



A Critical Review Of Legal Principles Governing Corporate Liability For Environmental Damages

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Abstract: In India, the corporate sector is increasingly held accountable for environmental damages in light of the complex ecological challenges faced today. **This study critically examines the evolution of corporate environmental responsibility by analyzing significant legislative instruments, judicial judgments, and regulatory frameworks that shape corporate obligations.** It emphasizes the crucial role of Environmental Impact Assessment (EIA) policies and the difficulties involved in enforcing laws designed to hold both individuals and corporations accountable for environmental harm.

The review seeks to identify weaknesses in the existing legal system and proposes enhancements by scrutinizing case studies and recent legal developments that illustrate gaps in enforcement. Notably, Section 135 of the Companies Act, 2013, introduces the concept of Corporate Social Responsibility (CSR), mandating that corporations voluntarily contribute to societal betterment. This encompasses not only philanthropic efforts but also ethical, economic, and environmental responsibilities that aim to promote sustainable development.

By focusing on the legal mechanisms that ensure corporate accountability for misconduct and environmental damages, this study aims to provide practical solutions to address the identified shortcomings. Ultimately, the findings aspire to contribute to a more robust legal framework for corporate compliance, fostering a sustainable approach to environmental governance in India.

Keywords: Corporate Environmental Responsibility, Environmental Damages, Corporate Liability, Environmental Impact Assessment, Corporate Social Responsibility, Regulatory Framework.

I. INTRODUCTION

As the world undergoes drastic climate change, the focus on preventing pollution and preserving the environment has become critical to ensure a sustainable future for the upcoming generations. **India, contributing nearly 7% of global pollution emissions while holding 17% of the world's population, faces significant challenges in balancing industrial growth with environmental preservation.** For a developing country like India, the growth of the corporate sector is essential, but it must occur in a manner that does not adversely affect the nation's natural resources.

To address the importance of sustainable development and environmental preservation, processes like Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) are conducted before the establishment of any industry within the country. This research will critically explain the procedures involved in these assessments and explore the legal frameworks related to environmental preservation, such as the Environmental Protection Act of 1986 and the Companies Act of 2013, which shape corporate operations.

Public awareness and environmental activism play crucial roles in shaping corporate behavior and influencing regulatory frameworks. **Movements like the Narmada Bachao Andolan and incidents such as the Bhopal Gas Tragedy have underscored the need for stringent corporate accountability** and have led to substantial legal reforms. In response to these tragedies, India's environmental laws have incorporated the concept of Corporate Environmental Responsibility (CER). The objective of CER is to impose an ethical obligation on corporations to avoid harming the environment and to protect the country's diverse flora and fauna.

This research aims to identify the obstacles faced in enforcing corporate environmental responsibility and critically review the current legal principles dealing with corporate liability for environmental damage. By examining the effectiveness of existing legal frameworks and proposing necessary reforms, this study seeks to enhance corporate accountability and promote sustainable business practices.

II. RESEARCH QUESTION

To what extent does India's existing legal framework address corporate responsibility for environmental harm, and what are the primary challenges and opportunities for enhancing corporate accountability in this context?

III. HYPOTHESIS

Corporate responsibility for environmental harm is somewhat addressed by India's current legislative framework, but there are still large gaps in the enforcement and accountability systems. The main obstacles are corporate resistance, insufficient enforcement capability, and complex regulations. Still, there are ways to improve corporate responsibility, like better enforcement mechanisms, stronger regulatory frameworks, and incentives for sustainable practices.

IV. LITERATURE REVIEW

Research on Corporate Liability in Environmental Damages addresses the complexities involved in holding corporations accountable for substantial losses incurred by the government. The rationale for conducting this literature review is twofold: to investigate current legal frameworks and regulatory procedures governing corporate accountability for environmental damages, and to highlight limitations in existing legislation that affect accountability.

