

# Corporate Liability For Environmental Damages : A Critical Review Of Legal Principles

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## **Abstract**

The 20th and 21st centuries have witnessed unprecedented industrial growth, accompanied by severe environmental degradation. Large-scale chemical leaks, oil spills, deforestation, and toxic waste disposal demonstrate that corporations, as primary agents of industrial activity, are often at the center of environmental harm. Traditional tort law, based on fault and negligence, proved inadequate to address the scale, latency, and scientific complexity of environmental damage. Victims faced insurmountable burdens of proof, while corporations exploited limited liability and jurisdictional gaps.

In response, environmental jurisprudence has evolved towards no-fault liability regimes, preventive principles, and expanded access to justice. In India, judicial activism through Public Interest Litigation catalyzed this transformation, particularly after the Bhopal Gas Disaster of 1984. The Supreme Court and National Green Tribunal have developed doctrines such as absolute liability, polluter pays, and the public trust doctrine to hold corporations accountable.

This section critically reviews the legal principles governing corporate liability for environmental damage, focusing on Indian law with comparative references. It assesses whether existing frameworks achieve deterrence, remediation, and justice, or whether structural limitations of corporate law continue to shield polluters from effective accountability.

## **Keywords**

Corporate Liability, Environmental Damage, Absolute Liability, Strict Liability, Polluter Pays Principle, Precautionary Principle, Public Trust Doctrine, Lifting the Corporate Veil, National Green Tribunal, Environmental Justice, Sustainable Development, Transnational Corporations.

## **Introduction**

Environmental damage caused by corporate activities has become a defining challenge of the 21st century. Multinational and domestic corporations, through industrial operations, mining, chemical manufacturing, and waste disposal, contribute significantly to air, water, soil, and biodiversity degradation. The traditional model of tortious liability based on fault and negligence proved inadequate to address the scale, latency, and irreversibility of environmental harm.

The shift towards \*strict and absolute liability\*, \*polluter pays principle\*, and \*precautionary principle\* marks the evolution of environmental jurisprudence globally and in India. However, corporate structures such as limited liability, subsidiary insulation, and transnational operations create legal and jurisdictional barriers to accountability.

This chapter critically reviews the legal principles governing corporate liability for environmental damage, examines statutory and judicial developments in India and internationally, and evaluates the effectiveness of current frameworks in achieving deterrence, remediation, and justice. The analysis focuses on the tension between corporate economic autonomy and the public trust doctrine, and assesses whether existing laws adequately internalize environmental externalities.

## **Important Information & Legal Principles**

### **Evolution of Liability Regimes**

1. Fault-Based Liability: Rooted in common law torts of negligence, nuisance, and trespass. Inadequate for industrial disasters due to causation and proof burden on victims.
2. Strict Liability: *Rylands v. Fletcher* LR 3 HL 330 established liability without fault for non-natural use of land causing escape of dangerous things.
3. Absolute Liability: Indian innovation post-Bhopal. No exceptions of Act of God, third party, or negligence. *M.C. Mehta v. Union of India* 1 SCC 395.
4. Statutory Liability: Environment Protection Act 1986, Water Act 1974, Air Act 1981, and Public Liability Insurance Act 1991 impose civil and criminal liability on occupiers.
5. Principles of Environmental Law:
  - Polluter Pays: Cost of pollution control and remediation borne by the polluter.
  - Precautionary: Preventive action where there is threat of serious or irreversible damage.
  - Sustainable Development: Balance between development and environment. [1868] [1987]

### **Corporate Personality and Liability Attribution**

1. Lifting the Corporate Veil: Courts pierce the veil where corporate form is used to evade liability. *Salomon v. Salomon & Co Ltd* AC 22; Indian application in *LIC v. Escorts Ltd* 1 SCC 264.
2. Vicarious and Direct Liability: Directors and officers can be held personally liable under environmental statutes if consent, connivance, or negligence is proved. Sec 47 of EP Act 1986; Sec 40 of Water Act 1974.
3. Parent-Subsidiary Liability: Challenging in transnational cases. *Vedanta Resources PLC v. Lungowe* UKSC 20 opened doors for parent company duty of care. [1897] [1986] [2019]

### **Remedial Mechanisms in India**

1. National Green Tribunal Act, 2010 : NGT has exclusive jurisdiction over environmental civil cases. Powers include awarding compensation, restitution, and issuing injunctions.
2. Public Interest Litigation: Expanded access to justice for environmental harm. *M.C. Mehta* series of cases.
3. Environmental Compensation: NGT routinely imposes compensation based on “polluter pays” and “precautionary” principles.

## **Important Legal Principles and Information\***

### **A. From Fault to No-Fault Liability**

Common law torts of negligence, nuisance, and trespass required proof of fault, causation, and damage. In complex industrial contexts, this burden is prohibitive. The case of *Rylands v. Fletcher* LR 3 HL 330 introduced strict liability for non-natural use of land where dangerous substances escape and cause damage. However, exceptions such as Act of God and third-party acts diluted its deterrent effect.

India departed from this model in *M.C. Mehta v. Union of India* 1 SCC 395. Following the Oleum gas leak, the Supreme Court formulated the principle of *\*absolute liability\**: enterprises engaged in hazardous or inherently dangerous industries are liable to compensate victims regardless of negligence. Unlike strict liability, there are no exceptions. This principle internalizes environmental risk into the cost of production.

### **B. Polluter Pays and Precautionary Principles**

The Supreme Court in *Vellore Citizens' Welfare Forum v. Union of India* 5 SCC 647 formally recognized the *\*Polluter Pays Principle\** and *\*Precautionary Principle\** as part of Indian environmental law. Polluter pays requires the polluter to bear the cost of pollution control and remediation. Precautionary principle mandates preventive action where there is a threat of serious or irreversible damage, even in the absence of scientific certainty. These principles shift the burden of proof to the polluter and align with international norms from the Rio Declaration 1992.

