CORPORATE CRIMINAL LIABILITY FOR ENVIRONMENTAL OFFENCES

Author: Anjali Panwar, Assistant Professor, Delhi Metropolitan Education (GGSIPU)

Co-author: Anushka Mamgain, 3rd year B.A. LL. B student from Delhi Metropolitan Education (GGSIPU)

ABSTRACT

According to data from the National Criminal Records Bureau, the number of environmental offences rose by 78% in 2020 over 2019.[1] Corporations are to blame for a number of environmental problems, such as pollution, the extinction of plants and animals, waste production, sea level rise, trash trading, emissions that endanger the health and lives of workers, crimes committed by certain industries that cause diseases and disasters, aesthetic harm, and increased resource consumption. There are several ways for businesses to decrease and prevent environmental offences, including inventing and using recyclable products, minimising packaging, shopping locally to save on fuel, and working with suppliers and distributors. A fundamental shift towards a criminal preliminary has been brought on by the growth of Corporate Criminal Liability and the requirement of natural delinquency. This section explores the evolution of corporate criminal liability, the prerequisites for natural delinquency, and the standards for corporate criminal risk in an ecological enactment setting to determine whether the current natural enactment provides an appropriate system to prosecute an enterprise for natural wrongdoing. In order to prevent a firm from committing environmental crime, the final section explores the validity of corporate criminal obligations.

The notion of Corporate Criminal Liability, Environmental Crimes, Corporate Social Responsibilityand Earth Jurisprudence are introduced at the outset of the study. In the second place, it briefly discusses Corporate Criminal Responsibility for Environmental Offenses while going into greater detail about how Businesses affect the environment. Thirdly, it briefly summarises Corporate Criminal Responsibility under Environmental Regulations before going into further detail about how to imprison Businesses. Fourthly, it highlights the role that businesses may play in environmental protection. Fifthly, it makes an effort to find out more

[1]The Logical Indian, https://thelogicalindian.com/amp/environment/78-increase-in-environment-related-offences-30735 (last visited Apr. 1, 2023).

information on the Businesses that have served as outstanding environmental role models. The paper comes to an end with the conclusion.

Keywords – Corporate Criminal Liability, Environmental Offences, Corporations, Environment, Corporate Social Responsibility& Earth Jurisprudence

1. INTRODUCTION

The history of companies is complicated on a global scale. The creation of the modern corporation, which has its roots in several theories, principles, norms, and legislation, has been significantly influenced by the United Kingdom, United States, Canada, and Australia. The development of corporate law in one region has significantly influenced the law in another field, and on occasion, it has even influenced the development of corporate law in some other countries, particularly the emerging ones. The corporations initially had a public beginning but subsequently turned into a private company.[2] Nobody could have foreseen when these corporations were founded that they would rule the world, determine policies, have political power, and have a negative impact on the environment. Nobody could have foreseen how a gas leak in a single company would affect generations of residents in such a way that one would need to see tears in their eyes for years.[3] People's eyes are flashed by the brilliance that businesses offer in the form of competitive products, shareholder value, and spectacular structure, but this is the shadowier side that is sometimes hidden from view.

Corporate operations have significantly impacted our daily lives and routines in recent years. Businesses supply the majority of our food, water, and other necessities and luxuries of daily living. Due to greater privatisation, corporations are more and more explicitly providing these facilities rather than the government. The economy, its stockholders, and a sizable percentage of the workforce all benefit financially from these companies. Without a drastic restructuring of the country's political institutions and economic system, the power and sway of businesses will inevitably increase rather than decrease in the near future.[4]

Corporations are by far the most common type of commercial entity in the world. Companies have grown as a result of legislation that grants corporations certain rewards, privileges, and rights. Really, the law has bestowed a lot more privileges. Giving corporations "perpetual

[2] I Fiona Macmillan (ed.), International Corporate Law 17 (Hart Publishing2000).
[3] Union Carbide Corporation v. Union of India, (1989) 2 SCC 540.
[4]C.M.V.Clarkson, Corporate Culpability, Web J of Current Legal Issues in Association w Blackstone Press Ltd., (1998).

succession," which enables them to continue operating beyond a predetermined life period,limiting the financial and legal liabilities of the directors and shareholders, and providing businesses with specific tax advantages are a few of them.

The legislation has been successfully used by governments to create a regulatory environment that encourages business growth, but they have been reluctant to use it to regulate corporate behaviour. This is true because the majority of contemporary western governments uphold the free market ideology. Based on the notion that it is preferable to leave the market, where enterprises operate, mostly unregulated or self-policing, this philosophy was developed. This restricted control – soft regulation is a problem that needs to be addressed when one talks about the environmental pollution and degradation caused by these powerful forces (companies). Larger corporations are also more challenging to regulate due to their dispersed shareholding and the challenge of pinpointing the company's decision-making centre.[5]

1.1.Corporate Criminal Liability

Criminal liability is only established when an action or inaction violates the law.[6] Actus nisi men sit rea; non facit reum is the core idea of criminal culpability, which asserts that in order to hold someone accountable, it must be proven that both the act and the negligent behaviour in question were done so with the intention to harm another person. Hence, each offence has two parts: a physical part and a mental part.[7]

Corporate criminal liability is based on accountability and responsibility.[8] It is only sensible to hold businesses accountable for harm they create because of being allowed by society to act in their own self-interest and for profit. A firm can possess, sell, and sue assets as well as conduct crimes since it has a separate legal personality. Importantly, businesses are held criminally accountable for actions taken while conducting business for which the business is responsible. A firm may be held accountable for a variety of offences, including disregarding national environmental or safety laws.