Numerous scholarly studies have examined Corporate Environmental Responsibility (CER) from various perspectives. For instance, (*Kumar & Shah, 2017, pp. 23-35*) 'explored how Indian corporations are increasingly integrating environmental sustainability into their business practices through CSR initiatives and environmental management systems'. (*Rao, 2019, pp. 234-250*) 'reviews the implementation of environmental regulations and the role of courts in adjudicating cases of environmental damage, emphasizing the application of the Polluter Pays Principle'. Another critical debate concerns balancing corporate accountability with environmental justice for affected communities. (*Verma, 2018, pp. 65-82*) 'examines how environmental regulations address the needs of vulnerable communities and proposes reforms to better align corporate liability with environmental justice goals'. Innovative approaches to enhance corporate environmental accountability are also under exploration. (*Patel & Singh, 2023, pp. 310-325*) 'suggest examining new mechanisms such as environmental impact bonds and enhanced stakeholder engagement strategies'.

Additionally, scholars have drawn insights from landmark cases such as the '*Bhopal Gas Tragedy*' (Union Carbide Corporation vs Union of India Etc, 1990), '*Oleum Gas Tragedy*' (M.C. Mehta v. Union of India, 1987), and the '*Vellore Citizens Welfare Forum case*' (Vellore Citizens Welfare Forum v. Union of India, 1996), demonstrating the imperative of holding corporate sectors responsible for losses caused during their business operations.

V. ENVIRONMENTAL LAW JURISPRUDENCE IN INDIA

The Water (Prevention and Control of Pollution) Act, 1974 was the first significant legislative measure to combat pollution in India, and it ignited the buildout of environmental law jurisprudence. Following this act, various other environmental laws addressing different aspects of environmental protection were enacted over time. Additionally, the courts have played a decisive role in interpreting and framing legal principles in environmental law, significantly influencing corporate liability for environmental damage. Thus, both the judiciary and the legislature share credit for the development of environmental jurisprudence. However, the seriousness of environmental issues was fully recognized only after major tragedies like the Bhopal gas disaster and the Oleum gas leak. These incidents underscored the need for rigorous study and enforcement of environmental laws in India.

Apart from all these legislations, there are still some precautionary principles in relating to Environmental Jurisprudence in India, i.e. Environmental Impact Assessment. **The Environmental Impact Assessment (EIA) was an outcome of the Rio Declaration 1992, which emphasis more 'public participation in the decision-making process relating to Environment issues'**. By including stakeholders and building public confidence, it also encourages openness and public involvement. EIA is crucial for attaining sustainable development, stopping environmental deterioration, and making sure that initiatives involving development are ecologically conscious.

VI. LEGAL PRINCIPLES

6.1. Polluter pays principle

The Polluter Pays Principle (PPP) was formulated by the Organisation for Economic Cooperation and Development (OECD) in 1972. This principle ensures corporate accountability for environmental damage, stipulating that any individual or company responsible for environmental harm must compensate for the damage or restore the environment to its original state. The PPP enables governments to hold polluters accountable, ensuring they compensate pollution victims and contributing to sustainable development by influencing environmental policies globally.

In India, the PPP was first applied in the landmark case of 'Indian Council of Enviro-Legal Action vs. Union of India'. This case set a precedent for the application of the principle within the Indian legal framework. Furthermore, the Constitution of India enshrines environmental preservation as a fundamental duty of its citizens. Specifically, Section 20 of the National Green Tribunal Act empowers the Tribunal to apply the PPP in cases relating to environmental damage. Additionally, Section 17 of the Act incorporates the 'no fault principle,' holding polluters accountable even in scenarios classified as acts of God.

6.2. Strict And Absolute Liability

Strict and absolute liability are concepts adapted from common law. Under the principle of strict liability, polluters can be exempt from compensating pollution victims if the emission of hazardous substances results from an act of God. This principle has often been utilized by polluters to evade responsibility for environmental damage. However, the application of this principle was significantly challenged in the aftermath of the Oleum Gas Tragedy. In this case, the Supreme Court of India concluded that there is an 'absolute non-delegable duty to the community,' meaning hazardous industries cannot claim exceptions based on state liability, as the Court deemed such defences inadequate to protect citizens' rights. This ruling underscored the need for industries to adhere to strict safety and environmental standards, regardless of unforeseen events.

