



## INTERNATIONAL JOURNAL OF RESEARCH IN COMMERCE, IT AND MANAGEMENT

### CONTENTS

Sr. No.	TITLE & NAME OF THE AUTHOR (S)	Page No.
1.	FORCASTING OF FINANCIAL MARKETS - APPLICATION OF FUZZY ASSOCIATION RULES <i>BHAGIRATHI NAYAK, DR. C. NAHAK &amp; DR. ARUN KR. MISRA</i>	1
2.	PERCEIVED QUALITY OF SERVICES RENDERED BY UNIVERSITY LIBRARY: A CASE STUDY OF PANJAB UNIVERSITY MAIN LIBRARY, CHANDIGARH, INDIA <i>DR. TESHATSION SAHLU DESTA</i>	9
3.	DYNAMIC COMPENSATION SYSTEM FOR PAKISTAN <i>RABIA MUSHTAQ</i>	20
4.	DESIGN AND IMPLEMENTATION OF EXAMPLE BASED ENGLISH-HINDI MACHINE TRANSLATION SYSTEM <i>VIVEK DUBEY &amp; DR. H. R. SHARMA</i>	26
5.	INDIAN TELECOMMUNICATION SECTOR: A PARADIGM SHIFT <i>DR. HARSH DWIVEDI &amp; KAVYA SAINI</i>	29
6.	A STUDY ON CONSTRUCTION OF EQUITY PORTFOLIO (OIL, IT, STEEL AND BANKING STOCKS) WITH REFERENCE TO THE SHARPE INDEX MODEL <i>P.VARADHARAJAN &amp; DR. P VIKKRAMAN</i>	38
7.	A STUDY ON ECONOMIC EMPOWERMENT OF WOMEN THROUGH SELF HELP GROUPS IN MAHABUBNAGAR DISTRICT OF ANDHRA PRADESH <i>M V S MAHENDRA, S ANANDA REDDY &amp; M S BHAT</i>	44
8.	A STUDY ON THE RELATIONSHIP BETWEEN GOLD, SILVER AND NIFTY <i>R.KARTHIKEYAN &amp; DR. M. G. SARAVANARAJ</i>	50
9.	TV VIEWING PRACTICES OF INDIAN CHILDREN <i>DR. PAVLEEN KAUR &amp; DR. RAGHBIR SINGH</i>	66
10.	TOURISM POTENTIAL IN VELLORE REGION - AN EMPIRICAL STUDY <i>DR. D. ASHOK</i>	71
11.	A STUDY ON STEPS TAKEN TO IMPROVE CREDIT AND SAVINGS IN RURAL INDIA <i>DR. P. UMA RANI</i>	73
12.	HEALTHCARE SERVICES IN INDIA: A STRATEGIC PERSPECTIVE <i>DR. PRESHTH BHARDWAJ &amp; DR. JAYRAJ D. JADEJA</i>	78
13.	INCREASING WOMEN EMPLOYMENT IN IT INDUSTRY: AN ANALYSIS OF REASONS <i>S. ANNAPOORNA &amp; S. T. BAGALKOTI</i>	87
14.	IMPACT OF ORGANIZATIONAL CLIMATE, ROLE AMBIGUITY AND ROLE CONFLICT ON ORGANIZATIONAL COMMITMENT AMONG THE FACULTY IN ENGINEERING COLLEGES <i>DR. T. G. VIJAYA &amp; R. HEMAMALINI</i>	90
15.	PERFORMANCE APPRAISAL SYSTEM IN INCOME TAX DEPARTMENT: A CASE STUDY <i>DR. TEJ SINGH &amp; DR. RAJIV RATAN</i>	95
16.	ROBUST AWARENESS ON INDIAN INSURANCE INDUSTRY IN TIER THREE CITIES <i>DR. T.V. MALICK, DR. V. SELVAM &amp; N. ABDUL NAZAR</i>	101
17.	AWARENESS AND PERCEPTIONS OF E-BANKING CUSTOMERS IN CHHATTISGARH (INDIA) <i>A. K. CHANDRA &amp; D. K. GANGESHWAR</i>	105
18.	COMPARATIVE STUDY OF PARAMETRIC AND NON-PARAMETRIC VALUE AT RISK (VaR) METHODS <i>VIKRANT VIKRAM SINGH, ANOOP MOHANTY &amp; SUMIT GOYAL</i>	109
19.	A STUDY TO DETERMINE THE EFFECTIVENESS OF THE TRAINING PROGRAMMES AT ONE OF THE NAVRATNA COMPANY IN ELECTRONIC INDUSTRY <i>DR. R. PADMAJA</i>	118
20.	IMPLEMENTATION OF CRM WITH INFORMATION TECHNOLOGY IN HIGHER EDUCATION <i>DR. NARINDER TANWAR</i>	125
21.	PERFORMANCE ANALYSIS OF SOFTWARE INDUSTRIES THROUGH VALUE ADDED APPROACH - AN EMPIRICAL STUDY ON INFOSYS LTD. <i>DR. R. KRISHNAKUMAR</i>	129
22.	TECHNOLOGICAL SERVICES IN RURAL BANKING: A STUDY WITH REFERENCE TO BANK BRANCHES IN TIRUNELVELI DISTRICT <i>D. DEVANDHIRAN &amp; SREEHARI .R</i>	133
23.	VICKS VAPORUB - MOTHER'S TOUCH THERAPY: A CASE STUDY <i>RAJNI KAMBOJ</i>	141
24.	THE RELATIONSHIP BETWEEN LOCUS OF CONTROL AND ROLE STRESS AMONG ENGINEERS AND PERSONNEL <i>R. SUBASREE</i>	144
25.	THE LEGAL LACUNAS OF AN INDIAN CORPORATION'S CRIMINAL LIABILITY <i>DR. SHRUTI BEDI</i>	149
	REQUEST FOR FEEDBACK	154

A Monthly Double-Blind Peer Reviewed Refereed Open Access International e-Journal - Included in the International Serial Directories

Indexed & Listed at: [Ulrich's Periodicals Directory ©, ProQuest, U.S.A.](#), [Open J-Gate, India](#) as well as in [Cabell's Directories of Publishing Opportunities, U.S.A.](#)

Circulated all over the world & Google has verified that scholars of more than Hundred & Five countries/territories are visiting our journal on regular basis.

