



CORPORATE LIABILITY FOR ENVIRONMENTAL DAMAGES IN INDIA

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ABSTRACT

*Corporate liability for environmental damages in India is a critical aspect of environmental law, aimed at ensuring that companies are held accountable for the harm they cause to ecosystems, public health, and communities. Indian legal frameworks, such as the Environment Protection Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981, establish the responsibilities of corporations in preventing and mitigating environmental harm. Corporate liability can be broadly categorized into civil, criminal, and statutory liability, depending on the severity of the damage caused. Civil liability, often rooted in the polluter pays principle, mandates corporations to compensate for the environmental degradation they cause. In landmark cases like *M.C. Mehta v. Union of India* (1986), the concept of absolute liability was established, holding companies strictly accountable for any harm resulting from hazardous activities, irrespective of negligence. Criminal liability is invoked when corporations are found in violation of environmental regulations, subjecting them to fines and imprisonment under laws such as the Indian Penal Code, 1860 and the Environment Protection Act, 1986. Furthermore, regulatory bodies like the National Green Tribunal (NGT) possess the authority to impose penalties and issue orders for environmental remediation. India's evolving environmental jurisprudence emphasizes the need for stringent corporate responsibility, balancing economic growth with environmental sustainability. This approach ensures that corporations contribute to the protection and restoration of the environment, fostering a more sustainable future.*

Keywords: Corporate Liability, Environmental Damages, Environmental Sustainability, Corporate Accountability, Environmental Laws.

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INTRODUCTION

“We never know the worth of water till the well is dry” said Thomas Fuller.¹ Climate change is one of the most pressing environmental challenges of our time with far-reaching consequences for the ecosystem, human health and the economy. Corporations play a significant role in contributing to climate change, primarily through greenhouse gas emissions. However, the allocation of responsibility and costs for climate-related damages remains a complex and contested issue. As we witness the devastating impacts of climate change all around us - from extreme weather events to melting ice caps and rising sea levels - it is clear that urgent action is needed to mitigate its effects and protect our planet for future generations. The primary culprit behind this phenomenon is the burning of fossil fuels such as coal, oil, and gas for energy production, transportation, and industrial processes. Deforestation, agriculture, and other land-use changes also contribute to the increase in greenhouse gas emissions. The consequences of climate change are far-reaching and severe. We are already witnessing more frequent and intense heat waves, droughts, wildfires, and floods around the world. These extreme weather events not only devastate communities and livelihoods but also exacerbate existing social inequalities and vulnerabilities. Climate change is a threat multiplier, amplifying issues such as food insecurity, water scarcity, and displacement of populations. This article examines the complexities of corporate liability for environmental damages with a focus on the legal frameworks and mechanisms that govern the allocation of responsibility and costs.

CORPORATE LIABILITY

Environmental liabilities refer to the legal responsibility of individuals, organisations or governments for harm or damages caused to the environment². This liability can arise from various activities, such as pollution, climate change, deforestation, hazardous waste management or environmental accidents. Corporate environmental liabilities mean the liability of the corporations for all the damages made by them to the environment. The insatiable quest for profit has led corporations down a destructive path, leaving irreparable damage to the environment and human rights in their wake. From the toxic waste dumped into rivers by coal and copper mines to the rampant deforestation perpetrated by cattle ranchers and palm oil

¹ THE WORTHIES OF ENGLAND, 1662

² Definition| Central Pollution Board <https://cpcb.nic.in>

plantations, and the forced evictions of communities by hydropower megaprojects, the list of corporate atrocities is staggering.

In the name of development, corporations are forgetting to save the environment they live in. Corporations in India contribute significantly to environmental damage through activities like – air and water pollution, soil contamination, waste mismanagement, deforestation and biodiversity loss.