6.3. Vicarious Liability

The doctrine of vicarious liability, also known as '*Respondeat Superior*,' establishes that a **principal is liable for the actions of their agents or employees**. In the context of environmental law, this means that a company is responsible for any damage caused by its employees in the course of their work. Vicarious liability imposes joint responsibility, making a corporation liable for the negligent acts of its employees. This principle encourages corporations to implement stringent precautionary measures and ensures accountability for environmental harm. By holding companies accountable for their employees' actions, vicarious liability promotes a culture of responsibility and caution within organizations.

Therefore, the PPP, strict and absolute liability, and vicarious liability are essential principles in environmental law. They collectively ensure that polluters are held accountable for their actions, promoting sustainable development and protecting the environment. By understanding and implementing these principles, governments and legal systems can better address the challenges of environmental degradation and ensure that those responsible for pollution bear the cost of their actions.

Moreover, these principles have been instrumental in shaping international environmental policies. For instance, the European Union has adopted the PPP as a cornerstone of its environmental legislation, influencing member states to integrate this principle into their national laws. Similarly, many other countries have incorporated strict and absolute liability into their legal frameworks to ensure that industries cannot escape liability through technical defenses. The global adoption of these principles reflects a growing consensus on the importance of holding polluters accountable to achieve environmental sustainability.

In conclusion, the Polluter Pays Principle, along with strict, absolute, and vicarious liability, forms the backbone of effective environmental governance. They provide a robust legal mechanism to ensure that those who harm the environment are responsible for mitigating the damage and compensating the victims. These principles not only enforce accountability but also encourage preventive measures, fostering a proactive approach to environmental protection. As environmental challenges continue to escalate, the rigorous application and enforcement of these principles will be crucial in safeguarding our planet for future generations.

VII. DRAWBACKS OF ENVIRONMENTAL IMPACT ASSESSMENT

Environmental Impact Assessment (EIA) is recognized as a significant policy innovation from the 20th century. Its primary objective is to balance environmental conservation with economic considerations, ensuring the optimal mix of costs and benefits. An environmental impact assessment (EIA) examines the possible environmental consequences of a project or development while taking into account the positive and negative effects on socioeconomic, cultural, and human health aspects. It serves as a tool to assess a project's environmental, economic, and social implications and to predict impacts before the planning phase. This allows for decisions to mitigate adverse effects and is an effective means of managing environmental concerns.

In India, it is mandatory for any industrial project to obtain EIA clearance from the Environment Ministry before proceeding with project approval. When the Planning Commission gave the Department of Science & Technology instructions to assess river valley projects from an environmental standpoint in 1976–1977, the practice got underway. The EIA Notification - 2006 remains the principal legal framework for granting environmental clearance for new or expanded industrial projects based on their potential environmental impact. In 2020, the Government released a revised draft of the EIA, incorporating updates and inviting feedback from stakeholders to refine the process. But it still has some favorable proviso to the corporate sectors, and its major drawbacks are as follows:

7.1.Exemptions from Scrutiny: The EIA 2020 notification introduced exemptions for certain projects from the rigorous scrutiny typically associated with the Environmental Impact Assessment (EIA) process. Public participation is a cornerstone of the EIA framework, and the inclusion of exemptions diminishes accountability, transparency, and active public engagement. Projects exempted under this notification include expansions of modern highways and railways, border infrastructure developments, and irrigation projects. Additionally, the notification reduced the public consultation period from 30 days to 20 days, further limiting opportunities for comprehensive stakeholder input.

7.2.Limited Judicial Review: Judicial review plays a pivotal role in upholding the legality and fairness of administrative decisions. **The EIA 2020 notification, however, restricts the scope of judicial review concerning project clearances.** It imposes constraints on the grounds for challenging approvals in courts and imposes strict time limits for initiating legal challenges. These

provisions curtail the ability of affected parties to seek legal redress against potentially flawed or contentious project approvals.

