

# Environmental Crimes, Strict Liability, and Constitutional Right to A Clean Environment

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**Abstract:** *Environment is the surrounding in which we live and prosper. Just as traditional crimes harm human beings, environmental crimes harm the environment. Environmental crimes have emerged as one of the most pressing challenges of contemporary times because they threaten the ecological balance and also affect fundamental human rights. The traditional criminal law framework and conventional liability notions requiring mensrea cannot adequately address the complex environmental harm which is caused due to industrialisation and urbanisation. Thus, evolution of doctrine of strict liability and absolute liability was critical.*

*This paper examines the conceptual foundations and historical development of environmental crimes, traces the statutory framework governing environmental offences in India, and analyses the liability regime from fault based responsibility to stricter models including the rule in Rylands v. Fletcher and the doctrine of absolute liability evolved by the Supreme Court. It further explores how this liability principles have been intertwined with the constitutional right to a clean and healthy environment. The study identifies key gaps in enforcement, institutional weaknesses and limitations in criminal prosecution of environmental wrongs. Finally, it offers suggestions for strengthening environmental criminal liability so that the legal framework more effectively secures environmental protection as a constitutional and human right..*

**Keywords:** Environmental crimes, Environment, Sustainable Development, Strict Liability, Absolute Liability, Right to Environment

## I. INTRODUCTION

Environment is the basic support system of life. It includes air, water, land, forests, wildlife and the complex relationships between them. If these elements are degraded, human life, health and livelihood are directly affected. If the environment is harmed, so are the species living in it, including human beings. Therefore, protection of environment is not only an ecological concern. It is also a question of public welfare and constitutional governance. It is important for human survival as well.

In recent decades, environmental harm has increased with rapid industrialisation, urbanisation and large-scale use of hazardous technologies. Incidents leading to vast scale of pollution, industrial accidents, illegal mining, deforestation and improper waste disposal have become frequent and rampant in the present times. These activities are often carried out by corporate or industrial actors rather than isolated individuals. The harm is usually diffused, long-term and scientifically complex, which makes it even more difficult to establish liability in such cases. It is difficult to identify a single victim or a single moment of injury, and it is often very difficult to connect the source of damage to a single industry or individual making establishment of liability difficult.

Traditional criminal law was developed for direct, individual and visible offences. It is based on fault, and intention as well as clear causal links. Traditional criminal law relies heavily on mens rea to establish guilt. Such a model often proves inadequate in dealing with environmental offences where the harm is widespread, and backed by expert-driven



industrial processes. For this reason, environmental law has gradually moved towards stricter liability standards. The rule of strict liability and, later, the doctrine of absolute liability have played a crucial role in this shift.

At the same time, Indian constitutional jurisprudence has recognised the right to a clean and healthy environment as an integral part of the right to life under Article 21. Courts have used this understanding to strengthen environmental protection and to justify stronger liability for environmental harm. This paper examines environmental crimes in this broader legal context. It analyses the statutory framework, the evolution of strict and absolute liability and their link with the constitutional right to a clean environment, and highlights the challenges and future directions for environmental criminal liability in India.

### **CONCEPTUAL AND HISTORICAL FOUNDATIONS OF ENVIRONMENTAL CRIMES**

Environment has a wide meaning. It covers air, water, land, forests, wildlife, biodiversity and the ecological systems which connect them. It is not a collection of separate natural objects. It is an integrated life-support system. When this system is disturbed, the consequences fall on human life, health and livelihood.

Environmental crimes refer to acts or omissions which violate environmental laws and cause ecological harm or serious risk to public health and safety. They may take the form of industrial discharge, toxic release, illegal mining, unlawful deforestation, improper waste disposal, or contamination of air and water. These offences are different from conventional crimes. The harm is often diffused. The victims may be entire communities, ecosystems or even future generations. The damage is frequently delayed and cumulative. Its proof requires technical data and expert evidence.

Historically, environmental protection was treated as a matter of administrative control and nuisance-based remedies. With industrialisation and large-scale hazardous activities, this approach became inadequate. Indian law gradually moved from general criminal provisions and public nuisance concepts towards specialised pollution statutes and dedicated institutions. At the same time, liability principles evolved from fault-based responsibility to stricter doctrines better suited to environmental risk and mass harm.

### **STATUTORY FRAMEWORK GOVERNING ENVIRONMENTAL CRIMES IN INDIA**

The statutory framework for environmental crimes in India rests on both constitutional and legislative foundations. The Constitution, through Articles 21, 48A and 51A(g), recognises the duty of the State and citizens to protect and improve the environment. This constitutional background supports the development of specific environmental statutes and criminal provisions.

