# CONTENTS

<table>
<thead>
<tr>
<th>Declaration</th>
<th>ii</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certificate</td>
<td>iii</td>
</tr>
<tr>
<td>Guide Certificate</td>
<td>iv</td>
</tr>
<tr>
<td>Acknowledgement</td>
<td>v</td>
</tr>
<tr>
<td>Abstract</td>
<td>vi-vii</td>
</tr>
<tr>
<td>Abbreviations</td>
<td>viii-ix</td>
</tr>
<tr>
<td>Table of Cases</td>
<td>x-xii</td>
</tr>
</tbody>
</table>

**CHAPTER I**

**INTRODUCTION**

**CHAPTER-II**

**ORIGIN AND EVOLUTION OF THE MODERN COMPANY LAW**

**CHAPTER-III**

**HISTORICAL DEVELOPMENT OF CORPORATE CRIMINAL LIABILITY**

**CHAPTER-IV**

**COMPARATIVE STUDY OF CORPORATE CRIMINAL LIABILITY**

**CHAPTER-V**

**JUDICIAL RESPONSE TO CORPORATE CRIMINAL LIABILITY IN INDIA**

**CHAPTER-VI**

**CORPORATE SOCIAL RESPONSIBILITY**

**CHAPTER-VII**

**CONCLUSION AND SUGGESTIONS**

**BIBLIOGRAPHY**

282-294
CHAPTER I
INTRODUCTION

1.1. Introduction 1
   1.1.1. Origin of the concept of corporate criminal liability 1
   1.1.2. Development of the concept of Corporate Criminal Liability 6
   1.1.3. Definition of Corporate Criminal Liability 6
1.2. Objectives Of The Study 11
1.3. Significance Of The Research 11
1.4. Research Questions 12
1.5. Hypotheses 13
1.6. Methodology 13
1.7. Sources of Data 13
1.8. Scope Of The Study 14
1.9. Review of Literature 16
   1.9.1 Books 16
   1.9.2 Journals 19
1.10. Chapterization 25

CHAPTER-II
ORIGIN AND EVOLUTION OF THE MODERN COMPANY LAW

2.1. Introduction. 27
2.2. Theories of the Legal Persons. 28
   2.2.1. Purpose Theory. 28
   2.2.2. Theory of the Enterprise Entity. 29
   2.2.3. Bracket Theory. 29
   2.2.4. Hohfeld’s Theory. 29
   2.2.5. Kelsen’s Theory. 30
   2.2.6. Fiction Theory. 30
   2.2.7. Concession Theory. 30
   2.2.8. Realist theory. 30
2.3. Meaning of company. 31
2.4. Nature and Characteristics of Company. 32
   2.4.1. Corporate Personality. 33
   2.4.2. Limited Liability. 35
   2.4.3. Perpetual Succession. 35
2.4.4. Separate Property. 36
2.4.5. Transfer of Shares. 37
2.4.6. Common Seal 38
2.4.7. Capacity to Sue and Be Sued. 38
2.4.8. Contractual Rights. 39
2.4.9. Voluntary Association for Profits 40
2.4.10. Termination of Existence 40
2.4.11. Disadvantages of Corporate Form of Enterprise 40
   2.4.11.1. Lifting of the corporate veil 42
   2.4.11.2. Statutory Recognition of Lifting of Corporate veil. 43
2.5. Distinction between Company and Other Institutions. 43
   2.5.1. Distinction between Partnership and a Company. 43
   2.5.2. Distinction between Ordinary Corporation and Statutory corporations. 45
   2.5.3. Distinction between company and Limited Liability Partnership 49
2.6. Brief History of Company Law in India and England 50
   2.6.1. Background of English Company Law: 50
   2.6.2. Development of Indian Company Law 54
      2.6.2.1. The Companies Act, 1956 54
      2.6.2.2. The Companies (Amendment) Act 1977 56
      2.6.2.3. The companies (Amendment) Act, 1988 57
      2.6.2.4. The Important Changes Introduced by the Amendment Act of 1988 58
      2.6.2.5. Amendments made to the Companies Act by the Depositories Act, 1996. 58
      2.6.2.6. The Companies (Amendment) Act, 1999-Salient Features 60
      2.6.2.7 Salient Features of the Companies Act 2013 60
2.7. Conclusion 61

CHAPTER-3

HISTORICAL DEVELOPMENT OF CORPORATE CRIMINAL LIABILITY

3.1 Introduction 64
3.2. Object of Criminal Law 65
   3.2.1 Essential Features of Crime 66
      3.2.1.1 Actus Reus. 67
      3.2.1.2. Mens Rea. 67
3.2.2. Theories of Punishments .................................................. 68