AREAS OF ENVIRONMENTAL DAMAGE

Key areas of environmental damage caused by corporations in India are:

1. **Air Pollution:** Major industrial sectors release harmful pollutants like sulphur dioxide and particulate matter into the air, causing respiratory problems and impacting air quality in nearby areas. The burning of coal and other fossil fuels releases harmful gases like nitrogen oxides. These gases contribute to acid rain.
2. **Water Pollution:** Untreated industrial wastewater discharged into rivers and lakes leads to water contamination, affecting drinking water sources and aquatic ecosystems. Construction sites generate contaminants like cement, paint, glue, sand, heavy metals and oil. These contaminants enter water bodies through runoff or soak into groundwater.
3. **Thermal Pollution:** Industries often use water for cooling purposes, and then discharge heated water back into rivers and lakes, which disrupts aquatic ecosystems by altering water temperatures.
4. **Soil Contamination:** Industrial waste disposal practices can lead to soil pollution, affecting agricultural productivity and impacting local communities. Mining and smelting are major contributors to soil pollution.
5. **Deforestation:** The expansion of industrial areas often results in the clearing of forests, impacting biodiversity and contributing to climate change.
6. **Waste management issues:** Improper disposal of hazardous waste from factories can contaminate soil and water sources.

Examples of corporate environmental damage in India:

1. **Chemical industries:** Release of toxic chemicals into water bodies, causing severe pollution and health concerns.

2. Power plants: High carbon emissions from coal-fired power plants contribute to climate change.
3. Textile industries: Discharge of dye-laden wastewater, impacting water quality and aquatic life.
4. Mining operations: Land degradation, soil erosion, and water pollution due to mining activities.

CHALLENGES IN ADDRESSING CORPORATE ENVIRONMENTAL ISSUES:

1. Weak enforcement: Despite existing environmental laws, inadequate monitoring and enforcement mechanisms allow companies to violate regulations.
2. Lack of transparency: Companies may not adequately disclose their environmental impacts, making accountability difficult.
3. Political influence: Lobbying by industries can hinder stricter environmental regulations.

ENVIRONMENTAL LAWS IN INDIA

1. For Water: The Water (Prevention and Control of Pollution) Act, 1974 for the prevention and control of water pollution and prohibits the discharge of pollutants into the water system in excess of standards and The Water (Prevention and Control of Pollution) Rules, 1975 as a sub-regulation of the Water Act³. Section 24 of the Water Act allows the state government to seek compensation for violator's harm. The Water (Prevention and Control of Pollution) Cess Act, 1977 to install water meters and pay taxes based on the amount of water used by the industries and the Water (Prevention and Control of Pollution) Cess Rules, 1978 as a sub-regulation of the Water Tax Act⁴.

2. For Air: The Air (Prevention and Control of Pollution) Act, 1981⁵ was the first concrete step taken by the Indian government to address air pollution and The Air (Prevention and Control of Pollution) Rules 1982, as a sub-regulation (central pollution control board, n.d.). Section 22 prohibits the release of air pollutants beyond prescribed limits, and Section 37 prescribes penalties for violations. Furthermore, Section 40 ensures that individuals in charge of companies are held responsible for any environmental harm caused due to corporate negligence.

³ Envilience ASIA free edition available at: <https://envilience.com>

⁴ Envilience ASIA free edition available at: <https://envilience.com>

⁵ AIR ACT, Central pollution control board available at: <https://cpcb.nic.in>

3. For Environment: The Environment Protection Act, 1986, provides a legal framework for protecting and improving the environment and the Environment Protection Rules, 1986 as a sub-regulation.⁶ Section 5 of the Environment Protection Act requires everyone to prevent pollution and violators will face imprisonment and fines under Chapter 7.

Hazardous Wastes (Management and Handling) Rules, 1989, applies to the generation, storage, transportation, treatment and disposal of hazardous waste.⁷ Manufacture, Storage and Import of Hazardous Chemical Rules, 1989, ensures that industries take the necessary precautions to avoid accidents. Several laws in India hold corporations liable for environmental damage, ensuring accountability through penalties, compensation, and legal consequences. The Environment Protection Act, 1986, serves as an umbrella legislation empowering the government to take necessary measures to protect and improve the environment. Under Section 15, any person or corporation found violating environmental norms can be penalized with fines or imprisonment. Moreover, Section 16 specifically holds company directors, managers, and other responsible officials accountable for offenses committed by their organizations.

