Corporate Criminal Responsibility and Human Rights: An Indian Constitutional and Statutory Perspective

Dr. Sunita Adhav,
Associate Professor,
DES Shri Navalmal Firodia Law College Pune.

Abstract

The intersection of corporate criminal liability and human rights protection represents one of the most significant contemporary challenges in Indian jurisprudence. This paper examines the evolving framework of corporate criminal responsibility within the constitutional and statutory landscape of India, with particular emphasis on how fundamental rights are enforced against corporate entities. Through analysis of recent Supreme Court judgments, statutory developments, and constitutional provisions, this study demonstrates that while India has made substantial progress in establishing corporate accountability mechanisms, significant challenges remain in effectively prosecuting corporate crimes and protecting human rights. The paper argues that the current legal framework, while comprehensive in theory, requires enhanced enforcement mechanisms and clearer delineation of corporate-individual liability boundaries to ensure effective human rights protection.

Keywords: *Corporate Criminal Liability, Human Rights, Corporate Accountability, Criminal Law Reform*

I. Introduction

The concept of corporate criminal responsibility has undergone significant transformation in the Indian legal system, particularly in its relationship with constitutional human rights protections. As corporate entities have expanded their influence over Indian society and economy, the need for robust legal mechanisms to ensure corporate accountability for human rights violations has become increasingly apparent.[1] The traditional understanding of criminal law, which primarily focused on individual culpability, has evolved to encompass corporate entities as potential perpetrators of criminal acts that impact fundamental rights guaranteed under the Indian Constitution. The Indian Constitution, adopted in 1950, established a comprehensive framework of fundamental rights under Part III, which has been progressively interpreted by the Supreme Court to impose obligations not only on the State but also on private entities, including corporations.[2] This development has created a complex interplay between constitutional provisions, statutory law, and judicial interpretation in determining the extent of corporate criminal liability for human rights violations. Recent landmark judgments, particularly the Supreme Court's decision in *Sanjay Dutt & Ors. v. State of Haryana & Anr*. (2025),[3] have significantly clarified the parameters of vicarious liability for corporate directors and officers, while simultaneously reinforcing the principle that corporate criminal responsibility must be grounded in specific statutory provisions and evidence of direct involvement. This evolution reflects the judiciary's attempt to balance corporate accountability with principles of natural justice and individual protection from frivolous prosecution.

II. Constitutional Framework and Fundamental Rights

A. Fundamental Rights Under Part III of the Constitution

The Indian Constitution's Part III establishes fundamental rights that serve as the cornerstone of human rights protection in India. These rights, originally conceived as protections against state action, have been progressively expanded through judicial interpretation to encompass private entities, including corporations.[4] The Supreme Court's recent decision in *Kaushal Kishor v. State of Uttar Pradesh & Ors*. represents a watershed moment in this evolution, establishing that fundamental rights under Articles 19 and 21 can be enforced against private actors, including corporations.[5] Article 19(1)(a) guarantees freedom of speech and expression, while Article 21 protects the right to life and personal liberty. The Supreme Court's 4:1 majority decision in *Kaushal Kishor* held that these rights are enforceable even against persons other than the state or its instrumentalities, fundamentally altering the landscape of corporate accountability for human rights violations.[6] This horizontal application of fundamental rights creates new avenues for holding corporations criminally liable for actions that infringe upon constitutional rights. The dissenting opinion by Justice B.V. Nagarathna in *Kaushal Kishor* highlighted practical difficulties in permitting constitutional rights to operate against private individuals and entities, noting that such an approach could render redundant the established tests for identifying 'State' for purposes of fundamental rights enforcement.[7] Nevertheless, the majority position has established a precedent that significantly expands corporate liability for human rights violations.

B. Directive Principles of State Policy and Corporate Responsibility

While fundamental rights create enforceable obligations, the Directive Principles of State Policy under Part IV of the Constitution provide aspirational goals that indirectly influence corporate behavior.[8] These principles, though not directly enforceable, have been instrumental in shaping legislation that imposes social responsibilities on corporations, thereby creating indirect criminal liability for non-compliance.

