THE LEGAL FICTION: CORPORATE CRIMINAL LIABILITY IN INDIA FROM BHOPAL TO THE BHARATIYA NYAYA SANHITA 2023

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ABSTRACT

Corporate criminal liability in India has evolved not by legislative design but through a reactive arc stretching from the industrial catastrophe of 1984 to the criminal law reforms of 2023. This article traces that evolution through three doctrinal phases: an era of strict civil liability coexisting with effective corporate criminal immunity; a period of judicial revolution in which the Supreme Court adopted the identification doctrine and dismantled the impossibility-of-imprisonment shield; and the present phase defined by legislative expansion and the enactment of the Bharatiya Nyaya Sanhita 2023. The article argues that while the current framework is considerably more sophisticated than its origins, it remains structurally incomplete. Four critical deficits persist: the absence of a corporate culture standard of liability adequate to large and diffuse organizations; the absence of a corporate manslaughter offence; the absence of structured sentencing methodology; and the absence of a deferred prosecution agreement mechanism. Drawing on comparative models from the United Kingdom, the United States, and Australia, the article proposes a two-tier legislative reform and concludes that the completion of this framework is a task that now belongs, unambiguously, to Parliament.

Keywords: Corporate mens rea; Bharatiya Nyaya Sanhita 2023; identification doctrine; absolute liability; corporate culture.

I. INTRODUCTION

On the night of 2-3 December 1984, forty tons of methyl isocyanate gas escaped from the Union Carbide India Limited plant in Bhopal, killing thousands of people in their sleep and permanently maiming hundreds of thousands more. What followed the immediate disaster was not swift criminal accountability but four decades of litigation, jurisdictional wrangling, and a civil settlement that many scholars have characterized as the institutional abandonment of criminal justice.[1]

Fast-forward to 2011. The Supreme Court of India, in Iridium India Telecom Ltd. v. Motorola Inc., held for the first time with analytical clarity that a company is capable of forming a dishonest intention.[2] In 2022, a Constitution Bench upheld the reverse burden of proof under the Prevention of Money Laundering Act, 2002 as constitutionally valid.[3] And in 2023, Parliament enacted the Bharatiya Nyaya Sanhita (BNS), which explicitly defines a 'person' to include companies, associations, and unincorporated bodies.[4]

Between the catastrophe of Bhopal and the reformist ambitions of the BNS 2023 lies a remarkable, if under-examined, jurisprudential journey: from a legal system that treated corporations as beyond the reach of criminal intent, to one that holds them, at least in principle, to the same standard of culpability as human actors. That journey is the subject of this article.

The central paradox that animates this inquiry is both jurisprudential and practical. Criminal law, as inherited by India from the English common law tradition, is constructed around a fundamentally human premise. The maxim actus non facit reum nisi mens sit rea presupposes a conscious, willing mind. A corporation has no such mind in the biological sense. For much of the twentieth century, Indian courts resolved this paradox by effectively exempting corporations from prosecution for the most serious offences. The reasoning was judicially expedient but deeply unsatisfying: since a corporation cannot be imprisoned, and since imprisonment was the mandatory component of certain sentences, prosecution was held to be procedurally impossible.

[1]Union Carbide Corp. v. Union of India, (1989) 1 SCC 674; Upendra Baxi and Thomas Paul (eds.), Mass Disasters and Multinational Liability: The Bhopal Case (Indian Law Institute, New Delhi, 1986).
[2]Iridium India Telecom Ltd. v. Motorola Inc., (2011) 1 SCC 74.
[3]Vijay Madanlal Choudhary v. Union of India, (2022) 9 SCC 321 (Constitution Bench).
[4]The Bharatiya Nyaya Sanhita, 2023, s. 2(26) (India).

That immunity was formally broken in 2005, when a Constitution Bench held in Standard Chartered Bank v. Directorate of Enforcement that the impossibility of imprisoning a corporation was no reason to confer upon it an immunity that Parliament had never intended.[5] The normative lacuna left by that decision was partially filled through the identification doctrine, confirmed in Iridium, which traces corporate mens rea to the intention of those individuals who constitute the 'directing mind and will' of the corporation.

