic confidence and foreign direct investment. Persistent impunity signals the opposite, deterring the patient capital that growth requires.

(e) Risk-taking and innovation (the over-deterrence channel).

Excessive, unpredictable or quasi-strict liability can chill legitimate risk-taking, induce defensive over-compliance, and drive activity into the informal sector or out of the jurisdiction — each a drag on growth.

6.3 The non-linear hypothesis

Combining these channels yields the paper's central analytical claim. Plotted against the stringency of the corporate homicide regime, the contribution to growth is not monotonic. At very low stringency (impunity), the internalisation and certainty channels are starved and disasters recur, depressing growth. At very high stringency (disproportionate or unpredictable sanction), the over-deterrence channel

[10]New York Central & Hudson River Railroad Co v United States, 212 US 481 (1909), which established that a corporation may be held criminally liable for the acts of its agents.

Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

dominates and growth is again depressed. Between these lies a 'calibration zone' in which liability is high enough to internalise the cost of unsafe production and signal institutional reliability, but predictable and proportionate enough not to chill enterprise. The policy task is not to minimise corporate criminal liability but to locate this zone.

7. Legal Framework Analysis: India

India has no offence of corporate homicide or corporate manslaughter. Corporate criminal liability is instead assembled from three sources: the general criminal law, now the Bharatiya Nyaya Sanhita, 2023 (BNS); the Companies Act, 2013; and a patchwork of sector-specific and regulatory statutes.

7.1 The Bharatiya Nyaya Sanhita, 2023

The BNS, which replaced the Indian Penal Code, 1860 with effect from 1 July 2024, retained the substance of the predecessor code in the field of homicide while making no provision for organisational fault. The definition of 'person' includes any company or association or body of persons, whether incorporated or not, so that a company is in principle capable of committing most offences.[11] The homicide provisions — culpable homicide not amounting to murder and causing death by negligence — carry forward the IPC offences without adaptation to the corporate context.[12] Because these offences are framed for natural persons and presuppose individual mens rea, their application to a company depends entirely on judicially developed attribution doctrine rather than on any statutory model of organisational fault.

Two structural consequences follow. First, India lacks any management-failure or corporate-culture standard; liability for a fatal disaster must be channelled through individual-centred provisions and the identification doctrine, with all the evaporation problems that entails in large firms. Second, the recodification represented an opportunity — not taken — to introduce a purpose-built corporate homicide offence of the kind enacted in the United Kingdom seventeen years earlier.

7.2 The Companies Act, 2013 and regulatory statutes

The Companies Act, 2013 supplies a regime of officer liability, defining the 'officer who is in default' and imposing criminal sanctions for a range of corporate contraventions, and it underpins the work of the Serious Fraud Investigation Office. Sector-specific statutes — in factories, mines, environment, food safety and financial regulation — add further offences, many imposing strict or vicarious liability on the company and its officers. The result is breadth without coherence: numerous overlapping offences of varying fault standards, none of which is a true homicide offence calibrated to organisational killing.

7.3 The procedural breakthrough and its limits

The historic obstacle to convicting companies — that a custodial sentence cannot be imposed on a fictional person, so that offences carrying mandatory imprisonment were thought inapplicable — was removed by the Supreme Court, which held that where an offence prescribes both imprisonment and fine, a company may be convicted and sentenced to the fine.[13] Procedure for sentencing companies has been carried into the new procedural code.[14] But this is a procedural fix, not a substantive theory of corporate killing: it answers how a company is punished, not when an organisation's own management failures should constitute homicide.

8. Comparative Analysis

8.1 United Kingdom

[11]The Bharatiya Nyaya Sanhita, 2023, s 2(26) (definition of 'person'), continuing the position under the Indian Penal Code, 1860.

[12]See the Bharatiya Nyaya Sanhita, 2023, provisions on culpable homicide not amounting to murder and on causing death by a rash or negligent act, which reproduce in substance ss 304 and 304A of the Indian Penal Code, 1860.

[13]Standard Chartered Bank v Directorate of Enforcement (2005) 4 SCC 530, in which the Supreme Court held that a corporation could be prosecuted and punished by fine even where the offence also prescribed imprisonment.