The issue of criminal culpability exists despite the fact that businesses are susceptible to civil and administrative liabilities. Applying criminal liability to businesses in relation to

[5] The New Times, https://www.newtimes.co.rw/article/47872/how-to-handle-corporate-crimes (last visited Dec. 28, 2022).
[6]Arshiya Thansum and M. Kannappan, a Critical Study on Corporate Criminal Liability with Reference to Indian Case Law, Int. J of Legal Science & Innovation.
[7]W.O. Russell, Russell in Crime 17-51 (Universal Law Publishing Pvt 2001).
[8]Kartikey Mahajan, Corporate Criminal Liability, 4 Company L J 11 (2008).

environmental legislation is unclear because mens rea, which must be proven by the body and the soul, cannot be proven.

1.2.Environmental Crimes

Acts that violate a local environmental protection law have criminal repercussions for law enforcement. These acts are referred to as environmental crimes. It is defined as a behaviour that violates a regional law protecting the environment by Mary Clifford and Terry Edward.[9]

A prohibited action or omission that breaches the law and is subsequently punishable by law enforcement, as defined by Y. Situ and D. Emmons[10] with regard to corporations is considered an environmental crime. The environment, as well as the health or safety of people, are threatened or harmed by this offence. Either corporations or enterprises benefit from it, or individuals do.

The framework of Indian environmental law includes setting penalties for environmental crimes caused by non-compliance with these criteria, enforcing environmental standards on businesses, defining acceptable pollution levels, etc. However, India's environmental laws weren't really put into practise until the Apex court began to give them stricter interpretations and developed guiding principles. A good example is the tragedy involving the Bhopal gas leak in December 1984.

1.3.Corporate Social Responsibility

The self-policing CSR business model prioritises social responsibility. It demonstrates awareness of a company's social responsibilities, which encompass notions of human wellness and are closely related to the standard of life in society. India was the first country to make CSR a legislative mandate in 2014.Businesses must invest 2% of their average net profit over the last three years in CSR to meet certain thresholds for turnover and profitability.

1.4.Earth Jurisprudence

The Great Work, a 1999 book by Thomas Berry, which argued for a radical reorganisation of the existing paradigm of law and governance institutions for the benefit of the entire Earth Community, planted the seeds of Earth Jurisprudence.[11] Governmental structures and existing

---

[9]M. Clifford and Terry D. Edwards, Environmental Crime (Aspen Publishers1998).
[10]Y. Situ and D. Emmons, Environmental Crime: The Criminal Justice System's Role in Protecting the Environment (Sage Publications2000).
[11]The Gaia Foundation, https://www.gaiafoundation.org/ (last visited Mar. 25 2023).

legislation are criticised for being "anthropocentric" and encouraging the exploitation of the environment. Earth law is predicated on the notion that people create societies that protect the environment and see themselves as a part of the Earth community. It provides a case forthe rights of nature and criticises legislative shortcomings that permit people to cause environmental harm and get away with it.[12]

2. CORPORATE CRIMINAL LIABILITY FOR ENVIRONMENTAL OFFENCES

Corporate criminal responsibility refers to unlawful behaviour carried out by an individual or group within an organisation that is punishable by law. When viewed as a whole, the two sections of the Indian Criminal Code establish corporate criminal responsibility. According to Section 11[13] of the IPC, any company, group of people, or organization—whether or not they are corporations—is a "Person." According to Section 2[14] of the IPC, anyone who violates this law is subject to punishment.

Acts that endanger animals and plants are considered environmental crimes. The fourth most common category of criminal activity worldwide is environmental crime. Since the gas leak disaster in Bhopal,[15] environmental degradation has gained a lot of attention. Corporate environmental crimes were an issue that even major worldwide and national news channels brought up. Current environmental conditions are a significant issue. The repercussions of previous environmental catastrophes can still be seen even after so much time has gone. The entire world has been devastated by environmental catastrophes caused by humans. Businesses would be free to engage in activities that endangered the environment and wildlife if they were not held responsible for their deeds.

According to the Apex Court's interpretation of the phrase, the "Right to Healthy Environment" is recognised as a basic right under Article 21[16] of the Indian Constitution. In the Charan Lal Shahu,[17] Subhash Kumar,[18] and M.C. Mehta v. Union of India[19] cases. Throughout the 1980s, the legislation underwent major reform, particularly in the area of environmental protection. Because the Municipal Council v. Vardhichand case[20] was

---

[12]Michelle Maloney, Earth Jurisprudence and Sustainable Consumption, 14(2011).
[13]The Indian Penal Code, 1860, § 11, No. 45,Acts of Parliament, 1960(India).
[14] Id., § 2 (India).
[15]Union Carbide Corporation v. Union of India, AIR 1990 SC 275.
[16] INDIA CONST, art. 21.
[17] Charan Lal Sahu v. Union of India, AIR 1990 SC 1480.
[18] Shubhash Kumar v. State of Bihar, AIR 1991 SC 420.
[19] M.C. Mehta v. Union of India, AIR 1987 SC 1086.
[20] Municipal Council, Ratlam v. Shri Vardhichand, AIR 1980 SC 1622.

determined in the Municipal Council's favour, it is largely recognised as a landmark decision in this regard. The scent coming from the open drains has long upset residents of the township.