Ground Floor, Building No. 1041-C-1, Devi Bhawan Bazar, JAGADHRI – 135 003, Yamunanagar, Haryana, INDIA

[www.ijrcm.org.in](http://www.ijrcm.org.in)

## CHIEF PATRON

**PROF. K. K. AGGARWAL**

Chancellor, Lingaya's University, Delhi  
Founder Vice-Chancellor, Guru Gobind Singh Indraprastha University, Delhi  
Ex. Pro Vice-Chancellor, Guru Jambheshwar University, Hisar

## PATRON

**SH. RAM BHAJAN AGGARWAL**

Ex. State Minister for Home & Tourism, Government of Haryana  
Vice-President, Dadri Education Society, Charkhi Dadri  
President, Chinar Syntex Ltd. (Textile Mills), Bhiwani

## CO-ORDINATOR

**AMITA**

Faculty, E.C.C., Safidon, Jind

## ADVISORS

**PROF. M. S. SENAM RAJU**

Director A. C. D., School of Management Studies, I.G.N.O.U., New Delhi

**PROF. M. N. SHARMA**

Chairman, M.B.A., Haryana College of Technology & Management, Kaithal

**PROF. S. L. MAHANDRU**

Principal (Retd.), Maharaja Agrasen College, Jagadhri

## EDITOR

**PROF. R. K. SHARMA**

Dean (Academics), Tecnia Institute of Advanced Studies, Delhi

## CO-EDITOR

**DR. BHAVET**

Faculty, M. M. Institute of Management, Maharishi Markandeshwar University, Mullana, Ambala, Haryana

## EDITORIAL ADVISORY BOARD

**DR. AMBIKA ZUTSHI**

Faculty, School of Management & Marketing, Deakin University, Australia

**DR. VIVEK NATRAJAN**

Faculty, Lomar University, U.S.A.

**DR. RAJESH MODI**

Faculty, Yanbu Industrial College, Kingdom of Saudi Arabia

**PROF. SANJIV MITTAL**

University School of Management Studies, Guru Gobind Singh I. P. University, Delhi

**PROF. ANIL K. SAINI**

Chairperson (CRC), Guru Gobind Singh I. P. University, Delhi

**DR. KULBHUSHAN CHANDEL**

Reader, Himachal Pradesh University, Shimla

**DR. TEJINDER SHARMA**

Reader, Kurukshetra University, Kurukshetra

**DR. SAMBHAVNA**

Faculty, I.I.T.M., Delhi

**DR. MOHENDER KUMAR GUPTA**

Associate Professor, P. J. L. N. Government College, Faridabad

**DR. SHIVAKUMAR DEENE**

Asst. Professor, Government F. G. College Chitguppa, Bidar, Karnataka

**MOHITA**

Faculty, Yamuna Institute of Engineering & Technology, Village Gadholi, P. O. Gadhola, Yamunanagar

### *ASSOCIATE EDITORS*

**PROF. NAWAB ALI KHAN**

Department of Commerce, Aligarh Muslim University, Aligarh, U.P.

**PROF. ABHAY BANSAL**

Head, Department of Information Technology, Amity School of Engineering & Technology, Amity University, Noida

**PROF. A. SURYANARAYANA**

Department of Business Management, Osmania University, Hyderabad

**DR. ASHOK KUMAR**

Head, Department of Electronics, D. A. V. College (Lahore), Ambala City

**DR. JATINDERKUMAR R. SAINI**

Head, Department of Computer Science, S. P. College of Engineering, Visnagar, Mehsana, Gujrat

**DR. V. SELVAM**

Divisional Leader – Commerce SSL, VIT University, Vellore

**DR. PARDEEP AHLAWAT**

Reader, Institute of Management Studies & Research, Maharshi Dayanand University, Rohtak

**S. TABASSUM SULTANA**

Asst. Professor, Department of Business Management, Matrusri Institute of P.G. Studies, Hyderabad

### *TECHNICAL ADVISOR*

**AMITA**

Faculty, E.C.C., Safidon, Jind

**MOHITA**

Faculty, Yamuna Institute of Engineering & Technology, Village Gadholi, P. O. Gadhola, Yamunanagar

### *FINANCIAL ADVISORS*

**DICKIN GOYAL**

Advocate & Tax Adviser, Panchkula

**NEENA**

Investment Consultant, Chambaghat, Solan, Himachal Pradesh

### *LEGAL ADVISORS*

**JITENDER S. CHAHAL**

Advocate, Punjab & Haryana High Court, Chandigarh U.T.

**CHANDER BHUSHAN SHARMA**

Advocate & Consultant, District Courts, Yamunanagar at Jagadhri

### *SUPERINTENDENT*

**SURENDER KUMAR POONIA**

## CALL FOR MANUSCRIPTS

We invite unpublished novel, original, empirical and high quality research work pertaining to recent developments & practices in the area of Computer, Business, Finance, Marketing, Human Resource Management, General Management, Banking, Insurance, Corporate Governance and emerging paradigms in allied subjects like Accounting Education; Accounting Information Systems; Accounting Theory & Practice; Auditing; Behavioral Accounting; Behavioral Economics; Corporate Finance; Cost Accounting; Econometrics; Economic Development; Economic History; Financial Institutions & Markets; Financial Services; Fiscal Policy; Government & Non Profit Accounting; Industrial Organization; International Economics & Trade; International Finance; Macro Economics; Micro Economics; Monetary Policy; Portfolio & Security Analysis; Public Policy Economics; Real Estate; Regional Economics; Tax Accounting; Advertising & Promotion Management; Business Education; Business Information Systems (MIS); Business Law, Public Responsibility & Ethics; Communication; Direct Marketing; E-Commerce; Global Business; Health Care Administration; Labor Relations & Human Resource Management; Marketing Research; Marketing Theory & Applications; Non-Profit Organizations; Office Administration/Management; Operations Research/Statistics; Organizational Behavior & Theory; Organizational Development; Production/Operations; Public Administration; Purchasing/Materials Management; Retailing; Sales/Selling; Services; Small Business Entrepreneurship; Strategic Management Policy; Technology/Innovation; Tourism, Hospitality & Leisure; Transportation/Physical Distribution; Algorithms; Artificial Intelligence; Compilers & Translation; Computer Aided Design (CAD); Computer Aided Manufacturing; Computer Graphics; Computer Organization & Architecture; Database Structures & Systems; Digital Logic; Discrete Structures; Internet; Management Information Systems; Modeling & Simulation; Multimedia; Neural Systems/Neural Networks; Numerical Analysis/Scientific Computing; Object Oriented Programming; Operating Systems; Programming Languages; Robotics; Symbolic & Formal Logic; Web Design. The above mentioned tracks are only indicative, and not exhaustive.

Anybody can submit the soft copy of his/her manuscript **anytime** in M.S. Word format after preparing the same as per our submission guidelines duly available on our website under the heading guidelines for submission, at the email addresses, [infoijrcm@gmail.com](mailto:infoijrcm@gmail.com) or [info@ijrcm.org.in](mailto:info@ijrcm.org.in).

## GUIDELINES FOR SUBMISSION OF MANUSCRIPT

1. **COVERING LETTER FOR SUBMISSION:**

DATED: \_\_\_\_\_

**THE EDITOR**

IJRCM

**Subject:** SUBMISSION OF MANUSCRIPT IN THE AREA OF \_\_\_\_\_.

(e.g. Computer/IT/Finance/Marketing/HRM/General Management/other, please specify).