To ensure immediate relief to victims of environmental damage caused by industries handling hazardous substances, the Public Liability Insurance Act, 1991, mandates that such industries take insurance coverage under Section 3. This ensures that compensation is readily available in case of environmental accidents. Additionally, Section 4 of the Act provides for compensation to those affected by pollution-related disasters. In cases where environmental damage leads to disputes, the National Green Tribunal (NGT) Act, 2010, plays a crucial role. Under Section 15, the NGT has the authority to order relief, compensation, and restitution for environmental harm. This makes corporations legally accountable for their actions and enables affected parties to seek justice.

Apart from these environmental laws, the Indian Penal Code, 1860 (IPC), also has provisions to address pollution-related offenses. Section 268 defines public nuisance, which includes environmental harm affecting public health and safety. Section 277 penalizes the contamination of water bodies, while Section 278 deals with air pollution offenses. These provisions ensure that corporations responsible for environmental damage are held legally accountable, reinforcing the need for compliance with environmental norms. Overall, these

⁶ Indian Institute of Corporate Affairs available at: <https://iica.nic.in>

⁷ Central Pollution Control Board available at: <https://cpcb.nic.in>

laws collectively work towards ensuring corporate responsibility, preventing ecological harm, and providing justice to affected communities.

KINDS OF LIABILITIES SUFFERED BY A CORPORATION WHEN IT DAMAGES THE ENVIRONMENT

If a corporation causes environmental damage, it can suffer **civil, criminal, and statutory liability** depending on the nature and extent of the harm caused. The type of liability is determined by environmental laws, judicial precedents, and regulatory frameworks.

1. Civil Liability (Compensatory & Strict Liability): Corporations can be held civilly liable for environmental harm, requiring them to pay compensation for damages caused. This includes:

- Polluter Pays Principle (*Indian Council for Enviro-Legal Action v. Union of India, 1996*) – The company must bear the cost of environmental remediation and victim compensation.
- Strict & Absolute Liability (*M.C. Mehta v. Union of India, 1986*) – If the corporation engages in hazardous activities, it is strictly liable even if it took preventive measures. Under absolute liability, there are no exceptions or defenses available.

2. Criminal Liability (Punitive Actions & Penalties): Corporations can also face criminal charges under laws such as:

- *Environment Protection Act, 1986* (Section 15) – Imposes fines and imprisonment on responsible corporate officers.
- *Indian Penal Code, 1860* (Sections 277 & 278) – Penalizes water and air pollution with fines and imprisonment.
- *Public Nuisance Doctrine (IPC Section 268)* – If pollution affects public health, corporations can be prosecuted.

Statutory & Regulatory Liability: Regulatory bodies can impose fines, cancel licenses, or order the shutdown of polluting industries. Examples include:

- *National Green Tribunal (NGT) Act, 2010* (Section 15) – Empowers the tribunal to impose penalties and compensation.

- *Water & Air Acts (1974, 1981)* – Prohibit discharge of pollutants and penalize industries for non-compliance.

Hence a corporation responsible for environmental damage can face a combination of financial penalties, criminal prosecution, regulatory actions, and reputational damage. The reason is that environmental harm affects public health, biodiversity, and sustainable development, making it a serious legal and ethical issue.

CASE LAWS RELATED TO ENVIRONMENTAL DAMAGES

1. *M.C. Mehta v. Union of India (1986)* – Oleum Gas Leak Case⁸

Bench: Justice P.N. Bhagwati, Justice R.S. Pathak, and Justice G.L. Oza.

Facts: In December 1985, a leakage of oleum gas occurred from one of the units of Shriram Foods and Fertilizers Industries in Delhi, leading to the death of an advocate and the hospitalization of several others.