The Supreme Court recognised the Code of Criminal Procedure's[21] public nuisance provision as a workable tool for local governments to use in carrying out their obligations to protect the environment. Damages in the Vijay Singh Punia v. State of Rajasthan case[22] involving contaminated water were calculated at 15% of the corporations' annual revenues. One of India's worst industrial tragedies ever was the Bhopal Gas Leak tragedy, which took place in1984.[23] The incident had occurred two years before to the Supreme Court's adoption of its absolute liability rule.

In M.C. Mehta v. Union of India, Judge P.N. Bhagwati introduced the notion of complete accountability for the harm brought about by the hazardous and inherently dangerous sector.[24] In 1987, by interpreting the application of Article 32,[25]the correct instructions and commands were issued. In Indian Council for Enviro-Legal Action v. Union of India, the gruesome story of the Rajasthani village of Bicchri is detailed.[26] The muck coming from the nearby businesses has ruined the community's once-pristine ecosystem. According to a Supreme Court decision, the Central Government must estimate the cost of corrective efforts and collect it from the respondents. The Central Government is empowered to implement any policies it sees fit to safeguard and enhance the environment.

2.1.The Environmental Impact Of Companies

Our planet is currently facing a number of environmental problems. Acid rain, urban sprawl, water pollution, climate change, waste management, ozone layer protection, and other environmental problems. Over the past many decades, there has been an alarming growth in the exploitation of our planet and the deterioration of our landscape. Because of our behaviour not being in favour of conserving this globe, we have seen increasingly frequent natural disasters attack us in the form of flash floods, earthquakes, blizzards, surfs, and cyclones. Worldwide environmental organisations do their part to educate the public about how even

---

[21] The Code of Criminal Procedure, 1973, s. 133, No. 2, Acts of Parliament, 1974 (India).
[22]Vijay Singh Punia v. State of Rajasthan, AIR 2003 Raj 286.
[23]Union Carbide Corporation v. Union of India, AIR 1990 SC 275.
[24]MC Mehta v. Union of India, AIR 1987 SC 1086
[25]Supra note 146 at art. 32
[26] Indian Council v. Union of India, (1996) 3 SCC 212.

seemingly insignificant actions can have a big influence on protecting the environment. Yet, as you can see, a variety of matters demand our attention.

2.1.1. Improper Waste Disposal

Overcrowding and careless garbage disposal are two major environmental issues that pollute our land, water, and air. Inadequate waste disposal is one of these issues. It is present in almost every product, including fast fashion, plastic water bottles, and animal waste from industrial farms. The USD 3.5 million punishment Walgreens paid in 2020 for improper garbage disposal is proof that incorrect trash disposal may harm business earnings and personnel.[27] It also has negative health effects on those who work in the industry and those who live nearby production sites, such as farmers who contaminated a Californian community's drinking water by using hazardous chemicals during agricultural activities.[28] The personnel of a corporation may also be reduced via sick days and relocation.

2.1.2. Overpopulation

When a population is overpopulated, there are more people than there are resources to support it. The ecology is negatively impacted by this due to ineffective garbage management, habitat loss, incorrect trash disposal, and resource depletion. Also, it has an impact on businesses in two ways: Employee losses due to increased rates of poverty and lower educational attainment,[29] and Profit losses due to higher inflation rates. Loss of Workers as a result of increasing poverty and lower educational levels, as well as Loss of Earnings as a result of higher inflation rates.

2.1.3. Habitat Destruction

Due to the loss of natural resources, pollution, and climate change, habitat destruction is a significant environmental risk for corporations today. In the US in 2020,[30] wildfires burned through millions of acres of forest, destroying animal habitats, displacing families, and raising insurance costs. Businesses are impacted by habitat destruction in two ways: families move to cheaper locations as homes are demolished and insurance costs rise, and production is lowered

---

[27] CBS Los Angeles, https://www.cbsnews.com/losangeles/news/walgreens-waste-disposal-lawsuit/ (visited Mar. 28, 2023).
[28] C. J. M. Poole and S. Basu, Systematic Review: Occupational illness in the Waste and Recycling Sector, 67 Advance Access publications, (2017).
[29] Ayana Douglas-Hall and Michelle Chau, Parents' Low Education Leads to Low Income, Despite Full-Time Employment, National Center for Children in Poverty (2007).
[30] The Center for Disaster Philanthropy, https://disasterphilanthropy.org/disasters/2020-california-wildfires/ (last visited Mar. 25, 2023).

as a result of a smaller workforce. Also, as we exhaust our natural resources, we are unable to acquire things that rely on them, which raise costs and make it impossible to continue making the product. The way we use plastic bags and straws has also changed as a result of government measures to go green, compelling businesses to adapt sustainably in order to maintain their market share and earnings.

2.1.4. Thermal Expansion of Water

The ocean expands due to thermal expansion because hot water has a lower viscosity than cold water[31]. The increasing frequency and fury of tidal floods complicate transportation plans, drive up equipment and conservation costs, and limit delivery to littoral people as coastal regions slowly drown as a result of rising global temperatures. Tides can flood up to 6000 miles of highways in the United States alone, costing the eastern seacoast 100 million[32] vehicle hours every year. Both these numbers and their financial defences are expected to rapidly deteriorate. Massive amounts of water are being continuously poured into the ocean as a result of glaciers melting faster than snow can replace them in the ice wastes.

2.1.5. Global Warming

Abuse of environmental assets leads to the emission of greenhouse gases, which alters the climate, and individuals are making efforts to switch to renewable energy sources.