**DEAR SIR/MADAM**

Please find my submission of manuscript titled ' \_\_\_\_\_ ' for possible publication in your journal.

I hereby affirm that the contents of this manuscript are original. Furthermore it has neither been published elsewhere in any language fully or partly, nor is it under review for publication anywhere.

I affirm that all author (s) have seen and agreed to the submitted version of the manuscript and their inclusion of name (s) as co-author (s).

Also, if our/my manuscript is accepted, I/We agree to comply with the formalities as given on the website of journal & you are free to publish our contribution to any of your journals.

**NAME OF CORRESPONDING AUTHOR:**

Designation:

Affiliation with full address & Pin Code:

Residential address with Pin Code:

Mobile Number (s):

Landline Number (s):

E-mail Address:

Alternate E-mail Address:

2. **INTRODUCTION:** Manuscript must be in British English prepared on a standard A4 size paper setting. It must be prepared on a single space and single column with 1" margin set for top, bottom, left and right. It should be typed in 8 point Calibri Font with page numbers at the bottom and centre of the every page.
3. **MANUSCRIPT TITLE:** The title of the paper should be in a 12 point Calibri Font. It should be bold typed, centered and fully capitalised.
4. **AUTHOR NAME(S) & AFFILIATIONS:** The author (s) full name, designation, affiliation (s), address, mobile/landline numbers, and email/alternate email address should be in italic & 11-point Calibri Font. It must be centered underneath the title.
5. **ABSTRACT:** Abstract should be in fully italicized text, not exceeding 250 words. The abstract must be informative and explain the background, aims, methods, results & conclusion in a single para.
6. **KEYWORDS:** Abstract must be followed by list of keywords, subject to the maximum of five. These should be arranged in alphabetic order separated by commas and full stops at the end.
7. **HEADINGS:** All the headings should be in a 10 point Calibri Font. These must be bold-faced, aligned left and fully capitalised. Leave a blank line before each heading.
8. **SUB-HEADINGS:** All the sub-headings should be in a 8 point Calibri Font. These must be bold-faced, aligned left and fully capitalised.
9. **MAIN TEXT:** The main text should be in a 8 point Calibri Font, single spaced and justified.
10. **FIGURES & TABLES:** These should be simple, centered, separately numbered & self explained, and titles must be above the tables/figures. Sources of data should be mentioned below the table/figure. It should be ensured that the tables/figures are referred to from the main text.
11. **EQUATIONS:** These should be consecutively numbered in parentheses, horizontally centered with equation number placed at the right.
12. **REFERENCES:** The list of all references should be alphabetically arranged. It must be single spaced, and at the end of the manuscript. The author (s) should mention only the actually utilised references in the preparation of manuscript and they are supposed to follow **Harvard Style of Referencing**. The author (s) are supposed to follow the references as per following:
  - All works cited in the text (including sources for tables and figures) should be listed alphabetically.
  - Use **(ed.)** for one editor, and **(ed.s)** for multiple editors.
  - When listing two or more works by one author, use --- (20xx), such as after Kohl (1997), use --- (2001), etc, in chronologically ascending order.
  - Indicate (opening and closing) page numbers for articles in journals and for chapters in books.
  - The title of books and journals should be in italics. Double quotation marks are used for titles of journal articles, book chapters, dissertations, reports, working papers, unpublished material, etc.
  - For titles in a language other than English, provide an English translation in parentheses.
  - The location of endnotes within the text should be indicated by superscript numbers.

**PLEASE USE THE FOLLOWING FOR STYLE AND PUNCTUATION IN REFERENCES:**

**BOOKS**

- Bowersox, Donald J., Closs, David J., (1996), "Logistical Management." Tata McGraw, Hill, New Delhi.
- Hunker, H.L. and A.J. Wright (1963), "Factors of Industrial Location in Ohio," Ohio State University.

**CONTRIBUTIONS TO BOOKS**

- Sharma T., Kwatra, G. (2008) Effectiveness of Social Advertising: A Study of Selected Campaigns, Corporate Social Responsibility, Edited by David Crowther & Nicholas Capaldi, Ashgate Research Companion to Corporate Social Responsibility, Chapter 15, pp 287-303.

**JOURNAL AND OTHER ARTICLES**

- Schemenner, R.W., Huber, J.C. and Cook, R.L. (1987), "Geographic Differences and the Location of New Manufacturing Facilities," Journal of Urban Economics, Vol. 21, No. 1, pp. 83-104.

**CONFERENCE PAPERS**

- Garg Sambhav (2011): "Business Ethics" Paper presented at the Annual International Conference for the All India Management Association, New Delhi, India, 19–22 June.

**UNPUBLISHED DISSERTATIONS AND THESES**

- Kumar S. (2011): "Customer Value: A Comparative Study of Rural and Urban Customers," Thesis, Kurukshetra University, Kurukshetra.

**ONLINE RESOURCES**

- Always indicate the date that the source was accessed, as online resources are frequently updated or removed.

**WEBSITE**

- Garg, Bhavet (2011): Towards a New Natural Gas Policy, Economic and Political Weekly, Viewed on July 05, 2011 <http://epw.in/user/viewabstract.jsp>

## THE LEGAL LACUNAS OF AN INDIAN CORPORATION'S CRIMINAL LIABILITY

**DR. SHRUTI BEDI**  
**ASST. PROFESSOR**  
**UNIVERSITY INSTITUTE OF LEGAL STUDIES**  
**PANJAB UNIVERSITY**  
**CHANDIGARH – 160 014**

### ABSTRACT

*Although corporations are recognised as "persons" in certain legal contexts, it is not so easy to ascribe them as criminals. Recognition of criminal liability for corporate entities has been slow in coming in the law especially in the Indian context. We in India have had certain reservations to adopting the concept of corporate criminal liability. This is due to the fact that corporate criminal liability poses a serious challenge to the economics of enforcement. In this regard the prosecution of intent crimes is particularly problematic. The question of mens rea in relation to corporations has been a vexed one and, without doubt, the single most inhibiting factor in the development of corporate criminal liability. Today Indian corporations are held criminally liable for their criminal wrongs. However the question arises with regard to the punishment accorded to them. Since a corporation cannot be imprisoned the alternative under Indian law is the imposition of fine. But is fine an adequate punishment for a corporation? Does it have any deterrent effect? This paper analyses the difficulties faced on this account due to lack of any appropriate legal provision under the Indian law. It suggests alternate forms of punishment effectively used under various jurisdictions.*

### KEYWORDS

Corporation, corporate liability, criminal liability, fine.