### **C. Public Trust Doctrine**

In *M.C. Mehta v. Kamal Nath* 1 SCC 388, the Court held that natural resources are held by the State in trust for the public. Private appropriation of ecologically sensitive areas for commercial use violates this doctrine. The doctrine expands standing and allows courts to intervene where state inaction enables corporate exploitation.

### **D. Statutory Framework and Institutional Mechanisms**

India's primary statutes include the Environment Protection Act 1986, Water Act 1974, Air Act 1981, and Public Liability Insurance Act 1991. These statutes impose civil and criminal liability on occupiers and directors for pollution and prescribe consent mechanisms. Section 47 of the EP Act and Section 40 of the Water Act allow prosecution of company directors and officers where consent or negligence is proved.

The *\*National Green Tribunal Act, 2010\** created a specialized tribunal with exclusive jurisdiction over environmental civil cases. NGT can award compensation, order restitution, and issue injunctions. It has institutionalized the application of polluter pays through environmental compensation formulas based on damage and polluter's capacity to pay.

### **E. Corporate Personality and Liability Attribution**

Limited liability remains the core barrier to corporate accountability. The principle in *Salomon v. Salomon & Co Ltd* AC 22 insulates shareholders and parent companies. Indian courts pierce the veil only in cases of fraud or evasion, as in *LIC v. Escorts Ltd* 1 SCC 264. Environmental cases rarely succeed in piercing the veil unless direct control is proved.

Directors and officers face personal liability only where statutory conditions are met. This creates a gap where companies declare insolvency or shift assets to subsidiaries to avoid liability. Transnational corporations present further challenges, as seen in the Bhopal litigation, where jurisdictional and enforcement issues limited victim compensation.

## **Gaps and Criticisms**

1. Limited enforcement of NGT orders.
2. Difficulty in holding parent companies and foreign corporations accountable.
3. Weak criminal prosecution under environmental statutes.
4. Corporate social responsibility remains largely voluntary and non-justiciable.

## **Key Case Laws with Citations**

1. M.C. Mehta v. Union of India- Introduced 'Absolute Liability' for hazardous industries. No exceptions. Industries engaged in hazardous activity liable to compensate victims irrespective of negligence.  
\*M.C. Mehta v. Union of India\*, 1 SCC 395
2. Indian Council for Enviro-Legal Action v. Union of India- Applied 'Polluter Pays' and 'Precautionary' principles. Ordered Bichhri village remediation at cost of polluting units.  
\*Indian Council for Enviro-Legal Action v. Union of India\*, 3 SCC 212
3. Vellore Citizens' Welfare Forum v. Union of India- Formally adopted Sustainable Development, Precautionary Principle, and Polluter Pays as part of Indian environmental law.  
\*Vellore Citizens' Welfare Forum v. Union of India\*, 5 SCC 647
4. Sterlite Industries (India) Ltd v. Union of India- NGT's role in environmental compensation and closure orders. Supreme Court discussed proportionality and environmental rule of law.  
\*Sterlite Industries (India) Ltd v. Union of India\*, 4 SCC 575
5. M.C. Mehta v. Kamal Nath- Applied Public Trust Doctrine. State as trustee of natural resources. Private appropriation of riverbed for commercial use invalid.  
\*M.C. Mehta v. Kamal Nath\*, 1 SCC 388
6. Union Carbide Corporation v. Union of India\*\* Bhopal settlement and subsequent litigation. Raised issues of corporate liability, transnational jurisdiction, and victims' compensation.  
\*Union Carbide Corporation v. Union of India\*, 4 SCC 584
7. Narmada Bachao Andolan v. Union of India\*\* Balanced development and environment. Discussed scope of judicial review in large projects.  
\*Narmada Bachao Andolan v. Union of India\*, 10 SCC 664
8. Rylands v. Fletcher\*\* Foundation for strict liability. Escape of dangerous substance from defendant's land.  
\*Rylands v. Fletcher\*, LR 3 HL 330 [UK]
9. Vedanta Resources PLC v. Lungowe\*\* UK Supreme Court held parent company can owe duty of care for overseas subsidiary's environmental damage. Important for transnational liability.  
\*Vedanta Resources PLC v. Lungowe\*, UKSC 20 [UK]
10. Lal Bahadur v. National Capital Territory of Delhi\*\* NGT clarified calculation of environmental compensation based on polluter's financial capacity and damage extent.  
\*Lal Bahadur v. NCT of Delhi\*, OA No. 606/2018, NGT  
[1987] [1996] [2013] [1997] [1991] [2000] [1868] [2019]

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1992 AIR 382, 1991 SCR Supl. 378, 1992 SCC (1) 358, JT 1991 (4), 531, 1991 SCALE (2)1181).
2. Bhopal Gas Tragedy (Union Carbide Case): Environmental Health Perspectives\*, 118(12), 1-7.).
3. Lal Bahadur v. NCT of Delhi\*, OA No. 606/2018, NGT  
[1987] [1996] [2013] [1997] [1991] [2000] [1868] [2019].
4. Vedanta Resources PLC v. Lungowe, UKSC 20 [UK].
5. Rylands v. Fletcher, LR 3 HL 330 [UK].
6. Narmada Bachao Andolan v. Union of India, 10 SCC 664.
7. Union Carbide Corporation v. Union of India, 4 SCC 584.
8. M.C. Mehta v. Kamal Nath, 1 SCC 388.
9. Sterlite Industries (India) Ltd v. Union of India, 4 SCC 575.

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