2.1.6. Biodiversity

Biodiversity is essential for ensuring that each link in the food chain receives an equivalent quantity of nourishment. Additionally, problems in the food chain put society as a whole in jeopardy. Anthropogenic activities like overfishing and land conversion endanger it. Businesses can follow the guidelines provided by the International Union for Conservation of Nature to deal with threats to biodiversity (IUCN). As the biodiversity argument gains more and more support, ESG regulations will become more and more crucial. Consult with experts and set up environmental management systems as a starting point for businesses that aim to have a smaller negative impact on biodiversity.

2.1.7. Climate Change

---

[31] Sea Levels Rise for the Coast of California, Oregon and Washington: Past, Present and Future (National Academies Press 2012).

[32] Jennifer M. Jacobs and Lia R. Cattaneo, Recent and Future Outlooks for Nuisance Flooding Impacts on Roadways on the U.S. East Coas, SAGE Journals, (2018).

Long-term changes in weather patterns and global temperatures are referred to as climate change and are caused by growing carbon dioxide levels. Because it has an impact on all weather patterns and climatic conditions worldwide, it is one of the most significant environmental problems we are currently facing. The primary causes of climate change include the use of fossil fuels, industrial and agricultural operations, and deforestation. Businesses are impacted by climate change in a variety of ways, including employee relocation because of natural catastrophes, an increase in sick leave requests, and the destruction of warehouses, natural resources, and transportation schedules.[33] To safeguard workers who request sick time, laws have been placed in place. Natural catastrophes wreck storage facilities, deplete natural resources, and mess up transportation plans.

2.1.8. Depleting Natural Resources

Natural resources are substances that can be dug up from the earth and utilised in the creation of things. Natural resource depletion is caused by a variety of activities, including mining, agriculture, and deforestation. Deforestation[34] is destroying our forests, mining is depleting our mineral and fossil fuel reserves, and overfarming is depleting the nutrient content of our soil and water resources. Enterprises may be impacted by the depletion of natural resources in one of two ways: Loss of Product: Products that make use of the resource will cost more and be harder to produce. Loss of Profit: Prices will rise as a result of scarcity. A higher asking price does not necessarily result into higher profits because market competition is encouraged by scarcity, which raises consumer prices.

2.1.9. Pollution

When toxins accumulate in an area and have a negative or destructive impact on the ecosystem, it is considered to be polluted. The agricultural sector, industrial waste, maritime dumping, and excessive use of fossil fuels are the main contributors to it. The following are the main ways pollution can have an impact on businesses: Loss of workers, loss of resources, alteration of the physical, chemical, and biological characteristics of the air, land, and water, endangerment of human life as well as the lives of other animals, reduction in quality of life, and harm to the nation’s cultural heritage all result in a decline in all of these factors. Eliminating pollution has a direct impact on maintaining a healthy environment. Companies must contend with environmental issues that directly and adversely affect their operations. Pollution, climate

---

[33]NASA, https://earthobservatory.nasa.gov/features/RisingCost/rising_cost5.php (last visited Mar. 28, 2023).
[34]WWF, https://www.worldwildlife.org/threats/deforestation-and-forest-degradation (last visited Mar. 28, 2023).

change, habitat loss, population increase, resource availability, and incorrect waste management have an effect on profitability, employee retention, and productivity.Companies have the technology, resources, and global reach to implement scalable adjustments to their processes that will lessen their impact on the environment. The entire planet gains when companies take accountability for their significant environmental impacts.

2.1.10. Water Scarcity

The United Nations, through SDG 6,highlights the significance of adequate sanitation and clean water and calls on business to take proactive measures to secure water security. Investors are implementing strategies to reduce water stress and starting value discounts on the stock of companies that make only a token effort to address challenges to water security. Companies rely on both artificial and natural processes to ensure sustainable operation, and ecological disruptions can also lead to the loss of a business's social licence and a reduction in investor valuation. To accept the changes that today's economy demands, businesses must engage with experts and arm them with environmental management tools.[35]

3. CORPORATE CRIMINAL LIABILITY UNDER ENVIRONMENTAL LEGISLATIONS

The Bhopal Gas Leak case,[36]catastrophe has highlighted the serious environmental pollution problem in India. The Water Act (1974), The Air Act (1981), and The Environment Act (1986) are three pieces of anti-pollution legislation that India has passed. However, there are far too few penalties for businesses that reduce their harmful environmental impact. Environmental protection organisations and pollution control boards have the authority to bring environmental criminals to justice and prevent further environmental harm. The Supreme Court ordered that Sterlite Industries pay 100 crores of rupees in damages after the Madras High Court decided that the copper factory at Tuticorin needed to be shut down.

Political parties are hesitant to sue multinational corporations, transnational corporations, and indigenous businesses because they contribute significantly to the nation's tax revenue and foster its economic expansion. Since the National Green Tribunal[37] was established, environmental issues have been swiftly and efficiently resolved. The Bhopal tragedy highlights

[35]United Nations Environment Programme, https://www.unep.org/explore-topics/sustainable-development-goals/why-do-sustainable-development-goals-matter/goal-6 (last visited Mar. 28, 2023).
[36]Union Carbide Corporation v. Union of India, AIR 1990 SC 275.
[37]The National Green Tribunal Act, 2010, No.19, 2010 (India).

the flaw in our legal system, which emphasizes the need for people to apply and uphold the law and that the law is only one aspect of the problem. India's criminal code is still underdeveloped in terms of dealing with corporate criminal responsibility.

The court's decision in the case indicated that businesses may likewise be charged with crimes and punished severely as a result.