This article argues that the current Indian framework of corporate criminal liability is best described as jurisprudentially incomplete. The courts have done the work of dismantling the old immunity and establishing that corporations can commit crimes requiring a guilty mind. What they have not done, and what Parliament has so far failed to do, is construct a coherent, principled, and institutionally adequate framework for attributing criminal intent to entities whose decision-making structures bear little resemblance to the human individuals for whom the criminal law was designed.

The article proceeds in five Parts. Part II traces the doctrinal evolution from strict liability through the immunity era to the identification doctrine. Part III examines the mass tort era and the constitutional civil framework that emerged in its place. Part IV analyses the statutory framework for economic crime prosecution. Part V evaluates the BNS 2023 reform trilogy. Part VI sets out recommendations for legislative reform.

II. DOCTRINAL EVOLUTION: FROM STRICT LIABILITY TO THE IDENTIFICATION DOCTRINE

A. The Starting Point: A Legal System Unprepared for Corporate Crime

When the Indian Penal Code was enacted in 1860, its authors were principally concerned with the crimes of individual human beings. The Code defined a 'person' to include a company or association of persons, but this definitional inclusion was largely decorative. The offence provisions, the punishment provisions, and the entire procedural apparatus of the criminal law were designed with a human offender in mind. The corporate form received no sustained legislative attention.

The earliest encounters between Indian criminal law and corporate entities occurred in

[5]Standard Chartered Bank v. Directorate of Enforcement, (2005) 4 SCC 530 (Constitution Bench).

the tribunals and magistrate courts enforcing regulatory statutes. For offences that did not require proof of a subjective mental state, corporations were held liable through the acts of their employees and agents acting within the scope of their authority. This was, in substance, a form of strict vicarious liability drawing on the tort law principle of respondeat superior. The approach served the regulatory needs of the early twentieth century reasonably well, but it was wholly inadequate for serious criminal offences such as fraud and culpable homicide, where both statute and constitution demanded proof of a guilty mind.

B. The Immunity Era: Impossibility of Imprisonment

The doctrinal expression of corporate immunity is most clearly seen in Oswal Vanaspati and Allied Industries v. State of Uttar Pradesh, where the court held that where a statute prescribed imprisonment as the sole or mandatory component of the sentence, a corporation could not be prosecuted, because the court would be unable to impose the sentence that Parliament had required.[6] The reasoning had a certain logical tidiness, but its consequences were deeply troubling.

This immunity was not theoretical. Legal advisers representing corporate defendants in serious economic crime prosecutions learned to identify the imprisonment provision in the relevant statute and argue, on the basis of this authority, that no prosecution of the company could lie. The result was that corporations most capable of causing large-scale harm were able to shelter behind a procedural anomaly that had nothing to do with their guilt or innocence. It was an accident of drafting, not a principled allocation of criminal responsibility.

C. The Turning Point: Standard Chartered Bank and the Abolition of Immunity

The Constitution Bench decision in Standard Chartered Bank v. Directorate of Enforcement is the single most important turning point in the evolution of corporate criminal liability in India. The Bench rejected the argument that a company could not be prosecuted merely because one component of the mandatory sentence was incapable of execution against it. Its reasoning proceeded in two steps. First, Parliament had defined 'person' to include companies and had not said, nor could have intended, that companies enjoyed immunity from prosecution simply because one component of a composite sentence was incapable of execution. Second, where a statute prescribed a sentence of imprisonment and fine, and where

[6]Oswal Vanaspati and Allied Industries v. State of Uttar Pradesh, 1993 Supp (1) SCC 758.

the accused was incapable of imprisonment, the court should impose the fine component alone. The immunity was gone.

What Standard Chartered Bank did not address, however, was the mens rea question. The offences at issue did not require proof of a subjective guilty mind in the same way that offences like cheating or fraud did. The substantive question of how a company's criminal intention was to be established was left for subsequent decisions to address.

D. Establishing Corporate Mens Rea: The Iridium Judgment

The Supreme Court's decision in Iridium India Telecom Ltd. v. Motorola Inc. addressed directly the question that Standard Chartered Bank had deferred: how does a company form, in law, the dishonest intention required to commit the offence of cheating?[7] The court's answer drew explicitly on the English common law tradition.