[14]The procedure for fining corporations, formerly s 305 of the Code of Criminal Procedure, 1973, corresponds to s 342 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

The United Kingdom offers the paradigm of a purpose-built organisational homicide offence. After repeated failures to convict large companies under the identification doctrine — most notoriously following the *Herald of Free Enterprise* capsize — Parliament enacted the Corporate Manslaughter and Corporate Homicide Act 2007, in force from 6 April 2008.[15] An organisation is guilty where the way in which its activities are managed or organised causes death and amounts to a gross breach of a relevant duty of care, provided a substantial element of the breach lies in the way senior management organised those activities. The Act expressly abolishes the need to identify a single guilty individual and imposes no individual liability, while penalties are unlimited fines supplemented by remedial and publicity orders.[16]

Sentencing is structured by guideline, with fines scaled to organisational turnover and capable, for the largest offenders, of reaching the order of tens of millions of pounds; the first conviction, of a small geotechnical firm, produced a fine of £385,000.[17] The United Kingdom has since gone further in the economic-crime field: the Economic Crime and Corporate Transparency Act 2023 replaced the narrow 'directing mind' test with a broader 'senior manager' test for specified economic offences and created a strict-liability 'failure to prevent fraud' offence subject to a reasonable-procedures defence.[18] Although confined to economic crime, this reform signals a decisive movement away from identification toward organisational standards of attribution.

8.2 United States

The United States anchors the broad end of the spectrum. Under the federal respondeat superior doctrine a corporation is criminally liable for offences committed by employees acting within the scope of their authority and intending at least in part to benefit the corporation.[19] This expansive attribution is tempered in practice by prosecutorial discretion, robust sentencing guidelines for organisations, and the widespread use of deferred and non-prosecution agreements, which allow firms to avoid conviction by accepting monitoring, remediation and penalties. The American model thus pairs theoretically wide liability with negotiated, growth-sensitive resolution — a combination of considerable interest for reform.

8.3 Australia

Australia provides the most fully developed 'corporate culture' model. Under the Commonwealth Criminal Code, fault may be attributed to a body corporate where a corporate culture existed that directed, encouraged, tolerated or led to non-compliance, or where the body failed to create and maintain a culture of compliance.[20] This expressly organisational standard targets the systemic origins of corporate harm rather than the conduct of any single officer, and several Australian states have additionally enacted specific industrial-manslaughter offences carrying both heavy corporate fines and individual liability.

8.4 Canada

Canada exemplifies disaster-driven statutory reform. Following the Westray mine explosion that killed twenty-six workers, Parliament enacted Bill C-45 in 2003, amending the Criminal Code to

[15]Corporate Manslaughter and Corporate Homicide Act 2007 (UK), which came into force on 6 April 2008; the offence is styled 'corporate manslaughter' in England, Wales and Northern Ireland and 'corporate homicide' in Scotland.

[16]The Act provides for unlimited fines, remedial orders and publicity orders; s 18 provides that there is no individual liability for the corporate offence, though individuals may be separately prosecuted for gross negligence manslaughter.

[17]R v Cotswold Geotechnical Holdings Ltd [2011] EWCA Crim 1337 was the first conviction under the Act, resulting in a fine of £385,000; sentencing guidelines for larger organisations contemplate fines up to and beyond £20 million.

[18]Economic Crime and Corporate Transparency Act 2023 (UK): the senior-manager identification reform took effect on 26 December 2023, and the failure-to-prevent-fraud offence on 1 September 2025.

[19]New York Central & Hudson River Railroad Co v United States, 212 US 481 (1909).

[20]Criminal Code Act 1995 (Cth), Part 2.5, which permits attribution of fault through the existence of a non-compliant 'corporate culture'.

Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

attribute liability through the conduct and mental state of 'senior officers' and to impose on organisations and their representatives a legal duty to take reasonable steps to prevent bodily harm arising from work.[21] The Canadian model occupies a middle position: broader than identification, narrower than pure vicarious liability, and explicitly tied to a duty to prevent workplace death.

8.5 Comparative synthesis

The following table summarises the comparative position across the analytical variables used in this study.

Table 1. Comparative architecture of corporate homicide liability across five jurisdictions.