Strict Liability, Absolute Liability, and Vicarious Liability doctrines are all included in environmental law. Sections 58,[38] 47,[39] 40,[40] 16,[41] 16,[42] and 27[43]talk about who is to blame for the violations of the many environmental rules that the businesses have committed. If the firm violated the law in any way, including with regard to the environment, any person (who at the time the crime was done was directly in control of and answerable to the corporation for the business's conduct) would be held accountable alongside the company.

In Naresh Dutt Tyagi v. State of Uttar Pradesh,[44] pesticide factory vapours leaking through a neighbouring home killed a pregnant mother with three children and a foetus. The respondents were deemed liable by the Court due to negligence. The concept of strict liability was first introduced in Rylands v. Fletcher,[45] which stated that anyone who brings something onto their property for personal use must do so at their own risk. However, if the behavior that resulted in the damage fits within one of the exclusions, liability may not apply. In case of M. C. Mehta v. Union of India[46] that company is responsible for all damages if it engages in a risky or inherently dangerous activity that results in the release of a toxic substance and causes harm. With exceptions, companies are responsible for all damages. Union Carbide Company v. Union of India[47] determined that compensation must be proportional to the size and power of the corporation or company. This case is important for discouraging businesses from harming the environment, as even massive Multi-National Companies are effectively discouraged by the ratio of determining remuneration in accordance with the size and capability of the corporation. Larger organisations can flout the law with impunity, but this case is essential for discouraging businesses from harming the environment. In case of Haryana State Board v. Jai Bharat

[38] The Wild Life (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India).
[39] The Water (Prevention and Control of Pollution) Act, 1974, No. 6, Acts of Parliament, 1974 (India).
[40] The Air (Prevention and Control of Pollution) Act, 1981, No. 14, Acts of Parliament, 1981 (India).
[41] The Environment (Protection) Act, 1986, No. 29, Acts of Parliament, 1986 (India).
[42] The Public Liability Insurance Act, 1991,No. 6, Acts of Parliament, 1991 (India).
[43] Supra note 36 at § 27
[44] Naresh Dutt Tyagi v. State of Uttar Pradesh, (1995) Supp 3 SCC 145.
[45] Rylands v Fletcher, (1868) LR 3 HL 330.
[46]M.C. Mehta v. Union of India, AIR 1987 SC 1086.
[47]Union Carbide Corporation v. Union of India, (1989) SCC 2 540.

Woollen Finishing Works,[48] the Punjab and Haryana High Court ruled that partnership firms were equally subject to this criminal obligation towards corporate management.

The Supreme Court indicted the business's directors for water pollution committed by the corporation in the case of Uttar Pradesh Pollution Control Board v. Mohan Meakins Ltd.,[49]rejected their request for the case to be dismissed due to long-standing delay.

3.1.How to Put Companies Behind Bars

The question of whether a corporation, a juristic person not capable of obtaining a prison sentence, could be accused and found guilty of violating the IT Act, which entails mandatory prison time and fines, was answered by the Indian judiciary. The court decided that the required punishment of a fine and prison term is to be imposed whenever it is practical to do so, but when it is not, such as in a company, a fine will be the only sanction. This decision was made using statutory interpretation guidelines. Incase of Assistant Commissioner v. Velliappa Textiles Ltd.,[50]the court disagreed, concluding that contemporaneous legislative changes were required in order to impose corporation criminal culpability. The Tesco Supermarkets and New York Central instances, among others, were used by the Indian judiciary in order to resolve the dispute.

In case of Directorate of Enforcement v. Standard Chartered Bank[51]which overturned Velliappa Textile in 2005 and declared that corporations are not exempt from prosecution just because the offences carry mandatory prison sentences. According to a rule enacted by the judiciary, corporations are subject to fine provisions if there is a choice between a jail sentence and a fine. Unfortunately, there is still no consensus on how to handle crimes that only carry a jail sentence.

In terms of environmental legislation, the court's rationale promotes disparity between people and corporations. A business would only be subject to a fine, whereas an individual would also be subject to jail time. The fine is extremely modest because it is calculated based on a single offence. If businesses were simply concerned with paying fines, they wouldn't care about environmental compliance.

---

[48]Haryana State Board v. Jai Bharat Woollen Finishing Works, 1993 CriLJ 384.
[49]Uttar Pradesh Pollution Control Board v. Mohan Meakins Ltd, 1999 crl 3978.
[50] Assistant Commissioner v. Velliappa Textiles Ltd., 1994 crl 142.
[51] Directorate of Enforcement v. Standard Chartered Bank, AIR 2005 SC 2622.

In the end, the judges came to the opinion that the fine provision always applies to companies in circumstances where they are also subject to a jail sentence in addition to a fine. How to handle offences that only result in a prison sentence, however, is still up for dispute.

The court's reasoning is unfair since it bases the absurdly low penalties on a "person" offence rather than a "business" criminal. If the primary concern for a business was paying fines, they wouldn't be concerned about environmental compliance**.**

4. ROLE OF COMPANIES IN ENVIRONMENTAL PROTECTION

We all have an obligation to protect the environment because of how important it is to us all. Stop the decline of it. Everyone can take action to reduce environmental pollution, regardless of their status as a citizen, a corporation, a client, an employee, or a member of another group in society. Governments have the power to enact laws that forbid harmful items. Consumers, employees, and other social members may elect not to use specific items or do behaviours that are not environmentally friendly.