### INTRODUCTION

The society today is increasingly faced with types of economic criminality which were hitherto unknown to the nineteenth century society in which most criminal justice systems were shaped. Today the prosecutors and courts have to deal with economic and environmental criminality phenomena previously unheard of. The study of a corporation's criminal liability becomes relevant as the bulk of economic activity nowadays takes place through corporations and consequently economic criminality.

Even though the role of corporations in society has been expanding ever since the nineteenth century, it was only after the Second World War that the criminal law came to recognise the concept of corporate criminal liability. Though some jurisdictions (e.g. the United States) have taken this step earlier, other criminal law systems have been slow in incorporating the concept of corporate liability into their criminal law system.<sup>i</sup>

The issue of corporate liability in India is complex and the Bhopal gas tragedy has only added to the problem. The handling of the Bhopal issue has left a lot to be desired. The liability for thousands of deaths, damage to the environment and inter-generational health concerns was settled with a payment by Union Carbide of just US\$ 470 million in 1989.<sup>ii</sup> As compared to the US\$ 20 billion provided recently by BP to compensate victims of the Gulf of Mexico oil spill following pressure from the US government, it is something which is a shame.<sup>iii</sup>

Earlier this year, seven of Union Carbide's executives were sentenced to two years in prison for their roles in the tragedy, but all were subsequently released on personal bond. Warren Anderson, the former chairman of the company, has not been brought to trial.<sup>iv</sup> The result in the tragedy of Bhopal has failed to save the face of corporate liability in India despite large public protests. The country is no stranger to corporate mishaps but the law certainly needs to evolve to hold the guilty liable. This article deals with the history relating to acceptance of the issue of corporate liability in India and the other problems faced in the Indian context. The note ends with suggestions which could be incorporated into the Indian law regarding the sanctioning of the corporation.

### HISTORICAL DEVELOPMENT OF CORPORATE LIABILITY

Countries around the world have struggled with the concept of corporate liability. To analyse the issue at hand we need to understand the beginning. Tracing the history of the development of the corporate and the criminal law in this respect we find that the general belief in the early sixteenth and seventeenth centuries was that corporations could not be held criminally liable.<sup>v</sup> In the early 1700s, corporate criminal liability faced at least four obstacles.<sup>vi</sup> The first obstacle was attributing acts to a juristic fiction, the corporation.<sup>vii</sup> Eighteenth-century courts and legal thinkers approached corporate liability with an obsessive focus on theories of corporate personality; a more pragmatic approach was not developed until the twentieth century.<sup>viii</sup> The second obstacle was that legal thinkers did not believe corporations could possess the moral blameworthiness necessary to commit crimes of intent.<sup>ix</sup> The third obstacle was the ultra vires doctrine, under which courts would not hold corporations accountable for acts, such as crimes, that were not provided for in their charters.<sup>x</sup> Finally, the fourth obstacle was courts' literal understanding of criminal procedure; for example, judges required the accused to be brought physically before the court.<sup>xi</sup>

The early common law rejected the concept of collective or imputed guilt that was pervasive in medieval law. Only individuals who committed a harmful act with a guilty state of mind could be guilty of crime. In this scenario corporate guilt had no place. This was reiterated by the Chief Justice of England in 1701 when he announced that corporations could not be charged with crime.<sup>xii</sup> Blackstone made it apparent in his famous commentaries published in 1765, when he said simply that "a corporation cannot commit treason, or felony, or other crime, in its corporate capacity."<sup>xiii</sup> Blackstone treated the point as so obvious it needed no elaboration. After all how could anybody think differently? However by the mid-nineteenth century, things started changing slightly. Some courts held, for example, that corporations that were obligated by their corporate charters to maintain public bridges or highways could be criminally charged if they failed to discharge their duties.<sup>xiv</sup> In upholding criminal liability in these circumstances, courts emphasized the strict liability nature of the offence, the distinction between nonfeasance and misfeasance, and the public nature of the duties that the defendant corporations failed to discharge. These cases, in short, were not much different from a breach of contract case where a corporation failed to live up to its agreed on obligation.<sup>xv</sup>

### CORPORATE INTENT IN COMMON LAW JURISDICTIONS

A corporation's physical existence was established long ago. The separate entity theory has been extensively practiced by the law courts. The problem however arises as to the mental state of a corporation. Is a company capable of possessing a criminal intent? Can a company commit a criminal act which requires *mens rea*? Since it is a person recognised by law, it follows that a company is capable of committing crimes. The difficulty arises in relation to the fault element.

Developments in the common law established a corporation capable of criminal acts around the 17<sup>th</sup> century.<sup>xvi</sup> Eventually the courts reasoned that since a corporation was not a physical being, it could not commit positive acts—but it could fail to act.<sup>xvii</sup> This view initially predominated in America as well as in England, but in the middle of the nineteenth century both countries dismissed the misfeasance/non-feasance distinction as arbitrary, and began to allow the prosecution of corporations for acts as well as omissions.<sup>xviii</sup> The law courts took the view that while corporations could be criminally prosecuted, they could not be prosecuted for offences requiring intent.<sup>xix</sup> This distinction rested on the characterization of intentional offences as deriving from the "corrupted mind."<sup>xx</sup> Since corporations did not have a mind, they could not be guilty of crimes requiring criminal intent.

This distinction was again short-lived, as in 1909 the United States Supreme Court upheld a law that attributed criminal intent to a corporation.<sup>xxi</sup> In *New York Central and Hudson River Railroad Co. v. United States*,<sup>xxii</sup> the Court held constitutionally valid a provision of the Elkins Act that construed acts of the corporate

officers as both individual acts and as acts of the corporation, thus imputing intent from the individual to the corporation.<sup>xxxiii</sup> While the Court found that corporations could be held responsible for a "large class" of offences based on conduct prohibited by statute, it noted that there were still "some crimes, which in their nature could not be committed by corporations."<sup>xxxiv</sup> In other words, the Court seemed to adopt the position that corporations could be held responsible for general intent crimes but not for specific intent crimes.<sup>xxxv</sup> Although the Court expanded the scope of corporate criminal liability, the distinction it fashioned ensured that prosecutions were primarily limited to those crimes for which either no intent was required or for which general intent could be imputed to the corporation by statute.<sup>xxxvi</sup> At approximately the same time that the "intention barrier" was being dismantled, the courts were also eroding a less theoretical "punishment barrier."<sup>xxxvii</sup> That "barrier" stemmed from the argument that if a statute prescribed imprisonment as punishment for a particular crime, a corporation could not be prosecuted because it could not be imprisoned. In *United States v. Union Supply Co.*,<sup>xxxviii</sup> the Supreme Court held that since the statute also prescribed fines as a punishment, the penalties could be considered independent of one another.<sup>xxxix</sup> Thus, as long as one of the punishments could be inflicted, prosecution was possible.<sup>xxx</sup>

In Scotland the criminal intent was sought to be imputed to the human personalities of the directors of the corporation. In *Tesco Supermarkets v Natras*<sup>xxxi</sup> it was held that in respect of offences requiring *mens rea* the criminal mind of the corporation is to be found or identified in the minds of those controlling the corporation (the directors). There was support for the earlier dictum of Viscount Haldane in *Lennard's Carrying Company Ltd v Asiatic Petroleum Company Ltd*,<sup>xxxii</sup> where he had contended that a company is an abstraction. It has no mind of its own any more than it has a body of its own; its active and directing will must consequently be sought in the person of somebody who for the purpose may be called an agent, but who is really the directing mind and will of the corporation, the very ego and centre of the personality of the corporation.