7.3.Expertise Deficit in Appraisal Committees: Expert Appraisal Committees (EACs) constitute vital components of the environmental clearance process in India, entrusted with evaluating project proposals and assessing their environmental impacts. The EIA 2020 notification has introduced reforms affecting the composition and operational procedures of these committees, prompting concerns regarding their proficiency and impartiality. The revised composition raises questions about the adequacy of expertise within EACs to conduct thorough and objective environmental assessments, thereby potentially compromising the integrity of the clearance process.

In conclusion, the EIA 2020 notification's amendments have sparked debates concerning their implications for democratic principles, environmental governance, and the mechanisms for public oversight and accountability.

VIII. CORPORATE SOCIAL RESPONSIBILITY AND ITS IMPACT OVER ENVIRONMENT LIABILITY

The United Nations created the Millennium Development Goals (MDGs) as a followup to the global summit on sustainable development that took place in Johannesburg in 2000. These goals have implications for corporate social responsibility as well as environmental and health concerns. (National Center for Biotechnology Information [NCBI], 2024). As a part of this, the private sector and NGOs jointly developed **‘CSR-oriented voluntary codes and standards’** as supplements (NCBI, 2024). For optimum effective implementation, the Government should support these initiatives.

The Corporate Social Responsibility (CSR) was introduced to create a social responsibility to the corporate companies. The Companies Act, 2013 mandates that every company allocate **2% of its net profit towards Corporate Social Responsibility (CSR) activities, encompassing sustainable environmental development, climate change mitigation, and natural resource conservation.** ‘Section 135’ and ‘Schedule-VII’ of the Companies Act, 2013, lists out the activities which can be included in the CSR activities. CSR initiatives benefit society and the environment and enhance corporate reputation and goodwill among the public. Over time, corporations have realized that investing in CSR fulfills social obligations and serves as a strategic investment for future business endeavors. However, it is crucial to maintain stringent environmental laws despite the incorporation of CSR, ensuring continued adherence to regulatory standards. **To promote environmental protection, some critics (Malik, 2023) contend that obligatory CSR is ineffective because it doesn't deal with the underlying causes of environmental issues.**

In recent decades, there has been some debate about whether CER responsibilities may be combined with CSR duties, or if the two are incompatible. Every activity suggested under the CER is handled as a project and closely watched; the monitoring report is sent to the District Collector and the regional office as part of the semi-annual compliance report (Jawaharlal Nehru Port Trust [JNPT], 2024). MoEFCC stresses the periodical updates about the CER project in the website especially set up for this purpose. Additionally, MoEFCC through office Memorandums (OM) periodically determines the amount to be allocated for the Corporate Environmental Responsibility projects. For instances as per the MOEFCC office memorandum dated May 1, 2018, the allocation for Corporate Environmental Responsibility (CER) should be 0.75% of the capital investment for brownfield projects (JNPT, 2024).

Thus, while Corporate Social Responsibility (CSR) initiatives have increasingly emphasized environmental stewardship, their impact on mitigating corporate environmental liabilities remains pivotal. Effective CSR strategies not only foster sustainability practices but also reinforce accountability and regulatory compliance, underscoring their role in shaping responsible corporate behaviour towards environmental stewardship.

IX. CHALLENGES

11.1. Inadequate Penalties: One major challenge lies in the insufficient severity of penalties imposed on corporations for environmental violations. The current penalties may not sufficiently deter non-compliance, thereby allowing environmental infractions to persist.

11.2. Inadequate Legal Framework: The existing legal framework may be insufficient in attributing accountability to corporations for indirect or prolonged environmental impacts, such as cumulative pollution or ecological degradation. There is a critical need to broaden the scope of liability to encompass a wider range of environmental harms in order to effectively tackle these challenges.

11.3. Complexity of Legal Proceedings: Environmental litigation involving corporations tends to be intricate and protracted, necessitating extensive evidence gathering and legal processes. This complexity often results in delays in resolving cases and diminishes the effectiveness of enforcement efforts.

11.4. Resource Constraints: Regulatory agencies often contend with limitations in personnel, technical capabilities, and financial resources. These constraints impede their ability to effectively monitor and enforce compliance with environmental laws.

11.5. Cross Boarder issues: Corporations operating across multiple countries can complicate enforcement efforts, as different jurisdictions have varying laws and enforcement capacities.