The identification doctrine, which the court adopted as the governing framework, had been developed in England over the course of the twentieth century. Its foundational premise, stated by Viscount Haldane LC in Lennard's Carrying Co. v. Asiatic Petroleum Co., was that a corporation must act through some human being who is its directing mind and will, and that the acts and intentions of that person are, in law, the acts and intentions of the corporation itself.[8] The doctrine was refined in Tesco Supermarkets Ltd. v. Nattrass, where the House of Lords confined the directing mind to the board of directors and the most senior management.[9]

The Iridium judgment completed the doctrinal foundation that Standard Chartered Bank had prepared. Together, the two decisions established the basic architecture of corporate criminal liability in India as it stands today: a corporation can be prosecuted for any criminal offence, including offences requiring a guilty mind; the corporation's guilty mind is established by reference to the intention of its directing mind and will; and the impossibility of imprisonment does not defeat the prosecution.

E. The Asymmetry of Attribution: Sunil Bharti Mittal

An important qualification to the forward attribution established by Iridium was

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[8]Lennard's Carrying Co. v. Asiatic Petroleum Co., [1915] AC 705, 713 (HL).
[9]Tesco Supermarkets Ltd. v. Nattrass, [1972] AC 153 (HL).

introduced in Sunil Bharti Mittal v. CBI. The court held that it was not permissible to automatically attribute the criminal acts of a company to its directors and senior officers simply on the basis of their seniority. Criminal liability is personal, and a director cannot be made to answer for the company's acts unless specific factual averments in the complaint demonstrate that he personally played the directing mind role in relation to the relevant conduct.[10]

This created an asymmetry in Indian corporate criminal law that deserves careful attention. On forward attribution, the company readily acquires the guilty mind of its senior officers. On reverse attribution, the senior officers do not readily acquire the criminal liability of their company. The company takes on the mind of its directors more easily than the directors take on the criminal acts of their company.

III. THE MASS TORT ERA: CIVIL REMEDIES AND THE ABSENCE OF CRIMINAL ACCOUNTABILITY

A. Bhopal: The Paradigm Case of Corporate Criminal Impunity

The Bhopal gas tragedy serves as a paradigm case of corporate criminal impunity. Initial charges under the Indian Penal Code ranged from culpable homicide to death by negligence, all requiring proof of a specific mental element. At the time, Indian courts lacked a coherent framework for attributing mens rea to a corporation, forcing the prosecution to navigate in doctrinal darkness. The most consequential development was the 1989 Supreme Court-approved settlement, under which Union Carbide paid $470 million to resolve all civil and criminal claims. This established a troubling precedent: civil compensation could serve as a substitute for criminal accountability, effectively nullifying the criminal law's deterrent effect on corporations.

The 2010 conclusion of the Bhopal criminal proceedings, resulting in the conviction of eight Union Carbide India Limited officers under the lesser charge of negligence rather than culpable homicide, illustrates three critical doctrinal failures. First, Indian law at the time lacked any mechanism to establish the criminal responsibility of a foreign parent company for the acts of its domestic subsidiary. Second, the absence of a specific corporate manslaughter offence meant that serious charges could not be sustained without proving individual knowledge. Third, the punitive criminal function was subordinated to the compensatory civil

[10]Sunil Bharti Mittal v. CBI, (2015) 4 SCC 609.

remedy, signalling to corporations that the ultimate price of even the most severe misconduct was a financial one.

B. Absolute Liability and Its Structural Limitations

The Supreme Court's decision in M.C. Mehta v. Union of India is one of the most intellectually significant environmental judgments in the history of Indian constitutional law. The court declined to apply the rule in Rylands v. Fletcher and instead evolved the doctrine of Absolute Liability, holding that where an enterprise engaged in a hazardous or inherently dangerous activity causes harm on account of an accident in the operation of such activity, the enterprise is absolutely liable, and this liability is not subject to any of the exceptions that operate under the rule in Rylands v. Fletcher.[11]

The distance between Absolute Liability and true criminal accountability is, however, significant. Absolute Liability is a rule of civil law concerned with the transfer of loss from victim to responsible party. It operates on a balance of probabilities, explicitly excludes the requirement of a guilty mind, and results in financial damages. The Polluter Pays Principle, recognized as a binding legal standard in Vellore Citizens Welfare Forum v. Union of India, similarly operated through civil and constitutional mechanisms rather than criminal prosecution.[12] While the constitutional environmental framework held corporations to standards that pure common law tort doctrine would not have imposed, it was not a criminal framework, and the corporations ordered to remediate were compelled to spend money but not convicted of crimes.