Commercial organisations had to; nevertheless, take the initiative in creating their own strategies for resolving environmental problems. Every single business has a responsibility to prevent pollution of all kinds and preserve the environment. Economic activity, employment, commerce, and technological advancement are primarily supported by commercial firms. Furthermore, they have a lot of influence over the material, financial, and human resources. Through pollution prevention and source eradication, they are also skilled at handling environmental contamination issues. The majority of the time, dramatically reducing or even completely eliminating pollution can be accomplished by changing the production process, restructuring the machinery, switching out subpar materials for superior ones, or coming up with other inventive methods.

The following list lists a few concrete actions that companies and other organisations can take to protect the environment: The management of the corporation has made a resolute commitment to fostering an office atmosphere that prioritises pollution prevention and environmental protection. Ensuring that all departments and employees share the company's commitment to environmental protection. Detailed plans and programmes must be devised for the purchase of quality raw materials, the use of cutting-edge technology, the application of scientific waste disposal and treatment techniques, and the development of staff skills in order to meet the goal of pollution management. Following the rules and laws that have been set up by government to fight pollution, participating in programmes that the government conducts to handle hazardous items, clean up waterways, plant trees, and stop deforestation, and so on. The effectiveness of pollution control programmes must be regularly evaluated for costs and benefits. Training sessions and educational materials must also be organised to exchange technical knowledge and information on how to aggressively involve suppliers, dealers, and customers in pollution control efforts.[52]

4.1.Monitor and Examine Emissions of Greenhouse Gases

In order to lessen a company's effect on the environment and the wider world, the first step is to measure its greenhouse gas emissions. Businesses can get help assessing their CO2[53] emissions from private organisations whose carbon footprints have been accredited. Companies can begin thinking about strategies to reduce their emissions by identifying which business functions cause the most pollution.

4.2.Cutting Down on Energy Use

Turning off the office lights at night, decreasing the level of the cooling or heating system, and disconnecting gadgets while not in use are some advantageous methods that firms may implement.[54] Companies can also make modest reductions in its energy use and, consequently, their impact on the environment by paying more attention to other normal daily tasks.

4.3.Attempt Using Green Energy Sources

In the modern world, where renewable energy is becoming more and more popular, it might be a fascinating choice for companies. One interesting way to use exclusively renewable energy is through suppliers like ekWateur or Enercoop. Simply said, cutting back on fossil fuel use has a major positive impact on the environment.

4.4.Reduce Waste and Fight Obsolescence

The methods for reducing a company's carbon footprint are the sections of this work that are most crucial. Using cooking utensils in their place, avoiding the use of throwaway cups, stirrers and coffee machine capsules, minimising the number of prints, reusing paper as draughts, accurately sorting waste for recycling and employing equipment and devices are a few

[52] Social Responsibility of Business and Business Ethics 148 (NCERT, 2022-23).
[53] The New York Times, https://www.nytimes.com/guides/year-of-living-better/how-to-reduce-your-carbon-footprint (last visited Mar. 22, 2023).
[54] Jennifer King and Christopher Perry, Smart Buildings: Using Smart Technology to Save Energy in Existing Buildings, American Council for an Energy-Efficient Economy, (2017).

examples.[55]To prevent tools and gadgets from deteriorating more quickly, it's also crucial to operate them correctly. A broken device should be repaired rather than replaced.

4.5.Increase Employee Transportation Efficiency

We are all aware that the transport industry is the main source of greenhouse gas emissions. Businesses can greatly reduce their indirect CO2 emissions and, thus, their impact on climate change, by enticing employees touse public transportation, carpool with coworkers who live nearby, or by offering those discounts on public transit.[56]

4.6.Choose Eco-Friendly Infrastructure And Machinery

It is also possible to choose infrastructure and tools that are more environmentally friendly. In order to modify the vehicles of its employees to comply with the most current environmental requirements, firms can achieve this by building a fleet of hybrid or even all electric vehicles.[57] If the old ones can't be repaired or if more is needed, choose the most energy-efficient and morally responsible alternatives when replacing printers, air conditioning systems, computers, displays, lightbulbs, and other office supplies.

4.7.Choose For Sustainable Suppliers

Suppliers who exhibit sound environmental practises should be chosen carefully by businesses. Companies may need to request that their suppliers adopt more sustainable practises in order to receive sustainability and CSR certifications. Examples of such practises include not hiring children, paying fair wages, or properly disposing of waste. In the event that the current suppliers remain unresponsive, businesses may also need to find new ones. Efforts should be made by businesses to select suppliers who follow ethical environmental standards.

4.8.Educate More Employees, Clients And Other Stakeholders

Businesses have a responsibility to inform their stakeholders, such as the press, their employees, and consumers who act as economic agents. It's a great idea to organise internal contests, hackathons, or campaign to raise and improve awareness of sustainability concerns. Work with other groups to create something impactful, distinctive, and unforgettable. These

[55]The Nature Conservancy, https://www.nature.org/en-us/about-us/where-we-work/united-states/delaware/stories-in-delaware/delaware-eight-ways-to-reduce-waste/ (last visited Mar. 22, 2022).
[56]United States Environmental Protecting Agency, https://www.epa.gov/transportation-air-pollution-and-climate-change/carbon-pollution-transportation (last visited Mar. 22, 2023).
[57]European Environmental Agency, https://www.eea.europa.eu/articles/electric-vehicles-a-smart (last visited Mar. 22, 2023).

small deeds of kindness eventually establish the groundwork for best practises, which people then imitate at home and disseminate to their friends through word-of-mouth, creating the traditional "snowball effect."