Article 39(b) and (c) of the Constitution, which direct the state to ensure that ownership and control of material resources serve the common good and prevent concentration of wealth, have influenced the development of corporate social responsibility (CSR) provisions under the Companies Act, 2013.[9] Section 135 of the Companies Act mandates certain companies to spend at least 2% of their average net profits on CSR activities, with criminal penalties for non-compliance.[10]

III. Statutory Framework for Corporate Criminal Liability

A. Companies Act, 2013 and Criminal Provisions

The Companies Act, 2013, represents a comprehensive overhaul of corporate governance in India, incorporating extensive criminal liability provisions for corporate misconduct. The Act establishes various offenses that can be committed by companies and their officers, with detailed provisions for determining individual liability of directors and key managerial personnel.[11] Section 447 of the Companies Act defines "fraud" broadly, including any act involving wrongful gain or wrongful loss, deception, or injury to the company, its shareholders, creditors, or any other person.[12] The Act provides for imprisonment up to ten years and fines up to three times the amount involved in the fraud, demonstrating the legislature's intent to deter corporate criminal behavior through severe penalties.

The Act also incorporates safe harbor provisions under Section 149(12), which protect independent and non-executive directors from liability unless they had knowledge of or participated in the wrongful act.[13] However, these protections apply only at later stages of proceedings, not at the summoning stage, creating practical challenges for directors facing prosecution.

B. Environmental and Labor Law Criminal Provisions

Indian environmental and labor laws contain extensive criminal liability provisions that directly impact corporate entities and their officers. The Environment Protection Act, 1986, imposes criminal liability for violations of environmental standards, with punishment extending to imprisonment and heavy fines.[14] Recent cases have demonstrated the willingness of courts to hold corporate entities and their officers criminally liable for environmental violations that impact human rights, particularly the right to a clean environment.

The *Sanjay Dutt* case, involving allegations of illegal tree felling under the Punjab Land Preservation Act, 1900, illustrates the complexities of establishing corporate criminal liability in environmental matters.[15] The Supreme Court's ruling emphasized that vicarious liability cannot be imposed on directors without specific statutory provisions and evidence of personal involvement, thereby setting important precedents for environmental crimes.

IV. Judicial Evolution and Landmark Cases

A. The Sanjay Dutt Precedent: Clarifying Vicarious Liability

The Supreme Court's decision in *Sanjay Dutt & Ors. v. State of Haryana & Anr. (2025)* represents the most significant recent development in corporate criminal liability jurisprudence.[16] The case involved three senior officials of Tata Realty and Infrastructure Limited and Tata Housing Development Co. Ltd., who were accused of environmental violations under the Punjab Land Preservation Act, 1900, for allegedly causing the illegal uprooting of 256 trees in Gurugram.[17] The Supreme Court, comprising Justices J.B. Pardiwala and R. Mahadevan, established several crucial principles:

First, the Court reaffirmed that "there is no vicarious liability unless the statute specifically provides so," emphasizing that criminal liability in corporate contexts must be grounded in specific statutory provisions rather than general principles of corporate governance.[18]

Second, the Court held that mere authorization of an act or supervisory role is insufficient to establish vicarious liability, requiring specific evidence of personal involvement and criminal intent.[19] This ruling provides significant protection for directors and officers from frivolous prosecutions based solely on their corporate positions.

Third, the Court emphasized the cardinal principle that "for fastening criminal liability on an officer of a company, there is no presumption that every officer of a company knows about the transaction in question."[20] This principle ensures that corporate officers are not held liable merely by virtue of their positions without evidence of actual knowledge or involvement.

B. Historical Development: From Individual to Corporate Liability

The evolution of corporate criminal liability in India can be traced through several landmark cases that have shaped the current legal landscape. The Supreme Court's decision in *Maharashtra State Electricity Distribution Co. Ltd. v. Datar Switchgear Ltd. (2010)* established the fundamental principle that vicarious liability in criminal law is a statutory creation, requiring specific legislative provision.[21]

In *Sunil Bharti Mittal v. CBI (2015)*, the Supreme Court laid down that "an individual can be held vicariously liable for a company's act only where the statute so provides, or if there is direct evidence of the individual's active role in the commission of the offence itself."[22] This precedent has been consistently followed in subsequent cases, including the recent Sanjay Dutt decision.