IV. THE STATUTORY FRAMEWORK FOR ECONOMIC CRIME: POWER, BREADTH, AND CONSTITUTIONAL STRAIN

A. The Prevention of Money Laundering Act, 2002

The Prevention of Money Laundering Act, 2002, has evolved into the primary tool for prosecuting corporate financial wrongdoing in India. Section 3 defines money laundering broadly, criminalizing any person who directly or indirectly indulges in, or knowingly assists in, activities connected with the proceeds of crime. Corporate liability is specifically addressed

[11]M.C. Mehta v. Union of India, (1987) 1 SCC 395.
[12]Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647.

in Section 70, which deems both the company and the individuals in charge at the time of the offence guilty, subject to a due diligence defense.[13]

A defining and controversial feature of the PMLA is the reverse burden of proof established in Section 24, which requires the accused to prove that proceeds of crime are untainted property. In Vijay Madanlal Choudhary v. Union of India, a Constitution Bench upheld this provision, ruling that the difficulty of tracing criminal proceeds across layered financial structures justifies shifting the burden to the defendant. However, this creates significant structural pressure on corporations. A corporate defendant must prove that its management acted without knowledge of criminal connections, a difficult task given the diffuse nature of institutional decision-making and the limits of the identification doctrine.

B. Section 447 of the Companies Act, 2013: Fraud and the Corporate Defendant

Section 447 of the Companies Act, 2013, represents the most ambitious attempt in Indian legislative history to define and penalize corporate fraud through a single comprehensive provision. The section defines fraud to include any act, omission, concealment of any fact, or abuse of position committed with intent to deceive, to gain undue advantage, or to injure the interests of the company or its shareholders or creditors, whether or not there is any wrongful gain or wrongful loss.[14] The penalty prescribed is imprisonment for a term not less than six months, extendable to ten years, and a fine not less than the amount involved in the fraud, extendable to three times that amount.

The most demanding evidentiary challenge in a Section 447 prosecution is proof of the intent to deceive. Unlike the PMLA, which reverses the burden of proof, Section 447 places the burden on the prosecution to establish the defendant's fraudulent intent beyond reasonable doubt. In the case of a corporate defendant, this requires identifying the person who constitutes the directing mind, establishing that person's state of mind, and showing that it satisfied the intent requirement. Better evidence alone, however admissible, does not resolve the attribution question that the identification doctrine leaves unanswered in complex organizations.

[13]Prevention of Money Laundering Act, No. 15 of 2003 (India), ss. 3, 24, 70.
[14]Companies Act, No. 18 of 2013 (India), s. 447.

C. The Persistent Gap: Corporate Manslaughter

While recent legislation has addressed economic crimes, the most morally urgent gap remains the absence of a specific offence for corporate manslaughter. Since the Bhopal disaster, India has continued to suffer large-scale industrial tragedies. In each case, the law faces the same structural barrier encountered in 1984: the requirement to prove individual intent or recklessness when the true failure is systemic and institutional. Section 106 of the BNS 2023, which addresses death by negligence, continues to presuppose an individual human offender and offers no mechanism to address systemic governance failures or to impose remedial orders against a corporate entity.

V. THE BHARATIYA NYAYA SANHITA 2023: A REFORM THAT RENOVATED WITHOUT REBUILDING

A. What the Reform Trilogy Achieved

The enactment of the three statutes in December 2023 was an undertaking of extraordinary scope. The BNS 2023 defines 'person' in Section 2(26) to include any company or association or body of persons, whether incorporated or not. The Bharatiya Sakshya Adhiniyam (BSA) 2023 significantly improved the evidentiary framework for electronic records by removing the certification requirements that the Supreme Court had identified in Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal as a major obstacle to the admission of electronic evidence in criminal proceedings.[15] Under Sections 57 and 63 of the BSA, electronic records are now admissible as primary evidence without a certificate, and the court may presume their accuracy unless the contrary is shown.[16]

The Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 improved procedural timelines and the framework for the handling of property attached during investigation. Section 337 of the BNSS carries forward the provision allowing a company to appear through an authorized representative.[17] These are genuine improvements, and the BSA's electronic evidence reforms in particular are a practical contribution of real significance for corporate crime prosecution.

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[15] Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1.
[16] The Bharatiya Sakshya Adhiniyam, 2023 (India), ss. 57, 63.
[17] The Bharatiya Nagarik Suraksha Sanhita, 2023 (India), s. 337.