Jurisdiction	Attribution model	Dedicated homicide offence	Individual liability	Principal sanction	Catalyst
India	Identification (judge-made)	None	Via individual offences	Fine	Bhopal (no reform)
United Kingdom	Management failure (organisational)	Yes (2007 Act)	Separate (GN manslaughter)	Unlimited fine	Herald of Free Enterprise
United States	Vicarious (respondeat superior)	Via general homicide + DPAs	Yes	Fine; probation; DPA	Common-law evolution
Australia	Corporate culture	Yes (industrial manslaughter, several states)	Yes	Heavy fine; imprisonment (indiv.)	Reform programme
Canada	Senior officer + duty of care	Via Criminal Code (Bill C-45)	Yes	Fine; probation	Westray mine disaster

The comparative picture locates India at the under-developed end of the spectrum. Every comparator has moved beyond pure identification: the United Kingdom and Australia to organisational standards, the United States to broad vicarious liability tempered by negotiated resolution, and Canada to a senior-officer-plus-duty model. India alone relies on a judge-made identification doctrine applied through individual-centred offences, with no organisational standard and no dedicated homicide offence.

9. Case Law Discussion

The doctrinal trajectory in each jurisdiction is best understood through the cases that shaped it.

9.1 The foundations of attribution

The identification doctrine was born in *Lennard's Carrying Co*, where Viscount Haldane treated the controlling officer as the company's 'directing mind and will', and matured in *Tesco Supermarkets Ltd v Nattrass*, which confined corporate fault to the acts of those who genuinely controlled the company rather than its ordinary employees.[22] The Privy Council later loosened this in *Meridian Global Funds Management Asia Ltd v Securities Commission*, treating attribution as a question of statutory interpretation — whose knowledge counts for the purpose of this rule? — rather than a fixed metaphysical test.[23] The limits of identification in the homicide context were exposed in *R v P&O European Ferries (Dover) Ltd*, where the

[21]An Act to amend the Criminal Code (criminal liability of organizations), SC 2003, c 21 (Bill C-45), enacted following the 1992 Westray mine disaster; it introduced the concept of the 'senior officer' and a statutory workplace duty of care.

[22]Tesco Supermarkets Ltd v Nattrass [1972] AC 153 (HL), holding that a branch manager was not part of the company's directing mind and will.

[23]Meridian Global Funds Management Asia Ltd v Securities Commission [1995] 2 AC 500 (PC), adopting a purposive, context-specific approach to attribution.

Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

prosecution arising from the *Herald of Free Enterprise* disaster collapsed because the fault could not be concentrated in a single directing mind — the failure that precipitated the 2007 Act.

9.2 The Indian line

Indian law travelled the same conceptual road but stopped short of statutory reform. *Standard Chartered Bank v Directorate of Enforcement* removed the impossibility-of-imprisonment objection, holding that a company may be prosecuted and fined even where the offence also carries imprisonment.[24] *Iridium India Telecom Ltd v Motorola Inc* then settled that a corporation can be prosecuted for offences requiring mens rea, with the requisite intent attributed through the identification doctrine — the alter ego principle by which the state of mind of the directing officers is imputed to the company.[25] But the Court pulled in the opposite direction on the converse question in *Sunil Bharti Mittal v Central Bureau of Investigation*, holding that the criminal intent of a company cannot ordinarily be attributed downward to its directors merely by virtue of their position, absent specific statutory provision or evidence of their own active role.[26] The Indian doctrine therefore attributes individual fault upward to the company but resists attributing corporate fault downward to individuals — a coherent but narrow position that leaves diffuse organisational failure largely uncaptured.

9.3 The accountability deficit: Bhopal

The starkest illustration of the Indian deficit remains the Bhopal gas tragedy. The civil settlement was approved by the Supreme Court,[27] but the criminal process — pursued through ordinary negligence provisions and individual liability — yielded only modest convictions of individuals after extraordinary delay, and no meaningful organisational accountability. Bhopal stands as the empirical heart of the under-deterrence case: a catastrophe whose social cost vastly exceeded any conceivable compliance saving, met by a liability architecture incapable of holding the organisation, as an organisation, to account.