The case of *S.K. Alagh v. State of Uttar Pradesh (2008)* further reinforced these principles by holding that "in the absence of any statutory provision, a director of a company cannot be held vicariously liable for offences committed by the company."[23] These cases collectively establish a framework that balances corporate accountability with individual protection from unwarranted prosecution.

V. Human Rights Enforcement Against Corporations

A. Horizontal Application of Fundamental Rights

The Supreme Court's decision in *Kaushal Kishor v. State of Uttar Pradesh & Ors.*

marked a paradigmatic shift in the enforcement of fundamental rights against private entities.[24] The 4:1 majority decision held that fundamental rights under Articles 19 and 21 can be enforced against private individuals and corporations, not just state entities. Justice V. Ramasubramanian, writing for the majority, emphasized how the Court has "over time expanded the width of Article 21 in several areas such as health, environment, transportation, education, and rights of prisoners."[25] This expansion has direct implications for corporate criminal liability, as corporations can now be held accountable for violations of fundamental rights through constitutional proceedings.

The horizontal application of fundamental rights creates new avenues for corporate criminal liability, particularly in cases involving environmental degradation, labor violations, and discrimination. Corporations can no longer claim immunity from constitutional scrutiny merely because they are private entities rather than state instrumentalities.

B. National Guidelines on Responsible Business Conduct

In 2019, India introduced the National Guidelines on Responsible Business Conduct (NGRBC), aligning with the UN Guiding Principles on Business and Human Rights.[26] These guidelines establish a framework for corporate responsibility in human rights protection, though they are primarily advisory rather than legally binding.

The NGRBC requires businesses to conduct human rights due diligence, assess and address adverse human rights impacts, and provide effective grievance redressal mechanisms.[27] While not creating direct criminal liability, the guidelines provide a framework that courts and regulatory authorities can reference when determining corporate responsibility for human rights violations.

VI. Challenges in Enforcement and Implementation

A. Jurisdictional and Procedural Challenges

Despite significant legal developments, several challenges persist in effectively enforcing corporate criminal liability for human rights violations. Jurisdictional issues remain particularly problematic when dealing with multinational corporations, as demonstrated by the ongoing challenges in cases like the Bhopal Gas Tragedy, where the U.S.-based parent company Union Carbide proved difficult to hold accountable in Indian courts.[28]

The complexity of corporate structures often obscures individual responsibility, making it difficult to establish personal liability for corporate crimes. The Sanjay Dutt case illustrates this challenge, where the complaint failed to establish direct involvement of the accused directors, leading to the quashing of criminal proceedings.[29]

B. Evidentiary and Procedural Burden

The requirement for specific evidence of personal involvement and criminal intent creates significant evidentiary burdens for prosecutors in corporate criminal cases. The Supreme Court's emphasis on detailed allegations and statutory basis for liability, while protecting innocent directors, may also make it more difficult to successfully pursue legitimate cases of corporate criminal behavior.[30]

The safe harbor provisions under various statutes, while necessary to protect non- executive directors, can be exploited by corporations to structure their governance in ways that obscure responsibility and accountability.[31] This creates a challenging balance between protecting innocent parties and ensuring effective prosecution of corporate crimes.

VII. Recent Developments and Future Directions

A. New Criminal Laws and Corporate Liability

The implementation of new criminal laws in 2024 - the Bharatiya Nyaya Sanhita, Bharatiya Sakshya Adhiniyam, and Bharatiya Nagarik Suraksha Sanhita - has introduced modernized provisions for corporate criminal liability.[32] These laws, which replaced colonial-era legislation, maintain essential provisions for corporate accountability while introducing new frameworks for addressing contemporary forms of corporate crime.