4.9. Promote Environmentally Friendly Ways Of Working

Many workplace practises vary in their level of environmental friendliness; one business even has a home office. It is possible to schedule customer meetings by video conference rather than by car. The environment is negatively impacted by using servers, computers, and paper. When sending an email that only affects one department, it is possible to cut CO2 emissions by ignoring the entire organisation.

4.10. Mobilize For The Climate Change Challenge

In conclusion, enterprises serve both political and economic purposes. Businesses fighting climate change need to be aggressive not only globally but also locally, regionally, and nationally. By inspiring others to take action to halt global warming, they can have a significant impact. If businesses become involved, new environmental rules that have a big impact on global warming might be the result.[58]

5. COMPANIES SERVED AS ENVIRONMENTAL ROLE MODELS

Several generations ago, the riches of the planet seemed to have no limit, and people merely tried to pierce them in order to build enterprises and advance civilization. Now, we see how untrue that is. Instead of striving to exploit more resources now that we know better, people and businesses should work to develop sustainably while protecting the environment and the resources we still have. There are numerous companies adhering to this new morality for every one that dumps millions of gallons of oil paint into the ocean. Then there are numerous renowned green businesses that have received honours.

5.1. Unilever

For its environmental actions, Unilever has received recognition, most notably for placing top among businesses in the 2015 Climate Survey. More than a quarter of poll respondents believed that the company made the most significant contribution to addressing climate change. In order

[58] Harvard Business Review, https://hbr.org/2020/03/a-more-sustainable-supply-chain (last visited Mar. 23, 2023).

to achieve zero net deforestation in ten years, Unilever has pledged to plant an equal amount of forest for each acre that is cleared. The company has already achieved its objectives, and thanks to the purchase of GreenPalm credits—a programme for palm oil offsets—all of its palm oil will come from sustainable sources by 2012—three years ahead of schedule. All of the palm oil used by Unilever is sourced from sustainable sources.[59]

5.2. Apple

Apple is a leader in environmental sustainability, with 10,000 employees using its transit subsidies and 2,700 employees carpooling on commuter buses. It also formally resigned from the US Chamber of Commerce in 2009 due to its stance on climate change. The public is shifting in favor of environmental protection and ethical business practices, and Apple's solid stance supports this trend.[60]

5.3. Panasonic

The biggest apparent difference between Panasonic's actions and what people thought they had done in 2014, according to Fortune, was with Panasonic. The corporation is participating in the walk in one of the most imaginative ways possible with its new North American headquarters. In 2013, a new LEED-certified skyscraper was built next to Newark Penn Station, and the business moved to a well-known area of the city of Newark. The vice president of corporate affairs at Panasonic claims that the accessibility and connectedness of public transportation have apparently removed 500 cars from the road each day.[61]

5.4. IKEA

IKEA has invested in sustainability across several areas of its company. The Swedish furniture manufacturer starts with their supply chain, obtaining 100% of their cotton from higher-standard cotton farms and 50% of their lumber from sustainable foresters. IKEA already uses more than 700,000 solar panels to power its stores, and it has plans to start selling them to customers in the UK.[62]

5.5. IBM

[59] Unilever, https://www.unilever.com/planet-and-society/safety-and-environment/reducing-our-environmental-impact/ (last visited Mar. 16, 2023).
[60] Apple, https://www.apple.com/in/environment/ (last visited Mar. 16, 2023).
[61] Panasonic, https://www.panasonic.com/uk/corporate/sustainability/eco.html (last visited Mar. 16, 2023).
[62] IKEA, https://about.ikea.com/en/sustainability (last visited Mar. 16, 2023).

IBM is one business that has long promoted sustainability and environmental responsibility. Since the 1960s, corporate social responsibility and environmental protection have been incorporated into the company's mission statement. IBM now provides intelligent structures that control water use, demand eco-friendly purchasing, and conserve resources.[63]

5.6. Patagonia

Patagonia's corporate strategy was mocked in a 2015 New Yorker piece by calling it "anti-growth," alluding to the retailer's fight against excessive and wasteful spending. They advocated putting off buying unnecessary items, including their own assets, and they practised a fix-it-first method for their products. Their dedication is evident in both their products and their marketing and advertising. Parkas are composed of recycled plastic bottles, whereas wetsuits are made of natural rubber. Voting for environmentalists has become a cornerstone of Patagonia's sustainability strategy because the corporation recognises the importance of political action on the environment.[64]

5.7. Nike

Nike took the top spot on Morgan Stanley's 2015 ranking of the greenest manufacturers of apparel and footwear. They are also making it easier for designers to choose ecologically friendly solutions by using an app that helps compare the carbon foot print of different materials. Post-consumer recycled materials were used to make the 2011 World Cup shirt. Also, their packaging has been altered to use less material and prevent chemical leaks.[65]

5.8. Adobe

According to a 2014 Newsweek ranking of businesses, Adobe was found to be the most ecologically friendly. With the renovation of a famous San Francisco building and the achievement of LEED certification for more than 70% of its office space, the organisation has already achieved considerable strides.[66]

5.9. Biogen

Massachusetts-based Biogen, which has an impressive track record, was named the world's greenest firm by Newsweek in 2015 and for two years running came out on top of the Dow

[63] IBM, https://www.ibm.com/about/environment (last visited Mar. 16, 2023).
[64] Patagonia, https://www.patagonia.com/activism/ (last visited Mar. 16, 2023).
[65] Nike, https://www.nike.com/sustainability (last visited Mar. 16, 2023).
[66] Adobe, https://www.adobe.com/corporate-responsibility/sustainability/corporate-policy.html (last visited Mar. 16, 2023).