Observations: The Supreme Court emphasized the need for industries engaged in hazardous activities to ensure the highest standards of safety. The Court introduced the principle of "absolute liability," holding that enterprises engaged in inherently dangerous activities are absolutely liable for any harm resulting from such activities, regardless of any negligence.

Judgment: The Court held Shriram Industries absolutely liable for the damage caused and directed them to compensate the victims.

Ratio Decidendi: The establishment of the "absolute liability" principle, which mandates that corporations engaged in hazardous activities bear complete responsibility for any resultant harm, without exceptions.

2. *Indian Council for Enviro-Legal Action v. Union of India (1996)*⁹

Bench: Justice B.P. Jeevan Reddy and Justice B.N. Kirpal.

⁸ <https://legalfly.in/case-brief-m-c-mehta-v-union-of-india-oleum-gas-leak/>

⁹ <https://www.lawyersclubindia.com/judiciary/analysis-of-indian-council-for-enviro-legal-action-v-union-of-india-and-others-4206.asp>

Facts: Several chemical industries in Bichhri village, Rajasthan, were found discharging untreated toxic waste, contaminating soil and groundwater, and adversely affecting the health and livelihood of the local population.

Observations: The Supreme Court applied the "polluter pays" principle, asserting that the financial cost of preventing or remedying environmental damage should be borne by the entities responsible for the pollution.

Judgment: The Court held the respondent industries liable for the environmental degradation and directed them to compensate for the damage caused and undertake necessary remedial measures.

Ratio Decidendi: Reinforcement of the "polluter pays" principle, ensuring that polluting entities are financially responsible for the environmental harm they cause.

1. *Vellore Citizens' Welfare Forum v. Union of India (1996)*¹⁰

Bench: Justice Kuldeep Singh and Justice S. Saghir Ahmad.

Facts: A public interest litigation was filed against tanneries in Tamil Nadu for discharging untreated effluents into agricultural fields, waterways, and open lands, resulting in severe environmental pollution.

Observations: The Supreme Court recognized the importance of sustainable development and introduced the "precautionary principle" and "polluter pays" principle as essential features of environmental law in India.

Judgment: The Court ordered the closure of polluting tanneries and directed them to compensate affected individuals and restore the environmental quality.

Ratio Decidendi: Integration of sustainable development principles into environmental law, emphasizing that economic growth should not occur at the expense of environmental health

2. *Bhopal Gas Tragedy (1984)*¹¹

Bench: Various benches over time, with significant judgments delivered by the Supreme Court of India.

¹⁰ <https://leverageedu.com/discover/general-knowledge/civics-and-polity-cases-of-environmental-law/>

¹¹ <https://www.business-standard.com/about/what-is-bhopal-gas-tragedy>

Facts: In December 1984, a gas leak at the Union Carbide India Limited (UCIL) pesticide plant in Bhopal led to thousands of deaths and long-term health complications for the local population.

Observations: The disaster highlighted the need for stringent industrial safety regulations and corporate accountability. The incident led to discussions on the liability of parent companies for the actions of their subsidiaries.

Judgment: In 1989, the Supreme Court approved a settlement of \$470 million between Union Carbide Corporation and the Government of India, which was criticized for being inadequate.

Ratio Decidendi: The case underscored the necessity for robust legal frameworks to address industrial disasters and ensure adequate compensation and rehabilitation for affected populations.

3. Plachimada Coca-Cola Struggle¹²

Bench: Various legal proceedings at state and national levels.

Facts: The Coca-Cola plant in Plachimada, Kerala, was accused of depleting groundwater and causing environmental degradation, adversely affecting local agriculture and access to clean drinking water.

Observations: Persistent protests and legal battles emphasized corporate responsibility towards environmental sustainability and the rights of local communities.

Judgment: The plant ceased operations in 2004 following license cancellations and public outcry. In 2017, Coca-Cola stated it had no plans to resume operations at the site.

Ratio Decidendi: The case highlighted the significance of corporate environmental responsibility and the impact of community activism in enforcing environmental norms.