In India recently it was held by the Delhi High Court that if a company allegedly indulges in wrongful deeds then not only its officials but the company itself can also be prosecuted on charges of criminal conspiracy. Dismissing the petition of a company M Tectronics' challenging a special CBI court order, which had allowed criminal proceedings against it in a forgery case, the high court rejected the company's plea that being a non-living body it cannot have *mens rea*, or criminal intent, the basic requirement for criminal prosecution.<sup>xxxiii</sup> It has been established in India that a company is capable of possessing criminal intent if it commits a wrongful act. However the problem remains as to the punishment to be awarded in such cases.

## FEASIBILITY OF FINE

Corporate intent was accepted in India some time back. The confusion in India related to whether a company could be convicted for an offence where the punishment prescribed by the statute was imprisonment and fine. Under sec. 420 of the Indian Penal Code the punishment prescribed is imprisonment. But can a company be indicted for such an offence and be given such a punishment. This issue was first addressed in *M.V.Javali Vs. Mahajan Borewell & CO. and Others*<sup>xxxiv</sup> where the court held that mandatory sentence of imprisonment and fine is to be imposed where it can be imposed but where it cannot be imposed, namely on a company, fine will be the only punishment. Thereafter in, *The Assistant Commissioner Assessment-II Bangalore, and Others. vs. Velliappa Textiles Ltd. and Others*,<sup>xxxv</sup> Justice B.N. Srikrishna opined that corporate criminal liability cannot be imposed without making corresponding legislative changes. The court opined that where the statute provides for imprisonment or fine, it is not a problem but where the statute provides for imprisonment and fine, the court is not given the discretion to impose fine in lieu of imprisonment and therefore the company cannot be prosecuted as the custodial sentence cannot be imposed upon it.

Finally in *Standard Chartered Bank & Others vs. Directorate of Enforcement and Others*.<sup>xxxvi</sup> The court held that the legislative intent should be considered and all penal provisions should be construed like all other statutes fairly to bring out the legislative intent expressed in the enactment. It was stated, "It is sheer violence to commonsense, to think that the legislature intended to punish the corporate bodies for minor and silly offences and extended immunity of prosecution to major and grave economic crimes. If an enactment requires what is legally impossible it will be presumed that parliament intended it to be modified so as to remove the impossibility element".

Since a corporation cannot be hanged or imprisoned it has been said that this limits the corporate liability. The conclusion drawn is that a corporation can be prosecuted and punished only in cases where a fine is the prescribed punishment. What happens in those cases where fine is not an option for punishment. After all as it was once said, "Can you hang the common seal?"<sup>xxxvii</sup>

As stated above the Supreme Court in 2005 in *Standard Chartered Bank v. Directorate of Enforcement*<sup>xxxviii</sup> in majority decision of 3:2 expressly overruled the *Velliappa Textiles case*<sup>xxxix</sup>. Justice K.G. Balakrishnan, (as he then was) for the majority held<sup>xl</sup> "We hold that there is no immunity to the companies from prosecution merely because the prosecution is in respect of offences for which the punishment prescribed is mandatory imprisonment (sic and fine). We overrule the views expressed by the majority in *Velliappa Textiles*<sup>xli</sup> on this point...."

The question for consideration before the Court was: whether a Company or a Corporation being a juristic person can be prosecuted for an offence for which mandatory punishment prescribed is imprisonment and fine. In this case the judges of the Supreme Court differed in their views. The majority view was taken by Justice K.G. Balakrishnan, Justice D.M. Dharmadhikari, and Justice Arun Kumar, (concurring). Justice N. Santosh Hegde and Justice B.N. Srikrishna, delivered the minority view. Justice K.G. Balakrishnan, taking the majority view said that, it could not be said that there is blanket immunity for any Company from any prosecution for serious offences merely because the prosecution would ultimately entail a sentence of mandatory imprisonment. The intention of the legislature is not to give complete immunity from prosecution to the corporate bodies for these grave offences. Consequently, even for offences under Section 56(1)(i), FERA, the Company can be prosecuted. The court can ignore the provision that the defaulter should be punished with imprisonment as it is impossible to send the Company to prison. He also relied on the *Oswal Vanaspati case*<sup>xlii</sup>, wherein it was said that legal sentence is the sentence prescribed by law. A sentence that is in excess of the sentence prescribed is always illegal; but a sentence that is less than the sentence prescribed may not be illegal.

Justice B.N. Srikrishna, who delivered the minority view for himself and on behalf of Justice N. Santosh Hegde, said that it is not open to the Court to read the words "imprisonment and fine" as "imprisonment or fine"; such a construction is impermissible. Firstly, it virtually amounts to rewriting Section 56 of FERA. The Court would be reading the section as applicable to different situations with different meanings. Whatever the interpretation, it must be uniformly applied to all situations. If the conjunction "and" is read disjunctively as "or" then the intention of Parliament would definitely be defeated as the mandatory term would not be available even in case of a natural person. It is trite that punishment must follow conviction. Therefore where a statute imposes mandatory imprisonment plus fine, such a provision would not enable the punishment of a corporate offender.

The root of the matter is that a company can be prosecuted for committing a criminal offence. It can further be punished through the medium of the imposition of a fine commensurate to the offence where the punishment requires a fine. In cases where the punishment requires a mandatory imprisonment and fine, the company would be punished with the imposition of a fine to be determined by the court. However where the offence requires only a mandatory custodial sentence, the company cannot be prosecuted for that offence.

The question therefore arises as to how exactly does one hold a guilty corporation liable for its acts. Fine has never been an adequate punishment. It is in fact one of the easier methods of escaping corporate liability. The courts in India have tried to do their best in this situation. However in spite of the dilemma faced by the courts in India the legislature has been slow in making the corresponding amendments in the law. Many changes were incorporated in the Companies Amendment Act, 2008 but this issue was not dealt with. The Companies Bill, 2009 which is in its last stages of being approved and might come into force replacing the present act is also equally silent on the issue of corporate criminal liability. While the purpose of this new legislation is primarily to improve the control and regulation on both domestic as well as foreign companies, yet it does not cover any clauses with regard to the above said problems.