9.4 The comparator counter-examples

Against this stands the comparative experience of regimes that reformed. The United Kingdom's *Cotswold Geotechnical* conviction demonstrated that an organisational offence can secure conviction where identification would have failed, even if the early cases involved small firms and the deterrent effect on the largest organisations remains debated.[28] Canada's post-Westray reform and Australia's corporate-culture and industrial-manslaughter offences similarly show that a defined organisational offence supplies both the accountability that identification cannot and the predictability that ad hoc prosecution cannot.

10. Findings

1. The doctrinal spectrum is well defined, and India sits at its least developed end. The leading jurisdictions have abandoned reliance on pure identification for organisational killing in favour of management-failure, corporate-culture or senior-officer models. India retains a judge-made identification doctrine applied through individual-centred homicide provisions, and the 2023 recodification did not change this (RQ1).
2. Liability touches growth through identifiable channels, not a single effect. Internalisation of safety externalities and legal certainty pull toward growth; compliance cost, reputation and over-deterrence may cut either way. The net

[24]Standard Chartered Bank v Directorate of Enforcement (2005) 4 SCC 530.
[25]Iridium India Telecom Ltd v Motorola Incorporated (2011) 1 SCC 74, confirming that a company may be prosecuted for offences involving mens rea.
[26]Sunil Bharti Mittal v Central Bureau of Investigation (2015) 4 SCC 609, holding that the principle of alter ego cannot be applied in reverse to automatically fix directors with the company's liability.
[27]Union Carbide Corporation v Union of India (1991) 4 SCC 584, upholding the civil settlement; the criminal proceedings produced only minor convictions of individuals many years later.
[28]R v Cotswold Geotechnical Holdings Ltd [2011] EWCA Crim 1337.

effect depends on calibration rather than on the mere presence or absence of liability (RQ2).

3. The relationship is non-linear. Both impunity and disproportionate or unpredictable sanction depress growth; an intermediate calibration zone maximises the contribution of liability to sustainable growth (RQ3). The popular framing of corporate criminal liability as simply anti-growth is therefore mistaken.
4. India's accountability deficit is itself a growth cost. The absence of a defined corporate homicide offence does not merely under-deter unsafe production; by leaving organisational killing to be prosecuted under general provisions with uncertain outcomes, it generates the very legal unpredictability that depresses long-horizon investment. India thus suffers the costs of under-deterrence and of uncertainty simultaneously.
5. Negotiated resolution can reconcile deterrence with enterprise. The American experience suggests that wide liability paired with deferred-prosecution mechanisms can preserve deterrence and accountability while limiting the collateral damage of corporate conviction to innocent employees and creditors — a model relevant to growth-sensitive reform (RQ4).

11. Recommendations

The following reforms are directed at moving India into the calibration zone identified above. They are framed to strengthen accountability and certainty together, rather than merely to increase severity.

1. Enact a dedicated corporate homicide offence. India should introduce a statutory offence, modelled on the United Kingdom's management-failure test, by which an organisation is guilty where the manner in which its activities are managed or organised causes death and falls far below the standard reasonably to be expected. This supplies both accountability and predictability.
2. Adopt an organisational fault standard. Attribution should be reformed to incorporate a corporate-culture or senior-management-failure standard, so that diffuse organisational failure can found liability without the need to identify a single directing mind. This directly addresses the evaporation problem in large firms.
3. Introduce structured sentencing. Fines for corporate homicide should be governed by published guidelines scaling penalty to organisational turnover and culpability, supplemented by remedial and publicity orders. Structured sentencing improves both deterrent calibration and the predictability that supports investment.
4. Provide for negotiated resolutions. A statutory framework for deferred-prosecution or settlement agreements — with judicial oversight, mandatory remediation and monitoring — would allow serious wrongdoing to be addressed without the disproportionate collateral harm that corporate conviction can inflict on employees and creditors.
5. Retain calibrated individual liability. Senior individuals whose own gross failures cause death should remain separately liable, preserving personal deterrence, while the organisational offence captures systemic fault. The two should be complementary, not substitutes.
6. Guard against over-deterrence. Reform should avoid open-ended strict liability and ensure proportionality and a reasonable-procedures defence, so that firms that maintain genuine safety systems are not penalised for unpreventable harm. The objective is the calibration zone, not maximal severity.

