



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Corporate Liability for Environmental Damage: A Critical Review of Legal Principle

- INTRODUCTION
- CORPORATE LIABILITY
- NEED FOR CORPORATE LIABILITY FOR ENVIRONMENTAL DAMAGE
- LEGAL PROVISION
- IS THE LAW SUFFICIENT: CHALLENGES
- CONCLUSION

INTRODUCTION:

Nature is the gift of God which is being enjoyed by human being. In this era of modernization and technology, humans are failing as the preserver of the environment, they are living in. There is need of preservation and sustainable use of resources, so that environment keeps on flourishing rather getting destroyed.

To keep the pace with the fast-moving world, industries started exploiting resources available and started causing harm to this. The unfortunate incident, commonly known as [Bhopal Gas Tragedy](#) has shook the globe with its disastrous after effect. This incident was result of leakage of approx. 45 tons of methyl isocyanide gas in 1984 that lead to death of thousands of people¹. This is not the only incident where environment suffered. There is list of such incidents.

¹ Bhopal disaster: industrial accident Bhopal, India (1984); The Editor of encyclopedia Britannica, Feb 16, 2024.

Environmental laws play very important role in tackling such situations and incidents. It penalizes actions of individual and corporations. It puts statutory obligation on individuals and corporation also encourages them to be mindful about their actions and its impact on the environment. The concept of corporate responsibility makes companies liable for their actions and hold them accountable for the damage caused by them.

This blog will focus on the relevancy of corporate responsibility towards the environment and the ecosystem as this is evolving and complex area which requires continuous research and legislative efforts. This will include the applicability of legal principles in tackling the issues and the challenges faced by law in addressing issues efficiently.

CORPORATE LIABILITY

*“Corporate liability refers to the extent a company may be held legally liable for the acts and omissions of business partners and the people it employs.”*² The term corporate liability can be understood as the liability arising out of any action of a company or corporation. This makes companies legally liable for there act and companies can be penalized for the act. As companies are considered as artificial legal person that can be sued and can sue.

The concept of corporate liability came in picture to make companies conscious about their conduct. The corporate liability extends to criminal offence when it breaks the law related to:

- Humanitarian law, internationally.
- Workplace safety.
- Environment.
- Consumer safety.
- Anti-trafficking.³

The corporate liability becomes corporate criminal liability when it breaks any of the law relating to above-mentioned factors. This is done to safeguard the right of the individual and to not let any

² <https://brinenlaw.com/corporate/what-is-corporate-liability/>, Feb 18, 2024, 23:33 PM.

³ Corporate Legal Liability: Everything you need to know, Upcounsel, Feb 01, 2023.

company exploit other by disobeying law. These provisions are playing crucial role in limiting the abuse of power by the companies.

For instance, any activity done by any employee or shareholder of a company on behalf of a company, that tend to break the law, then there arises vicarious liability on company as there exist servant and master relationship between a company and its employee.

NEED FOR CORPORATE LIABILITY FOR ENVIRONMENTAL DAMAGE:

In the process of modernization, environment get adversely affected that resulted into global warming, change in climatic condition and pollution. This raises concern and the need for environmental friendly policies was felt.

According to article published by The Guardian 75% of the air pollution is caused by just 100 companies since 1988. “ *The [Carbon Majors Report](#) (pdf) “pinpoints how a relatively small set of fossil fuel producers may hold the key to systemic change on carbon emissions,” says Pedro Faria, technical director at environmental non-profit CDP, which published the report in collaboration with the Climate Accountability Institute.”⁴*

The industrial work directly or indirectly results into pollution making activities. Factories are responsible for water and air pollution. To control pollution causing activities environmentally friendly policies should be adopted by the companies.

LEGAL PROVISION:

Various statute in India provides for the provision for safeguard of environment. The constitution of India discusses about this in its directive principle of state policies. Similarly, Company Act of 2013 discusses about this through the inclusion of Corporate Social Responsibility (CSR). CSR makes it mandatory for the companies to utilize certain percentage of profit for the social and environmental welfare. In India, the two most important piece of legislation that makes companies liable for the environmental damage caused by them are:

⁴ <https://www.theguardian.com/sustainable-business/2017/jul/10/100-fossil-fuel-companies-investors-responsible-71-global-emissions-cdp-study-climate-change>, Feb 20, 2024, 11:37PM.

1. Environmental Pollution Act of 1986, and
2. Water (Prevention and Control) of Pollution Act of 1974.

Along with such law judicial decisions also plays crucial role in setting precedents. Two of these landmark judgements are M C Mehta vs Union of India and Vellore Citizen Welfare Forum vs Union of India. In these cases, court ordered state and central government to take measures to protect environment. Also, the companies were ordered to pay fine.⁵

IS THE LAW SUFFICIENT: CHALLENGES

The corporate liability for environmental damage is crucial for sustainable damage. However, despite various legal framework, the enforcement of these statute and lengthy and complex settlement process raises eyebrows over the efficiency of these statutes.

These challenges can be pointed out as:

1. The enforcement of the laws is not as strict as it should be. The enforcement gap created low impact and weaken corporate liability.
2. The complex regulatory framework raises point of concern. This raises confusion, delays and inconsistency in implementation.
3. The fragmented department at central and state level and insufficient cooperation leads to ineffective implementation of law.
4. The definition of corporate liability is not clear and the ambiguity creates difficulty for businesses in adapting policies.

There are several other challenges such as delayed legal proceeding, lack of public participation and weak penalties, etc. These challenges create obstacle for sustainable development.

CONCLUSION

In conclusion, despite the fact that India has put laws and regulations in place to mitigate environmental harm caused by businesses, a number of issues make them ineffective. These difficulties include lax enforcement, lenient punishments, lax rules, a convoluted regulatory

⁵ Aniruddha Singh Malik, Corporate Liability for Environmental Harm in India, IJLMH, Vol 6, Issue 4, 2023, Pg No. 1623.

structure, little public involvement, resource limitations, legal technicalities, and poor company governance.

A multifaceted strategy including government agencies, regulatory entities, civil society groups, and the commercial sector is needed to address these issues. To ensure effective environmental protection and corporate responsibility in India, it is imperative to strengthen enforcement mechanisms, improve penalties, update and revise regulations to reflect contemporary environmental challenges, simplify the regulatory framework, promote transparency and accountability, increase public participation, allocate adequate resources, close legal loopholes, and cultivate a culture of responsible corporate governance.

By addressing these challenges and implementing comprehensive reforms, India can better safeguard its environment, protect the rights of affected communities, and promote sustainable development for future generations.