The judgment in the *Standard Chartered case*<sup>xliii</sup> may have helped the law to net the companies violating the law but the Court cannot aid the legislature's defective phrasing of an Act, and cannot add and mend, and, by construction make up deficiencies, which are left out. In the *Standard Chartered case*<sup>xliii</sup> if the offender is a corporate body, then only fine is impossible; if the offender is a natural person, he shall be visited with both the mandatory imprisonment and fine. The exercise would then become one of putting fluctuating or varying interpretations on the statute depending upon the circumstances. That is not permissible for the Court, either on principle, or on law. Corporate criminal liability cannot be imposed without making corresponding legislative changes such as the

imposition of fine in lieu of imprisonment.<sup>xiv</sup>

## ADEQUACY OF FINE AS CORPORATE PUNISHMENT

Historically, criminal statutes have been drafted with individuals in mind so incarceration has been the principal penalty. The typical criminal statutes have either had no provision for fines or included some modest fine as an afterthought. Since corporations cannot be imprisoned, these modest fines which have been sometimes as low as Rs 500 were the maximum penalty that they faced. Prosecutors have therefore hardly considered it worth their time and effort to prosecute corporations criminally.

Under the Indian Penal Code, 1860, companies can be held liable for a number of offences including death by negligence, endangering the personal safety of others, negligent conduct with respect to machinery or poisonous substances, misappropriation of property and falsification of accounts. However, Indian law on corporate criminal liability is not confined to the IPC, but is spread across several statutes, including the Prevention of Corruption Act, 1988, the Prevention of Money Laundering Act, 2002, the Negotiable Instruments Act, 1881, the Information Technology Act, 2000, the Prevention of Food Adulteration Act, 1954, the Essential Commodities Act, 1955, and several others.<sup>xv</sup>

In cases of criminal liability, violations are normally punished by imprisonment or the payment of a fine. But many observers have criticized the fines, arguing that they are too low to be of consequence and relatively easy to evade as they do not achieve the purpose of punishment. There is a need to evolve new forms of punishment which could effectively deter the corporate from engaging in any criminal activity. It has been suggested by Atul Dua, a senior partner at Seth Dua & Associates that economic and social sanctions should be encouraged against corporate houses, such as winding up of the company, temporary closure of the corporation and heavy compensation to the victims.<sup>xvii</sup>

## SANCTIONING THE CORPORATION

Due to lack of any legislative enactment on the issue, punishment through imprisonment has been a pragmatic reason for the rejection or limitation of corporate criminal liability. On the contrary simply because a corporation cannot be imprisoned does not mean that there exists no corporate liability. There are numerous options available to punish the errant corporation.<sup>xviii</sup> One does not have to adhere to the limitations of fines but can develop a multifaceted penological system suited to the corporate form and not dominated by our understandings of individual punishment.<sup>xix</sup> The ancient catch cry that corporations have neither bodies to kick nor souls to damn has no meaning left today. In fact the presence or absence of human features has little or no rational bearing upon the development of sanctions in the corporate sphere.<sup>i</sup>

In a scenario where there is no substantive law on the issue, the legislature needs to look into other jurisdictions to incorporate changes in the existing law. For example under the proposals of the European Council Recommendation, continued exclusive reliance on fine as the method of sanctioning the errant corporation is conceptually flawed and unnecessarily restrictive. There are other sanctions which offer the opportunity to achieve the aims of criminal punishment more effectively like retribution, deterrence, rehabilitation and compensation.<sup>ii</sup> The European Council Recommendation indicates other forms of punishments besides fines like, confiscation of property, prohibition of certain activities, exclusion from fiscal advantages or subsidies, prohibition from advertising goods and services, annulment of licences, removal of managers, appointment of provisional caretaker management, closure and winding up of the enterprise, compensation and restitution, and publication of the imposition of the sanction.<sup>iii</sup>

In addition to this there are other ideas canvassed in the Anglo-American jurisprudence—for example, corporate probation.<sup>iiii</sup> Probation is an extremely good alternative to previously attempted control procedures. Probation is at the moment underutilized, but it is a potentially powerful remedial device. It is far more threatening than a fine. This is due to that fact that in probation the conduct of the corporation is restricted and monitored by the court. Since there have been few attempts at implementing probation as a corporate criminal punishment, the deterrent and rehabilitative potential for corporate probation has yet to be realized in an actual setting.<sup>iv</sup>

Further as we have seen that the corporate officers enjoy the freedom that a corporate personality of the company gives them. However in cases of corporate misbehaviour by a corporate agent, the punishment could entail the disqualification of the agent or agents from holding a corporate management position for a minimum period of at least five years.<sup>v</sup>

Another remedy available as an option is the loss of license remedy, which removes or suspends a corporation's license to practice a certain type of activity.<sup>vi</sup> To determine the cost of the loss of license remedy, we must determine the optimal sanction (as with cash fines) and determine whether barring a corporation from engaging in some activity will cost the corporation exactly that optimal amount. These determinations would require estimating the corporation's profits for future years, hypothesizing about how much would be lost by the imposition of the penalty each year, and calculating the amount of damages in present value terms.<sup>vii</sup> Thus, the costs of imposing a loss of license sanction exceed the costs of imposing cash fines.

When a corporation does not have sufficient net assets to pay the optimal cash fine, other penalties, such as debarment, may supplement the fine. Debarment the corporation from access to government contracts would be most effective when the firm's primary customer or supplier is the government. When the government is not the primary supplier or customer of the corporation and we still desire a large penalty, we may use loss of license to prevent the corporation from dealing with all of its customers in the applicable market. Probation may be desirable when, for example, we want to rearrange or improve some of the corporation's internal procedures.<sup>viii</sup> All of these sanctions are or can easily be made available in corporate civil liability regimes.<sup>ix</sup>

In cases of continued criminal misbehaviour, corporate death or the winding up of the company is an alternative. The other option is the temporary closure of the company depending upon the gravity of the offence committed by it. The company in such a case could be ordered to be shut down till it complies with the legal norms. Lastly one of the most powerful sanctions that can be imposed on a corporation is loss of reputation or stigma.<sup>x</sup> Goodwill is always very important for any business and the loss of the reputation is certain to hold the company liable socially. Publication of the company's crime would have a serious deterrent effect on its future prospects.

As we have seen there are numerous options available through which a guilty corporation can be held liable for its misdeeds. The preference of fine as a medium of punishment has outlived its usefulness. It is now time to incorporate additional effective measures to punish the corporation under law.

## CONCLUSION

At present the law in India is insufficient to deal with the aspect of corporate criminal liability. Serious changes need to be made in the corporate and the criminal laws of the country. Until this is done, the hands of the judiciary would remain tied. Indian jurisprudence on the question of corporate liability is wedged on the point that corporations can commit crimes and that they can be held criminally liable for their acts. This however needs to develop further. Imposition of fines is not the answer to deter corporations from committing criminal wrongs. There are various other punishments which can be imposed if the law in India is amended. Companies have been given a lot of freedom but the government now needs to step in to protect the innocent customers. Economic growth should walk hand in hand with sanctions against the wrongdoers. India at this juncture needs to adopt the right approach with regard to corporate crimes. To maintain the standards of ethical business practice and to protect the innocent public it is imperative that the culprit is punished in a befitting manner.