B. What the Reform Trilogy Left Undone

The claim that this was a fundamental reimagining of Indian criminal law is not supported by an examination of the specific provisions governing corporate criminal liability. The definition of 'person' in Section 2(26) BNS tells us that companies are persons; it says nothing about how the elements of specific offences are to be applied to those entities. The attribution framework is absent, as it was under the Indian Penal Code. Compare this with the Australian Criminal Code Act 1995, which devotes an entire Division 12 to specifying how physical and fault elements of offences are attributed to corporate defendants, including through a corporate culture standard allowing liability to be established where the organization's culture directed, encouraged, tolerated, or led to non-compliance with the relevant law.

The Parliamentary Standing Committee's report on the draft legislation contained no substantial discussion of the specific provisions governing corporate criminal liability. It did not consider whether the BNS should include a corporate culture standard or a corporate manslaughter provision. It did not examine whether the BNSS adequately addressed the trial of corporate accused, a deficiency the Law Commission of India had identified in its 47th Report in 1972 and that remains, remarkably, unaddressed more than fifty years later.[18]

C. The Structural Inadequacy of the Identification Doctrine for Contemporary Corporate Crime

The identification doctrine, as confirmed in Indian law through the cases examined above, carries structural limitations that become increasingly acute as the corporate form that Indian law is required to regulate grows larger, more complex, and more sophisticated. Three structural problems deserve particular attention.

First, the diffusion problem. In large corporations with distributed decision-making, no single directing mind may exist to be identified, leaving the prosecution with an impossible evidentiary task. Celia Wells has argued that this structural feature of large corporations effectively converts the identification doctrine into a form of corporate immunity for the most powerful defendants: the bigger the corporation, the harder it is to identify a directing mind,

[18]Law Commission of India, 47th Report: Trial and Punishment of Social and Economic Offences, para. 4.1 (1972).

and the harder it is to show that the identified person actually knew and intended the wrongdoing.

Second, the delegation problem. The identification doctrine creates an incentive for corporations to manage criminal exposure through deliberate delegation. If liability attaches only to the directing mind, and if operational decisions carrying criminal risk are taken below that level, the directing mind is insulated from criminal responsibility. Gobert and Punch documented this phenomenon following the Tesco decision, observing that the practical effect of confining the directing mind to the board was to encourage boards to remain at a level of abstraction from operational matters that made it perpetually difficult to establish their personal knowledge of wrongdoing.[19]

Third, the multinational problem, with the most profound Indian resonance. In cases involving multinational corporate groups, the identification doctrine provides no clear answer to whether the directing mind of a foreign parent can be attributed to its Indian subsidiary. The Bhopal litigation remains the most devastating illustration of this failure, and nothing in the BNS 2023 addresses the gap it exposed.

VI. TOWARDS AN ADEQUATE FRAMEWORK: FIVE LEGISLATIVE RECOMMENDATIONS

The findings of this analysis generate five specific legislative recommendations addressed to Parliament. Each recommendation is grounded in the comparative experience of jurisdictions that have addressed the relevant problem with more success than India has, and each is legally achievable, as comparable provisions exist in jurisdictions available as models.

A. Codify a Two-Tier Corporate Criminal Liability Framework

Parliament should amend the BNS to add a dedicated Part on corporate criminal liability establishing a two-tier framework. The first tier should codify the identification doctrine as the primary mechanism of attribution. The second tier should introduce a corporate culture standard, modelled on Division 12.3 of the Australian Criminal Code Act 1995,[20] providing that a corporation may also be held criminally responsible where its organizational culture, as

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[19] James Gobert and Maurice Punch, Rethinking Corporate Crime 57-73 (Cambridge University Press, Cambridge, 2003).
[20] Criminal Code Act 1995 (Cth) div. 12.3 (Austl.).

evidenced by its policies, practices, incentive structures, and institutional responses to discovered non-compliance, directed, encouraged, tolerated, or led to the commission of the relevant offence. The second tier should be available where the prosecution cannot satisfy the first tier because of the complexity of the corporate structure.