The retention of certain problematic provisions, including sedition-related offenses, reflects the ongoing tension between maintaining security and protecting corporate freedom of expression.[33] However, the new laws also introduce enhanced provisions for corporate accountability in areas such as environmental protection and labor rights.

B. Environmental, Social, and Governance (ESG) Compliance

The growing emphasis on ESG compliance is likely to become a critical factor in determining corporate liability for human rights violations.[34] Indian companies, particularly those seeking international investment, are increasingly required to demonstrate compliance with international human rights standards as part of their ESG commitments.

The integration of ESG criteria into corporate governance frameworks creates new avenues for establishing corporate criminal liability, as failure to meet ESG standards can now result in both regulatory penalties and potential criminal charges in cases where such failures result in human rights violations.[35]

VIII. Comparative Analysis and International Context

A. Global Trends in Corporate Criminal Liability

The evolution of corporate criminal liability in India reflects broader global trends toward increased corporate accountability for human rights violations. The UK's Economic Crime and Corporate Transparency Act, 2023, expands liability by making companies responsible for employee misconduct unless "reasonable procedures" are in place, providing a model that India may consider adopting.[36]

The development of mandatory human rights due diligence laws in various European jurisdictions creates pressure on Indian corporations to enhance their human rights compliance, as non-compliance can result in exclusion from international markets and supply chains.[37]

B. Lessons from International Cases

The case of *Vedanta Resources PLC v. Lungowe (2019),* though adjudicated in UK courts, involved Indian plaintiffs and highlighted the potential for extraterritorial application of human rights laws to Indian companies.[38] The UK Supreme Court's decision to allow Zambian villagers to sue Vedanta in English courts for environmental damage caused by its subsidiary demonstrates the global reach of corporate liability for human rights violations.

This international dimension of corporate liability creates additional compliance burdens for Indian corporations while also providing new avenues for victims of corporate human rights violations to seek redress.[39]

IX. Recommendations for Legal Reform

A. Strengthening Statutory Frameworks

The analysis of current legal frameworks reveals several areas where legislative reform could enhance corporate accountability for human rights violations. First, there is a need for comprehensive legislation specifically addressing corporate human rights due diligence, similar to laws being developed in European jurisdictions.[40]

Second, existing safe harbor provisions should be reviewed to ensure they provide adequate protection for non-executive directors while not creating loopholes that allow corporations to escape accountability for systematic human rights violations.[41]

B. Enhancing Enforcement Mechanisms

Effective enforcement of corporate criminal liability requires enhanced capacity within regulatory agencies and the judiciary. Specialized courts for corporate crimes, similar to those established for environmental matters, could provide the expertise necessary to handle complex corporate criminal cases.[42]

The development of standardized procedures for corporate criminal investigations, including provisions for international cooperation in cases involving multinational corporations, would address many of the jurisdictional challenges currently faced by prosecutors.[43]

X. Conclusion

The intersection of corporate criminal responsibility and human rights protection in India represents a dynamic and evolving area of law that reflects broader transformations in Indian society and economy. The constitutional framework established under Part III of the Constitution, combined with extensive statutory provisions and progressive judicial interpretation, has created a comprehensive but complex system for corporate accountability.

Recent developments, particularly the Supreme Court's decisions in Sanjay Dutt and Kaushal Kishor, have significantly clarified the parameters of corporate criminal liability while establishing new avenues for human rights enforcement against private entities. The Sanjay Dutt precedent provides important protection for corporate directors and officers from frivolous prosecution while maintaining the principle that genuine corporate criminal behavior must be prosecuted effectively.

However, significant challenges remain in implementing this framework effectively. Jurisdictional issues, evidentiary burdens, and the complexity of corporate structures continue to pose obstacles to successful prosecution of corporate crimes involving human rights violations. The horizontal application of fundamental rights, while theoretically significant, requires further development through judicial precedent and legislative action to become fully effective.

The future development of corporate criminal liability in India will likely be influenced by international trends toward mandatory human rights due diligence, ESG compliance requirements, and the growing recognition that corporations bear significant responsibility for protecting human rights. The successful integration of these international standards with India's constitutional and statutory framework will be crucial for ensuring effective protection of human rights in an increasingly corporate- dominated economy.