XII. CASE STUDY

12.1 Oleum Gas Leak Case - Shriram Food and Fertilizer Industries (Delhi, 1985); In 1985, Shriram Food and Fertilizer Industries in Delhi experienced a catastrophic oleum gas leak, causing widespread health impacts and fatalities among local residents. The Supreme Court (*M.C. Mehta v. Union of India*, 1987) actions highlighted severe lapses in industrial safety standards and led to landmark legal rulings on corporate liability for industrial accidents. It underscored the need for stringent regulations and enforcement to prevent similar disasters, shaping subsequent environmental and industrial safety laws in India

12.2 Bhopal Gas Tragedy - Union Carbide India Limited (Bhopal, 1984); One of the most devastating industrial disasters globally occurred in 1984 at Union Carbide's pesticide plant in Bhopal, Madhya Pradesh. The leak of methyl isocyanate gas resulted in thousands of deaths and long-term health impacts on local residents. The legal case brought forth corporate liability issues, victim compensation, and environmental remediation. The Supreme Court of India's rulings (*Union Carbide Corporation vs Union of India Etc*, 1990) influenced global standards on industrial safety, disaster management, and corporate responsibility, shaping subsequent environmental laws and regulatory frameworks in the country.

12.3 Vizag Gas Leak - LG Polymers India Pvt. Ltd. (Visakhapatnam, 2020); In May 2020, LG Polymers India Pvt. Ltd. experienced a gas leak of styrene monomer in Visakhapatnam, causing fatalities and affecting local residents. Immediate legal actions were initiated to investigate the causes, regulatory lapses, and corporate negligence leading to the incident (*LG Polymers India Pvt Limited v. Andhra Pradesh Pollution Control Board*).

12.4 Indian Council for Enviro-Legal Action v. Union of India; The Supreme Court ordered the federal and state governments to implement several environmental protection measures in its ruling, including creating a commission to regulate pollution in the city. The court also mandated the shutdown of any industry without sewage treatment systems and fined anyone who disobeyed its rules (*Indian Council for Enviro-Legal Action v. Union of India*, 1996).

12.5. Sterlite Industries (India) Ltd. v. Union of India (2013); This was a case dealing with the closure of 'Sterlite Industries copper smelting factory' in Tuticorin, Tamil Nadu, due to environmental infractions and citizen demonstrations against pollution. The Supreme Court affirmed the right of residents to a clean environment and emphasized the importance of environmental compliance by upholding the closure order issued by the Tamil Nadu Pollution

Control Board.

XIII. SUGGESTIONS & RECOMMENDATIONS

13.1. Public Participation and Transparency in Environmental Impact Assessments: Enhancing public disclosure and transparency in Environmental Impact Assessments (EIAs) is crucial for effective decision-making in project development. Public participation in the EIA process fosters a sense of ownership and responsibility among the affected communities. It also ensures that the voices of those most impacted by environmental decisions are heard, leading to more informed and equitable outcomes. Furthermore, increased transparency reduces the likelihood of corruption or undue influence by vested interests, thereby bolstering the legitimacy and credibility of the entire process. Governments and regulatory bodies should establish clear guidelines that require comprehensive public consultations and the disclosure of all relevant environmental data. In cases where projects face substantial local opposition based on legitimate concerns, priority should be given to addressing community feedback to avoid contentious developments that could lead to long-term social and environmental harm.

13.2. Imposition of Fines and Compensation for Environmental Violations: To effectively deter environmental violations, the imposition of substantial fines and penalties should be proportionate to the severity of the damage caused. This approach not only punishes the violators but also serves as a deterrent to others, encouraging greater compliance with environmental regulations. In addition to fines, prompt compensation for pollution victims is essential to mitigate the immediate impacts of environmental damage. Such compensation should cover medical costs, loss of livelihood, and other damages, ensuring that affected communities can recover and rebuild. This process also helps restore trust in regulatory mechanisms, demonstrating that the government is committed to protecting the rights and wellbeing of its citizens. Governments should consider setting up special funds or insurance mechanisms that guarantee timely compensation, even in cases where the responsible parties are unable to pay.