B. Enact a Corporate Manslaughter Provision

Parliament should enact a specific offence of corporate manslaughter, either as a new section in the BNS or as a standalone statute modelled on the United Kingdom's Corporate Manslaughter and Corporate Homicide Act 2007.[21] The offence should be committed where the way in which an organization's activities are managed or organized causes a person's death, and where the management of those activities amounts to a gross breach of a relevant duty of care owed by the organization to the deceased. The inquiry should focus on the conduct of the organization's senior management collectively, not on the personal intent of a single directing mind. The penalty should include an unlimited fine, a mandatory remedial order, and a publicity order requiring the organization to publicize its conviction.

C. Introduce Corporate Sentencing Guidelines

Parliament should direct the development of corporate sentencing guidelines providing a structured methodology for the calculation of fines imposed on convicted corporate defendants, modelled on Chapter Eight of the United States Federal Sentencing Guidelines.[22] The guidelines should incorporate, at minimum: the seriousness of the offence and the harm caused; the corporation's culpability, assessed by reference to the level at which the offending was directed or tolerated and the adequacy of its compliance programme; adjustments upward for obstruction; and adjustments downward for self-disclosure, co-operation, and genuine remediation. Penalties must be proportionate to the corporation's financial capacity.

D. Enact a Statutory Deferred Prosecution Agreement Mechanism

Parliament should introduce a statutory deferred prosecution agreement (DPA) mechanism applicable to corporate defendants accused of serious economic offences, modelled on Schedule 17 to the United Kingdom's Crime and Courts Act 2013.[23] A DPA should be

[21]Corporate Manslaughter and Corporate Homicide Act 2007, c. 19 (UK).
[22]U.S. Sentencing Guidelines Manual ch. 8 (2023).
[23]Crime and Courts Act 2013, c. 22, sch. 17 (UK); U.S. Department of Justice, Justice Manual s. 9-28.000

available where the public interest in prosecution does not outweigh the benefits of a negotiated resolution, and where the corporate defendant agrees to conditions including a financial penalty, compliance reforms, full co-operation with investigations, and submission to an independent monitor. The DPA must be approved by a court satisfied that the agreement is in the interests of justice. A corporate defendant that satisfies all conditions within the specified period should have proceedings discontinued; one that fails should be returned to prosecution.

E. Create a Dedicated Corporate Crime Prosecution Framework

Parliament should introduce, through amendment to the BNSS, a dedicated procedural chapter governing the trial of corporate accused. The 47th Report of the Law Commission of India had recommended in 1972 that Parliament enact specific provisions dealing with the trial of companies, including provisions on the service of process, the entry of pleas, and the conduct of trials where both a company and its officers are accused. These recommendations were not implemented under the Code of Criminal Procedure and were not implemented when the BNSS replaced it in 2023. The chapter should also address the co-ordination of investigations by the Central Bureau of Investigation, the Enforcement Directorate, and the Serious Fraud Investigation Office, where a single corporate fraud generates liability across multiple statutes.

VII. CONCLUSION

The evolution of corporate criminal liability in India is the story of a legal system trying, over the course of a century and more, to answer a question it was never designed to face: when a corporation does something that would be a crime if a human being did it, what should the law do?

The honest answer that this analysis has tried to give is that the law has done better than might have been expected and worse than is acceptable. The courts, without legislative support, constructed a framework that makes corporate prosecution possible and has produced real accountability in cases that would otherwise have gone unanswered. Standard Chartered Bank and Iridium are achievements of which Indian jurisprudence can be genuinely proud. But the corporations that cause the greatest harm in contemporary India are not the simple, closely governed entities against which the identification doctrine works tolerably well. They are large, complex, sometimes multinational entities whose governance structures are precisely designed

(2018).

to make the attribution of personal responsibility as difficult as possible.

The BNS 2023 modernized the language and structure of Indian criminal law, and the BSA's electronic evidence reforms removed a significant procedural barrier. But the four structural failures identified in this article remain unaddressed: no corporate culture standard, no corporate manslaughter offence, no corporate sentencing methodology, and no deferred prosecution agreement mechanism. These are not academic observations. They are practical realities that the families of industrial disaster victims, the investors defrauded in securities frauds, and the depositors who lost their savings in banking collapses know from direct experience.

The five recommendations set out above are not a wish list. They are the minimum requirements of an adequate framework. Each is legally achievable. The question is whether the political will to address the specific failures of corporate criminal liability will develop before the next major corporate scandal makes their consequences impossible to ignore. It usually takes a disaster to change the law. The hope that animates this analysis is that India can, this time, act before the disaster rather than after it.