The evolution of this area of law reflects the broader challenge of adapting legal frameworks designed for a simpler economic structure to the complexities of modern corporate capitalism. The Indian experience, with its unique combination of constitutional rights, statutory provisions, and judicial activism, provides valuable insights for other jurisdictions grappling with similar challenges.

As India continues to develop economically and socially, the effective enforcement of corporate criminal liability for human rights violations will become increasingly important for maintaining the constitutional promise of fundamental rights for all citizens. The legal framework established by recent developments provides a solid foundation for this effort, but continued vigilance and adaptation will be necessary to ensure that corporate power is exercised responsibly and in accordance with human rights principles.

[1] See National Human Rights Commission of India, Corporate Duty to Respect Human Rights in India (2023), available at https://nhrc.nic.in/sites/default/files/Dinesh%20Sharma%20BHR%20Report%20-%20Final_0.pdf

[2] Constitution of India, art. 12-35 (establishing fundamental rights and their scope of application)

[3] Sanjay Dutt & Ors. v. State of Haryana & Anr., 2025 INSC 34
[4] R.D. Shetty v. International Airport Authority, (1979) 3 SCC 489 (expanding scope of enforcement of fundamental rights)
[5] Kaushal Kishor v. State of Uttar Pradesh & Ors., 2023 LiveLaw (SC) 4
[6] Id.

[7] Id. (Nagarathna, J., dissenting)
[8] Constitution of India, art. 36-51 (Directive Principles of State Policy)
[9] Companies Act, 2013, § 135
[10] Id
[11] Companies Act, 2013, §§ 447-452 (criminal provisions)
[12] Companies Act, 2013, § 447
[13] Companies Act, 2013, § 149(12)

[14] Environment Protection Act, 1986, §§ 15-16
[15] Sanjay Dutt & Ors. v. State of Haryana & Anr., 2025 INSC 34
[16] Id.
[17] Id.
[18] Id. At Para 13

[19] Id.
[20] Id.
[21] Maharashtra State Electricity Distribution Co. Ltd. v. Datar Switchgear Ltd., (2010) 10 SCC 479
[22] Sunil Bharti Mittal v. CBI, (2015) 4 SCC 609
[23] S.K. Alagh v. State of Uttar Pradesh, (2008) 5 SCC 662

[24] Kaushal Kishor v. State of Uttar Pradesh & Ors., 2023 LiveLaw (SC) 4
[25] Id. (Ramasubramanian, J.)
[26] Ministry of Corporate Affairs, National Guidelines on Responsible Business Conduct (2019)
[27] Id.
[28] Union Carbide Corp. Gas Plant Disaster at Bhopal, 634 F. Supp. 842 (S.D.N.Y. 1986)

[29] Sanjay Dutt & Ors. v. State of Haryana & Anr., 2025 INSC 34
[30] Id.
[31] Companies Act, 2013, § 149(12)
[32] Bharatiya Nyaya Sanhita, 2023; Bharatiya Sakshya Adhiniyam, 2023; Bharatiya Nagarik Suraksha Sanhita, 2023
[33] Amnesty International, Human Rights in India (2024), available at https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/india/report-india/

[34] Ankur Lal, Evolving Corporate Accountability: Human Rights and Legal Trends in India and Beyond (Aug. 9, 2024), available at https://ankurlaladvocate.com/evolving-corporate-accountability- human-rights-and-legal-trends-in-india-and-beyond/
[35] Id.
[36] Economic Crime and Corporate Transparency Act*, 2023 (UK)
[37] Id.
[38] Vedanta Resources PLC v. Lungowe, [2019] UKSC 20

[39] Id.
[40] See EU Directive on Corporate Sustainability Due Diligence (proposed)
[41] Companies Act, 2013, § 149(12)
[42] See National Green Tribunal Act, 2010 (establishing specialized environmental courts)
[43] See UN Office on Drugs and Crime, Model Legislative Provisions against Organized Crime (2012)