13.3. Educational Campaigns on Corporate Environmental Responsibility: Educational campaigns play a pivotal role in raising awareness among stakeholders—such as shareholders, consumers, and local communities—about corporate environmental responsibilities. These initiatives can be instrumental in shifting public perception and behavior toward more sustainable practices. By highlighting the adverse effects of environmental degradation, such campaigns encourage stakeholders to demand greater accountability from corporations. Moreover, educating shareholders about the long-term financial benefits of sustainable practices can lead to increased pressure on companies to adopt environmentally responsible policies. Corporations should collaborate with non-governmental organizations (NGOs), educational institutions, and media outlets to ensure that these campaigns reach a broad audience and effectively communicate the importance of corporate environmental stewardship.

13.4. Mandatory Environmental Reporting by Hazardous Industries: Regulatory bodies, such as Pollution Control Boards, should mandate hazardous industries to submit periodic reports on emissions, waste generation, and other environmental activities. This requirement enhances transparency, facilitates regulatory oversight, and supports pollution prevention efforts. Regular reporting allows regulatory authorities to monitor environmental compliance more effectively and identify potential risks before they result in significant damage. Additionally, making these reports publicly accessible can empower communities to hold corporations accountable and advocate for better environmental practices. The implementation of strict reporting standards and regular audits can also drive industries to adopt cleaner technologies and reduce their environmental footprint.

13.5. Incentivizing Sustainable Development and Environmental Stewardship: Governments can play a crucial role in promoting sustainable practices and environmental stewardship by offering economic incentives. These incentives may include tax breaks, grants, and subsidies for corporations that adopt sustainable practices and technologies. By rewarding companies that demonstrate a commitment to environmental conservation, governments can create a positive feedback loop that encourages broader adoption of green practices. Furthermore, preferential treatment in government procurement for environmentally responsible companies can set a powerful example, encouraging others to follow suit. In

addition to financial incentives, governments can also recognize and reward companies that excel in environmental stewardship through awards and public recognition, further motivating corporate adoption of sustainable practices.

In conclusion, integrating these measures into environmental governance frameworks can significantly strengthen corporate accountability, promote sustainable development practices, and safeguard environmental quality for future generations. These initiatives empower stakeholders, enhance regulatory effectiveness, and foster a culture of responsible environmental stewardship in corporate operations. By prioritizing transparency, public participation, and incentives for sustainable practices, governments and corporations alike can contribute to a more sustainable and environmentally responsible future.

XIV. CONCLUSION

In light of the foregoing analysis, it is evident that a significant gap persists between the existing legislative frameworks and the accountability of corporations for environmental damages. The primary shortcoming lies in the practical implementation and enforcement of environmental laws, which needs to be considerably strengthened. This critical review has examined several key aspects, including the regulatory framework, judicial activism, challenges in enforcement, the need for legislative reform, and the role of corporate responsibility and ethics. While India has made notable progress in establishing legal principles to address corporate liability for environmental damage, the persistent challenges in enforcement and compliance remain substantial.

The regulatory framework, though comprehensive in scope, often falls short in its execution. Judicial activism has played a pivotal role in bridging these gaps, yet it alone cannot ensure the desired outcomes. **The enforcement agencies face numerous obstacles, including limited resources, bureaucratic inefficiencies, and sometimes a lack of political will, all of which hinder effective implementation of environmental laws.** Moreover, there is a pressing need for legislative reform to address the evolving nature of environmental issues and the complex dynamics of corporate operations. Enhanced corporate responsibility and ethics are crucial in fostering a culture of compliance and proactive environmental stewardship within the business community.

In conclusion, while India has laid down a robust legal foundation to tackle corporate environmental liability, the journey towards effective enforcement and compliance is ongoing. **The continuous evolution of legal principles, coupled with stringent implementation, will be essential in safeguarding India's environmental future.** Strengthening the regulatory mechanisms, empowering enforcement agencies, and fostering a culture of corporate responsibility are imperative steps in achieving sustainable environmental governance.

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