## REFERENCES

- <sup>i</sup> Guy Stessens, "Corporate Criminal Liability: A Comparative Perspective", *The International and Comparative Law Quarterly*, Vol. 43, No. 3 (Jul., 1994), pp. 493-520 at 493.
- <sup>ii</sup> "Bhopal Disaster", Wikipedia, available at: [http://en.wikipedia.org/wiki/Bhopal\\_disaster](http://en.wikipedia.org/wiki/Bhopal_disaster) (viewed on 19.10.10).



- <sup>iii</sup> Reuters, "BP sees oil spill claims below \$20 billion", 13.9.10, available at <http://www.bullfax.com/?q=node-bp-sees-oil-spill-claims-below-20-billion-analysts-reut> (viewed on 19.10.10).
- <sup>iv</sup> "Former Union Carbide boss Warren Anderson 'still on the lam' from Bhopal criminal charges", Loon Canada, available at: <http://looncanada.com/2010/06/07/former-union-carbide-boss-warren-anderson-still-on-the-lam-from-bhopal-criminal-charges/> (viewed on 19.10.10).
- <sup>v</sup> For example, Lord Holt reportedly said in 1701 that "[a] corporation is not indictable, but the particular members of it are." Anonymous Case (No. 935), 88 Eng. Rep. 1518, 1518 (K.B. 1701). Kathleen Brickey notes that some early commentators relied on this statement to support the contention that corporations could not be criminally liable. See Kathleen F. Brickey, "Corporate Criminal Accountability: A Brief History and an Observation", 60 WASH. U. L.Q. 393, 396 (1981) (noting as an example I William Blackstone, Commentaries \*476). However, the reasons behind Lord Holt's decision are not clear because the case consists only of this single sentence. By the mid-nineteenth century, commentators continued to cite the case as precedent, but they observed that the general rule against corporate criminal liability contained some exceptions. See Joel P. Bishop, The Criminal Law sections 306-307, at 273-74 (1<sup>st</sup> ed. 1856). See generally L.H. Leigh, The Criminal Liability of Corporations in English Law (1969), pp. 1-12, (discussing the development of English corporate criminal liability).
- <sup>vi</sup> See John C. Coffee, Jr., "Corporate Criminal Responsibility", Encyclopaedia of Crime and Justice, (Sanford H. Kadish ed., 1983) at 253. Because the corporate form was less pervasive at that time, the public may also have been relatively indifferent to corporations' crimes. See Brickey, id., at 396-97; James R. Elkins, "Corporations and the Criminal Law: An Un-easy Alliance", Ky. L.J. (1976) vol. 65 at 73, 87-88.
- <sup>vii</sup> See Coffee, id. at 253.
- <sup>viii</sup> See Leigh, supra note 5 at 3-5; Glanville Williams, Criminal Law: The General Part section 279, at 855-57 (2<sup>nd</sup> ed. 1961) (describing the elaborate doctrinal innovations that allowed courts to hold corporations criminally liable).
- <sup>ix</sup> See Coffee, supra note 6 at 253. One important purpose of the criminal law is punishing the blameworthy. Imputing an agent's intentions to the corporation seemed inconsistent with this purpose; if the corporation itself were blameworthy, imputation would be unnecessary. Additionally, the respondeat superior doctrine had not yet developed enough to allow for the imputation of any kind of mental state. See Leigh, supra note 5, at 5-8. Corporate criminal liability, a form of vicarious liability, may also have been impeded because English law had traditionally not recognized vicarious criminal liability between human principals and agents. See Brickey, supra note 5, at 415-21 (discussing the early English cases).
- <sup>x</sup> See Leigh, supra note 5 at 8-9; Coffee, supra note 6 at 253.
- <sup>xi</sup> See Leigh, supra note 5 at 9-12; Williams, supra note 8, section 278 at 853-54; Coffee, supra note 6 at 253.
- <sup>xii</sup> 88 Eng. Rep. 1518 (K. B. 1701).
- <sup>xiii</sup> William Blackstone, supra note 5.
- <sup>xiv</sup> See, for example, Commonwealth v. Proprietors of New Bedford Bridge, 68 Mass. 339 (1854) (holding that the corporation could be prosecuted criminally for failing to discharge its obligation to maintain public navigation).
- <sup>xv</sup> Daniel R. Fischel and Alan O. Sykes, "Corporate Crime", The Journal of Legal Studies, Vol. 25, No. 2 (Jun., 1996), pp. 319-349 at 333.
- <sup>xvi</sup> Elkins, supra note 6 at 86-87 (tracing the historical development of imputing intent to corporations).
- <sup>xvii</sup> Silets & Brenner, "The Demise of Rehabilitation: Sentencing Reform and the Sanctioning of Organizational Criminality", American Journal of Criminal Law (1986) vol.13 at 339.
- <sup>xviii</sup> Bernard, "The Historical Development of Corporate Criminal Liability", Criminology (1984) vol.22 at 8.
- <sup>xix</sup> Id.
- <sup>xx</sup> Id. (quoting Queen v. Great N. of England Ry., 115 Eng. Rep. 1294, 1298 (1846)).
- <sup>xxi</sup> Id. at 9. In 1917, English courts followed suit in Mousell Bros., Ltd. v. London & North- Western Railway, 2 K.B. 836 (1917).
- <sup>xxii</sup> 212 U.S. 481 (1909).
- <sup>xxiii</sup> Id. at 494-96.
- <sup>xxiv</sup> Id. at 494. The Court, however, failed to elucidate just which crimes these would be.
- <sup>xxv</sup> K. Brickey, Corporate Criminal Liability: A Treatise on the Criminal Liability of Corporations, Their officers and Agents, (1984 ), section 2:09, at 33-34.
- <sup>xxvi</sup> Alan L. Helverson, "Can a Corporation Commit Murder?" 64 Wash. U. L. at 972.
- <sup>xxvii</sup> Peter L. Edelman, "Corporate Criminal Liability for Homicide: The Need to Punish Both the Corporate Entity and its Officers", Dick. L. Rev. (1987) vol.92 at 199; see, e.g., United States v. Union Supply Co., 215 U.S. 50 (1909); United States v. Van Schaik, 134 F. 592 (S.D.N.Y. 1904).
- <sup>xxviii</sup> 215 U.S. 50 (1909).
- <sup>xxix</sup> Id. at 55.
- <sup>xxx</sup> Ibid.
- <sup>xxxi</sup> [1972] AC 153. See J H Farrar, Company Law , 3<sup>rd</sup> edn. (1991); C Wells, "Corporations: culture, risk and criminal liability" 1993 Criminal Law Review at 551; I. A. Muir, "Tesco Supermarkets, corporate liability and fault" New Zealand Law Review (1973) vol.5 at 357; B Fisse, "Consumer protection and corporate criminal responsibility: a critique of Tesco Supermarkets v Natrass" Adelaide Law Review (1971) vol.4 at 113; Y. Z. Stern, "Corporate criminal personal responsibility--who is the corporation?" Journal of Corporation Law (1987) vol.13 at 125.
- <sup>xxxii</sup> [1915] AC 705.
- <sup>xxxiii</sup> Suchitra Kalyan Mohanty, "Company can have criminal intent", The Asian Age, Sept. 12, 2010, available at <http://www.asianage.com/delhi/%E2%80%98company-can-have-criminal-intent%E2%80%99-477> (viewed on 24.10.10).
- <sup>xxxiv</sup> AIR 1997 SC 3964
- <sup>xxxv</sup> (2003) 11 SCC 405
- <sup>xxxvi</sup> AIR 2005 SC 2622
- <sup>xxxvii</sup> It was a question put by an advocate in James KK's days (8 St. Tr. 1138) in Kenny, The Outlines of Criminal Law, 15<sup>th</sup> edition.
- <sup>xxxviii</sup> Supra note 36.
- <sup>xxxix</sup> Supra note 35.
- <sup>xl</sup> Id. at 550, para 32
- <sup>xli</sup> Supra note 35.
- <sup>xlii</sup> Oswal Vanaspati & Allied Industries vs. State of U.P. (1993) 1 CLJ 17 : (1992) 75 Comp Cas 770 (FB) (All).
- <sup>xliii</sup> Supra note 36.
- <sup>xliv</sup> Ibid.
- <sup>xlv</sup> M. Vidhan, "Company's Liability where Imprisonment is Mandatory Part of Sentence", (2007) 2 PL June 6, available at [http://www.ebc-india.com/practicallawyer/index.php?option=com\\_content&task=view&id=6646&Itemid=1](http://www.ebc-india.com/practicallawyer/index.php?option=com_content&task=view&id=6646&Itemid=1) (viewed on 25.10.10).
- <sup>xlvi</sup> Vandana Chatlani, "Corporate criminal liability: Are your hands clean?", India Business Law Journal, July/Aug 2010, pp. 17-20 at 19, available at <http://www.indilaw.com/pdfs/Corporate%20liability.pdf> (viewed on 25.10.10).
- <sup>xlvii</sup> Ibid.
- <sup>xlviii</sup> J R Pennock and J W Chapman, Criminal Justice (1985); D W Elliot, The Criminal Company (1966); R A Posner, "Optimal sentences for white collar criminals" American Criminal Law Review (1980) vol.17 at 409; M A Cohen, "Corporate crime and punishment: a study of social harm and sentencing practice in the federal courts 1984-87" American Criminal Law Review (1989) vol.26 at 605; D Charny, "Non-legal sanctions in commercial relationships" Harvard LR (1990) vol.104 at 375.