3.3. Concept of Corporate Criminal Liability .......................... 69

3.3.1. Corporate Criminal Liability under Roman Law Principles .... 70

3.3.2. Corporate Criminal Liability under Common Law Principles .... 70

3.4. Theories of Corporate Criminal Liability ......................... 72

3.4.1. Agency Theory or Vicarious Liability .......................... 72

3.4.1.1. Scope of Employment ............................................ 75

3.4.1.2. Benefiting the Corporation:- .................................. 76

3.4.1.3. The act imputed to the Corporation:- ......................... 77

3.4.1.4. Limitations on Vicarious Liability .......................... 77

3.4.1.5. Criticisms against Vicarious Liability ....................... 78

3.4.2. Identification Theory .................................................. 79

3.4.2.1. Guilty Mind ....................................................... 81

3.4.2.2. Limitation of “Identification” or Alter Ego” Theory ....... 84

3.4.3. Aggregation Theory ................................................... 85

3.4.3.1. Criticism of Aggregation Theory ............................ 88

3.5. Corporate Criminal Liability in India ............................ 89

3.5.1. Necessity of Corporate Criminal Liability ..................... 91

3.5.2. Statutory Inadequacy ................................................ 94

3.5.3. Deficiency in the Punishment of Corporations. ............... 94

3.5.4. Judicial Response to Corporate Criminal Liability in India ... 95

3.5.5. Law Commission of India’s Recommendations (Forty first Reports) .... 97

3.5.6. Law Commission of India’s Forty Seventh Reports ......... 97

3.6. Rights and Liabilities of Companies under the Indian Constitution ... 98

3.7. Conclusion. ............................................................... 100

CHAPTER-4

COMPARATIVE STUDY OF CORPORATE CRIMINAL LIABILITY

4.1. Introduction .................................................................... 102

4.2. Diverse Philosophy of Corporate Criminal Liability in different Countries ........ 104

4.3. Different Theory of Corporate Criminal Liability in Different Countries ....... 108

4.3.1. England .................................................................. 108

4.3.2. United States of America. ......................................... 110

4.3.3. Canada .................................................................. 113

4.3.4. India .................................................................... 114

xvi
4.4. What entities come under the scope of corporate criminal liability? 117
4.5. What are the crimes that can be imputed to corporations? 122
4.6. When and which natural persons can cause corporate criminal liability? 125
   4.6.1. France 126
   4.6.2. England 127
   4.6.3. America 129
   4.6.4. India 130
4.7. Sanctions 135
   4.7.1. France 136
   4.7.2. England 137
   4.7.3. America 137
   4.7.4. India 139
4.8. Conclusion 142

CHAPTER-5
JUDICIAL RESPONSE TO CORPORATE CRIMINAL LIABILITY IN INDIA
5.1 Introduction 144
5.2 Classification of Corporate Criminal Liability 145
   5.2.1 Criminal Liability of Corporation under Strict Liability Based
        Upon the Premises of Vicarious Principles 145
   5.2.2 Criminal liability of corporation explicitly provided under
        specific legislations. 146
   5.2.3 Criminal liability of corporation under general law of Indian Penal
        Code. 147
        5.2.3.1 Presumption of innocence of accused 148
5.3 Judicial Response; Period from 1950 to 1970. 150
   5.3.1 Ananth Bandu v Corporation of Calcutta 150
   5.3.2 State of Maharashtra v. Messrs Syndicate Transport Co. (P) Ltd and
        others. 153
5.4 Judicial Response; Post 1970s Period 156
   5.4.1 Giridhar Lal Gupta v. D.H. Mehta and Another 157
   5.4.2 M/s Agarwal Trading Corporation and others v. The Assistant
        Collector of Customs Calcutta. 160
   5.4.3 State (Delhi Administration) v. I.N. Nangia 162
5.5 Judicial Response; Post 1990s Period 165
5.5.1  Radhey Shyam Khemka v. State of Bihar 165
5.5.2  M.V. Javali v. Mahajan Borwells & Co 168
5.5.3  Kalpanath Rai v State (Through CBI), 173

5.6 Judicial Response; Post 2000 Period 177
5.6.1  Assistant Commissioner v. Velliappa Textiles Ltd 178
5.6.2  Standard Chartered Bank v. Directorate of Enforcement, 186
5.6.3  S.K. Alagh v. State of U.P 191

5.7 Judicial Response; Post 2010 Period. 194
5.7.1  Iridium India Telecom Ltd v. Motorola Inc 194

5.8. Special authority of investigation for corporate crime. 204
5.9. Different Method of trial of Corporate Crime. 205
5.10. Conclusion. 206