The Water (Prevention and Control of Pollution) Act, 1974, is the first major comprehensive statute. It establishes Central and State Pollution Control Boards, regulates discharge of effluents and prescribes penalties for contravention. The Air (Prevention and Control of Pollution) Act, 1981, adopts a similar model for air pollution, with consent requirements, emission standards and penal provisions. The Environment (Protection) Act, 1986, gives the Central Government wide powers to lay down standards, issue directions and take measures for environmental protection. It also creates offences for violations of its provisions and of rules made under it.

The Public Liability Insurance Act, 1991, introduces a no-fault liability scheme for accidents involving hazardous substances. The National Green Tribunal Act, 2010, establishes a specialised forum for adjudicating environmental disputes and awarding compensation and restitution. Together, these enactments define environmental offences, prescribe penalties, regulate hazardous activities and create institutional machinery for enforcement. However, the practical implementation of these provisions remains uneven, and many violations do not result in timely or effective criminal action.

### **STRICT LIABILITY, ABSOLUTE LIABILITY, AND NO-FAULT PRINCIPLES**

Traditional fault-based liability, centred on negligence and intention, is often inadequate for environmental harm. Environmental damage which is long term and scientifically complex cannot always be traced through ordinary fault standards. The rule in *Rylands v. Fletcher* introduced strict liability for non-natural use of land and escape of dangerous



things, but it contained several exceptions which allowed enterprises to avoid responsibility. Therefore, it was found to be insufficient in the modern times of industrialization and in the Indian context.

Indian environmental jurisprudence has therefore moved further. In *M.C. Mehta (Oleum Gas Leak)*, the Supreme Court formulated the doctrine of absolute liability for hazardous industries. An enterprise engaged in dangerous activity owes an absolute and non-delegable duty to the community and must compensate for harm without relying on the Rylands exceptions. Thus, absolute liability entails liability without any exceptions whatsoever. This doctrine makes liability truly absolute. This doctrine is linked with social justice and deterrence. Alongside this, principles such as polluter pays, the precautionary principle and no-fault liability under the Public Liability Insurance Act strengthen environmental accountability and shift the burden towards polluters.

### **CONSTITUTIONAL RIGHT TO CLEAN ENVIRONMENT AND JUDICIAL APPROACH**

Indian courts have given a constitutional dimension to environmental protection. The Supreme Court has consistently read the right to a clean and healthy environment into Article 21's guarantee of life and personal liberty. In decisions such as *Subhash Kumar, Virendra Gaur and Vellore Citizens Welfare Forum*, the Court has treated environmental degradation as a direct threat to fundamental rights.

This approach links environmental law with human rights jurisprudence. The Court has relied on principles of strict and absolute liability, polluter pays and precaution to protect air, water, forests and ecological balance. It has also encouraged public interest litigation, expanded locus standi and used continuing mandamus to monitor compliance. The National Green Tribunal, created under the NGT Act, further operationalises this right by providing a specialised forum for environmental disputes, compensation and restitution. Together, these developments have transformed environmental protection into a constitutional obligation rather than a mere policy choice.

### **IMPLEMENTATIONAL CHALLENGES AND SUGGESTIONS FOR STRENGTHENING ENVIRONMENTAL CRIMINAL LIABILITY**

Although there is a strong constitutional and legislative framework for protection of environment, the implementation of environmental criminal liability remains weak. The enforcement remains weak because the prosecutions are limited, and conviction rates are low, and even when there is a conviction, the penalties are often inadequate to deter large enterprises. Pollution control boards also face constraints of manpower, lack expertise, and independence. Even their powers are limited. Over-reliance on judicial intervention sometimes substitutes for systematic regulatory enforcement. This paper recommends the following in order to enhance implementation and strengthen environmental liability:

- Strengthening statutory liability provisions, and enhancing the punishments for environmental harm;
- Clarifying the responsibility of companies, directors and public officials, and enhancing institutional capacity of pollution control authorities;
- Environmental standards should be expressed through clear rules rather than ad hoc executive circulars;
- Serious and repeated violations involving hazardous substances should attract stricter criminal consequences;
- Technology-based monitoring, and quicker assessment of environmental damage;
- Recovery of environmental compensation from the polluter responsible for the damage;
- Meaningful community participation and discussions can make enforcement more effective and credible.

### **II. CONCLUSION**

Environmental crimes pose a serious threat to ecological balance, public health and fundamental rights in India. Traditional models of fault-based criminal law are not sufficient to address such complex and large-scale harm. The evolution of strict liability, absolute liability and no-fault principles marks an important step towards more realistic and victim-oriented environmental accountability.



At the same time, constitutional jurisprudence has recognised the right to a clean environment as part of the right to life and has used this understanding to strengthen environmental protection. However, the gap between legal principles on paper and enforcement on the ground remains wide. For environmental criminal liability to be meaningful, statutory provisions, institutions and judicial remedies must work together. Strengthening prosecution, enhancing institutional capacity and embedding environmental protection in everyday governance are essential if the law is to secure a safe and healthy environment for present and future generations.

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