- <sup>xlix</sup> R S Gruner, "Beyond fines: innovative corporate sentences under federal sentencing guidelines" *Washington University Law Quarterly* (1993) vol.71 at 261.
- <sup>l</sup> B Fisse, "Reconstructing corporate criminal law: deterrence, retribution, fault and sanctions" *Southern California Law Review* (1982) vol. 56 at 1246.
- <sup>ii</sup> See A Von Hirsch, *Doing Justice: The Choice of Punishments* (1976); J Kellog, "From retribution to desert: the evolution of criminal punishment" *Criminology* (1977) vol.15 at 179; F G Jacobs, *Criminal Responsibility* (1978); J T Byam, "The economic inefficiency of corporate criminal liability" *Journal of Criminal Law and Criminology* (1982) vol.73 at 582; J Braithwaite, "Challenging just deserts: punishing white collar criminals" *Journal of Criminal Law, Criminology and Police Science* (1982) vol.73 at 723; L Zedner, "Reparation and retribution: are they reconcilable?" *MLR* (1994) vol.57 at 228.
- <sup>iii</sup> EC Recommendation No 88/18, para 7 cited in Richard Mays, "The criminal liability of corporations and Scots law: learning the lessons of Anglo-American jurisprudence", *Edinburgh Law Review*, 2000 Vol. 4(1), pp.46-73 at 9.
- <sup>iiii</sup> *Ibid.*
- <sup>lv</sup> Orland, "Reflections on Corporate Crime: Law in Search of Theory and Scholarship" *American Criminal Law Review* (1980) vol.17 at 518.
- <sup>lv</sup> Paul Lansing and Donald Hatfield, "Corporate Control through the Criminal System: An Alternative Proposal", *Journal of Business Ethics*, Vol. 4, No. 5 (Oct., 1985), pp. 409-414 at 413, 414.
- <sup>lvi</sup> V. S. Khanna, "Corporate Criminal Liability: What Purpose Does It Serve?", *Harvard Law Review*, vol. 109, No. 7 (May, 1996), pp. 1477-1534 at 1498.
- <sup>lvii</sup> Denial of license may also result in a deadweight loss to society if no other corporation can provide the required service or if other corporations provide the service less efficiently than the corporation that lost its license.
- <sup>lviii</sup> John C. Coffee, Jr., "'No Soul to Damn: No Body to Kick': An Unscandalised Inquiry into the Problem of Corporate Punishment", 79 *Michigan Law Review* (1981) at 447 (noting that criminal cases are generally resolved sooner than civil cases). However, civil injunctions do not have to be enforced more slowly than criminal probations; for example, courts can issue interim injunctions in intellectual property cases.
- <sup>lix</sup> For example, fines are the criminal law equivalent of civil law damages. Corporations convicted of certain crimes may face debarment, and courts and enforcement agencies may also use debarment when the corporation is found liable in civil proceedings. See *White Collar Crime Comm., Collateral Consequences of Convictions of Organizations*, 1991 A.B.A. Sec. Crim. Just. at 34.
- <sup>lx</sup> *Supra* note 56.

## **REQUEST FOR FEEDBACK**

**Dear Readers**

At the very outset, International Journal of Research in Commerce, IT and Management (IJRCM) acknowledges & appreciates your efforts in showing interest in our present issue under your kind perusal.

I would like to request you to supply your critical comments and suggestions about the material published in this issue as well as on the journal as a whole, on our E-mails i.e. **infoijrcm@gmail.com** or **info@ijrcm.org.in** for further improvements in the interest of research.

If you have any queries please feel free to contact us on our E-mail **infoijrcm@gmail.com**.

I am sure that your feedback and deliberations would make future issues better – a result of our joint effort.

Looking forward an appropriate consideration.

With sincere regards

Thanking you profoundly

**Academically yours**

Sd/-

**Co-ordinator**