4. Other Notable Cases Are:

- **Construction in Silent Valley:** In 1980, the Kerala High Court threw out a writ filed by the Society for the Protection of the Silent Valley seeking a ban on the construction of a hydroelectric project in the valley. However, despite an unfavourable judgement, active lobbying and grassroots action by environmentalists stopped the project.¹³

¹² https://en.wikipedia.org/wiki/Plachimada_Coca-Cola_struggle

¹³ INDIA Environment Portal, Some important cases, 14/08/1992 available at: <http://www.indiaenvironmentportal.org.in>

- **Polluting the Ganga:** In 1985, activist-advocate M C Mehta filed a writ petition in the Supreme Court to highlight the pollution of the Ganga by industries and municipalities located on its banks. In a historic judgement in 1987, the court ordered the closure of a number of polluting tanneries near Kanpur. Justice E S Venkataramiah, in his judgement, observed: "Just like an industry which cannot pay minimum wages to its workers cannot be allowed to exist, a tannery which cannot set up a primary treatment plant cannot be permitted to continue to be in existence."¹⁴

There are many more cases where the corporations did not pay attention to the environment and other people had to suffer. Corporations cannot deny following their social responsibility in the name of development. Potential solutions to prevent environmental damage should be:

- **Stricter environmental regulations and enforcement:** Implementing robust environmental standards and effective monitoring systems.
- **Public awareness campaigns:** Educating communities about environmental issues and holding corporations accountable.
- **Green technology adoption:** Promoting investments in cleaner technologies and renewable energy sources.
- **Corporate social responsibility (CSR):** Encouraging companies to voluntarily adopt sustainable practices and invest in environmental protection initiatives. Corporate social responsibility helps the environment by reducing resource consumption, companies can reduce greenhouse gas emissions and toxic pollutants, and they can use renewable energy sources like solar or wind power. Corporations should promote sustainable business practices like reforestation and reducing plastic usage, they should develop better infrastructure for drinking water, sanitation, health and education. Corporate social responsibility can help companies build a green image and reputation with customers.

¹⁴ INDIA Environment Portal, Some important cases, 14/08/1992 available at: <http://www.indiaenvironmentportal.org.in>

CONCLUSION

In conclusion, corporate liability for environmental damages is a critical issue that requires immediate attention and action. The devastating impact of corporate activities on the environment and human health is undeniable, and it is essential to hold corporations accountable for their actions. As we have seen, corporate environmental liabilities can arise from various activities, such as pollution, climate change, deforestation, and hazardous waste management. The consequences of these activities can be severe, ranging from contamination of soil, water, and air to loss of biodiversity and ecosystem disruption. Despite the existence of environmental laws and regulations, corporations continue to prioritize profits over environmental protection. Weak enforcement, lack of transparency, and political influence are significant challenges in addressing corporate environmental damage. However, there are potential solutions to this problem. Stricter environmental regulations and enforcement, corporate social responsibility, public awareness campaigns, and green technology adoption are essential steps towards promoting environmental sustainability and holding corporations accountable. Moreover, it is crucial to recognize the importance of access to justice for communities affected by corporate environmental damage.

This includes providing adequate compensation, remediation, and rehabilitation to those affected. Ultimately, addressing corporate liability for environmental damages requires a multi-faceted approach that involves governments, corporations, civil society, and individuals. We must work together to create a culture of environmental responsibility and accountability, where corporations prioritize sustainability and respect the rights of communities and the environment. As we move forward, it is essential to remember that environmental protection is not only a moral imperative but also an economic necessity. The costs of environmental degradation far outweigh the costs of prevention and mitigation. By holding corporations accountable for environmental damages, we can promote sustainable development, protect human rights, and ensure a liveable future for generations to come. In the words of Franklin D. Roosevelt, "A nation that destroys its soils destroys itself. Forests are the lungs of our land, purifying the air and giving fresh strength to our people." Let us take these words to heart and work towards creating a world where corporations prioritize environmental sustainability and respect the rights of communities and the environment because if not now then when?