CHAPTER-6
CORPORATE SOCIAL RESPONSIBILITY

6. 1.  Introduction. 210

6.2. The Sources, Definition, and Meaning of Corporate Social Responsibility 211
6.2.1. The Source of the Current Concept of CSR. 211
6.2.2. Definition of CSR. 213
6.2.3. Meaning of CSR. 214
6.2.4. Fundamental Principles of CSR 216
   6.2.4.1 Care for all Stakeholders 216
   6.2.4.2 Ethical functioning 217
   6.2.4.3 Respect for worker’s rights and welfare. 217
   6.2.4.4 Respect for human rights 217
   6.2.4.5 Respect for environment 217
   6.2.4.6 Activities for Social and Inclusive development. 218
6.2.5 The Nature of CSR 218
6.2.6 Some of the drivers pushing business towards CSR 220
   6.2.6.1. The shirking role of governments 220
   6.2.6.2. Demands for greater disclosure. 220
   6.2.6.3 Increased Customer Interest. 220
   6.2.6.4 Growing Investors Pressure. 220
   6.2.6.5 Competitive Labor Markets 220
   6.2.6.6 Supplier Relations. 221

xviii
6.2.7 Advantages of CSR


6.2.7.2. Community Benefits.

6.2.7.3. Environmental Benefits.

6.3. International conventions and Guidelines on CSR.

6.3.1. ILO


6.3.1.2. Tripartite Consultation (International Labour Standards) Convention.

6.3.1.3. Convention on Worst forms of Child Labour.

6.3.1.4. Convention on Occupational Safety and Health

6.3.1.5. Declaration on Social Justice for fair Globalizations.


6.3.2. OECD Guidelines for Multinational Enterprises

6.3.2.1. Implementation of OECD Guidelines

6.3.2.2. The Guidelines have not been respected. Since 2000

6.3.2.3. Purpose of the declaration

6.3.2.4. Broad classification of OECD guidelines.

6.3.2.4.1. General Policies.

6.3.2.4.2. Disclosures

6.3.2.4.3. Employment and Industrial Relations

6.3.2.4.4. Environment

6.3.2.4.5. Combating bribery

6.3.2.4.6. Consumer Interest

6.3.2.4.7. Competition

6.3.3. UN Global compacts

6.3.3.1. Human Rights

6.3.3.2. Labour Standards

6.3.3.3. Environment

6.3.3.4. Anti-Corruption

6.3.4. The Universal Declaration of Human Rights and CSR

6.3.4.1. International Covenants on Economic Social and Cultural Rights 1966
6.3.4.2. Human Rights Issues
6.3.4.3. Common Law Principles

6.4. Role of CSR in Sustainable Developments
6.4.1. The Johannesburg Declaration on Sustainable Development (2002)

6.5. GATT: WTO Effects

6.6. Liability of MNC’s for environmental damage

6.7. Corporate Social Responsibility: The Indian scenario.
6.7.1. Constitutional Articles related to CSR
6.7.1.1. Preamble of Constitution and Definition of State
6.7.1.2. Fundamental Rights and Reasonable restrictions
6.7.1.3. Directive Principles of State Policy
6.7.1.4. Social and Economic Charter
6.7.1.5. Social Security Charter
6.7.1.6. Community Welfare Charter

6.7.2. Labour Statutes
6.7.2.1. Principles of Labour Legislations
6.7.2.2. Social Justice
6.7.2.3. Social Security
6.7.2.4. Industrial Disputes Act 1947
6.7.2.5. Trade Union Act 1926
6.7.2.6. Workman Compensation Act 1926
6.7.2.7. Employees’ State Insurance Act, 1948
6.7.2.8. Minimum Wages Act 1948
6.7.2.9. Factories Act 1948
6.7.2.10. Other labour legislations

6.7.3. Consumer Protection Act, 1986

6.7.4. CSR under Companies Act 2013

6.7.5. Environmental Provisions
6.7.5.1. Liability of Companies for Environmental damage
6.7.5.2. Hazardous Multinational’: New term in Globalization
6.7.5.3. Absolute Liability
6.7.5.3.1. Bhopal Gas Disaster
6.7.5.3.2. Shriram Food and Fertilizer case
6.8. Liability of the Governments 258
6.9. Role of NGOs 259
6.10. Conclusion 260

CHAPTER-VII
CONCLUSION AND SUGGESTIONS 262-281

Testing of Hypothesis 267
Suggestions 269

BIBLIOGRAPHY
Books 282
Statutes 286
Articles 287
Reports 293
Web Sites Referred 293