12. Conclusion

The relationship between corporate criminal liability and economic growth is more subtle than the familiar opposition between accountability and enterprise allows. Corporate homicide, the sharpest case, demonstrates that liability is not simply a cost imposed on production but a mechanism for internalising the social cost of unsafe production, for protecting the human and physical capital on which growth depends, and for supplying the legal certainty that attracts patient investment. The comparative survey shows a clear trajectory — from

Economic Sciences
https://economic-sciences.com
ES(2026)22, 5(S), 650-660 | ISSN:1505-4683

the conceptual dead-end of pure identification toward organisational standards of fault — along which the United Kingdom, the United States, Australia and Canada have each, in their distinct ways, advanced.

India has not. By recodifying its general criminal law in 2023 without enacting a corporate homicide offence or an organisational fault standard, it remains at the under-deterrence end of the spectrum, bearing simultaneously the costs of impunity and of uncertainty. The lesson of the non-linear hypothesis is not that India should simply make corporate criminal liability harsher, but that it should make it clearer, more organisational, and better calibrated — high enough to deter and to signal institutional reliability, predictable and proportionate enough not to chill enterprise. A well-designed corporate homicide regime is not the enemy of growth. Properly calibrated, it is one of its conditions.

REFERENCES

1. Legislation

1. Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023) (India).
2. Bharatiya Nagarik Suraksha Sanhita, 2023 (India).
3. Companies Act, 2013 (India).
4. Indian Penal Code, 1860 (India) (repealed).
5. Corporate Manslaughter and Corporate Homicide Act 2007 (UK).
6. Economic Crime and Corporate Transparency Act 2023 (UK).
7. Criminal Code Act 1995 (Cth) (Australia), Part 2.5.
8. Criminal Code (Canada), as amended by An Act to amend the Criminal Code (criminal liability of organizations), SC 2003, c 21 (Bill C-45).

2. Cases

9. Iridium India Telecom Ltd v Motorola Incorporated (2011) 1 SCC 74.
10. Lennard's Carrying Co Ltd v Asiatic Petroleum Co Ltd [1915] AC 705.
11. Meridian Global Funds Management Asia Ltd v Securities Commission [1995] 2 AC 500 (PC).
12. New York Central & Hudson River Railroad Co v United States, 212 US 481 (1909).
13. R v Cotswold Geotechnical Holdings Ltd [2011] EWCA Crim 1337.
14. R v P&O European Ferries (Dover) Ltd (1991) 93 Cr App R 72.
15. Salomon v A Salomon & Co Ltd [1897] AC 22 (HL).
16. Standard Chartered Bank v Directorate of Enforcement (2005) 4 SCC 530.
17. Sunil Bharti Mittal v Central Bureau of Investigation (2015) 4 SCC 609.
18. Tesco Supermarkets Ltd v Nattrass [1972] AC 153 (HL).
19. Union Carbide Corporation v Union of India (1991) 4 SCC 584.

3. Books and Articles

20. Becker, Gary S., 'Crime and Punishment: An Economic Approach' (1968) 76 Journal of Political Economy 169.
21. Coffee, John C. Jr., 'No Soul to Damn: No Body to Kick — An Unscandalized Inquiry into the Problem of Corporate Punishment' (1981) 79 Michigan Law Review 386.
22. Fisse, Brent and John Braithwaite, Corporations, Crime and Accountability (Cambridge University Press 1993).
23. Khanna, V.S., 'Corporate Criminal Liability: What Purpose Does It Serve?' (1996) 109 Harvard Law Review 1477.
24. Wells, Celia, Corporations and Criminal Responsibility (2nd edn, Oxford University Press 2001).
25. Official and Secondary Sources
26. Sentencing Council (England and Wales), Corporate Manslaughter — Definitive Guideline.
27. Health and Safety Executive (UK), guidance on the Corporate Manslaughter and Corporate Homicide Act 2007.
28. Ministry of Home Affairs (Government of India), The Bharatiya Nyaya Sanhita, 2023 (published text).
29. ICLG, Business Crime Laws and Regulations — India (2026 edition).