Jones Sustainability Index for biotechnology companies. Company invested in increasingenergy efficiency of its buildings and collaborating with suppliers to meet environmental objectives. By reducing its initial operating waste and coming up with creative methods for recycling and composting the waste that it did produce, the company reached near-zero waste status in 2012. Further challenging sustainability targets have been set by Biogen, including a reduction of 80% in water use and greenhouse gas emissions in comparison to a base year of 2006 by the year 2020. Moreover, the final 2% of waste that ends up in landfills is highlighted.[67]

5.10. Walmart

Walmart has made significant environmental choices, such as stocking goods from the organic supplier Wild Oats and revising its chemical policy to improve ingredient transparency and swap out ten hazardous compounds for safer substitutes. Increased sales of organic foods and a decline in sales of products containing hazardous chemicals are the two immediate effects of these rules on Walmart's suppliers. Walmart's promotion of organic food expands the market for organic farmers and helps the sector overall, but suppliers are now subject to harsher requirements in order to continue selling to Walmart's customer base.[68]

5.11. Disney

Disney is a pioneer in environmental stewardship thanks to its use of water-saving technologies, zero net direct greenhouse gas emission regulations, and electrical consumption that lowers indirect emissions. Additionally, it has a zero waste policy and strives to lessen the negative effects that the production and delivery of its products have on the environment. This is related to the business's commitment to having a net-positive influence on the environment, which establishes it as a pioneer in environmental stewardship.[69]

5.12. Starbucks

One of the most well-known companies in the world, Starbucks is also one of the most environmentally friendly. They operate more than 1,000 LEED-certified stores across 20 nations, and in 2015, they bought 1.392 billion kilowatt hours of renewable energy, or 100%

[67] Biogen, https://www.biogen.com/responsibility/environment.html (last visited Mar. 28, 2023).
[68] Walmart, https://corporate.walmart.com/purpose/sustainability (last visited Mar. 28, 2023).
[69] Disney, https://impact.disney.com/environment/environmental-sustainability/ (last visited on Mar. 28, 2023).

of the electricity utilised in all of their company-operated stores worldwide. This is an increase from the 59.3% they bought 785 million kilowatt hours of in 2014.[70]

5.13. Safeway

Safeway is one of the biggest and most eco-friendly supermarket businesses in the US. They buy 120 megawatt hours of wind energy in 2013, and use practical recommendations to reduce energy use in each of their stores. Since 2009, they have opened their first LEED-certified stores, and beta testing of LED lighting has shown that they can save an estimated 12,497,767 kilowatt hours yearly.[71]

5.14. Dell

In an effort to use technology to promote human growth and enhance prosperity, health, and happiness, Dell released its Legacy of Good Plan in 2013. Dell looked at its long-term responsibilities to society, its workers, and the environment in 2020. By 2025, they will use 10 times as much plastic annually, preventing 16,000 pounds of plastic from entering the ocean. They have already used 50 million pounds of sustainable resources in their products. By 2030, more than half of Dell products will contain recycled or renewable materials, and all of the company's packaging will be made from these sources.[72]

5.15. Honda

Between 2000 and 2020, Honda lowered the CO2 emissions from its vehicles, power equipment, and motorbikes by 30%. Honda will manage its resources and work with its disposal partners to ensure the quick and secure removal of garbage. It will also work with suppliers of renewable energy to embed their technology into cars and encourage environmentally friendly lifestyle among its clientele.[73]

6. CONCLUSION

The study mentioned above concludes that the definition of corporate criminal culpability needs to be changed in light of environmental crimes. The Company's Board of Directors as well as other top executives shall be held personally accountable for any legal infractions and should be subject to fines at least equal to the anticipated project income. Further controls and

---

[70] Starbucks, https://www.starbucks.com/responsibility/planet/ (last visited Mar. 28, 2023).
[71] Safeway, https://www.safewayenvironmental.ie/ (last visited Mar. 28, 2023).
[72]Dell, https://www.dell.com/en-in/dt/corporate/social-impact/advancing-sustainability.htm (last visited Mar. 28, 2023).
[73]Honda, https://csr.honda.com/environment/ (last visited Mar. 28, 2023).

deterrents, such as shutting down enterprises that repeatedly flout environmental standards, should be used in addition to administrative fines. The Law Commission recommended introducing a clause that would expose organizations that repeatedly break environmental regulations to public humiliation as well as the establishment of a public disclosure mechanism with a list of these offenders' names. It is necessary to strengthen India's environmental laws to develop a special corporate offences statute that outlines the necessary requirements, a penalty for non-compliance, a penalty amount appropriate to the offences committed, and a special provision for the directorial officers of the company's self-responsibility.[74]

In accordance with Article 48A[75] of the Indian Constitution, the State is mandated to preserve the nation's forests, animals, and environment. Every Indian citizen is required by Article 51A (g)[76] to safeguard and enhance the environment (including rivers, forests, lakes, and wildlife). Environmental degradation continues despite the aforementioned statutory and constitutional protections. The government is not concerned with the environment; it is only interested in lining its own pockets. Prior to the government encouraging these powerful firms to violate the environment, it is necessary to implement and make the Environmental Impact Assessment mandatory. According to the "public interest litigation" paradigm that the Supreme Court has established, a very public-spirited person may file a PIL with the Supreme Court in order to conserve and defend the environment. Because there aren't enough penalties under environmental legislation, MNCs elect to pay the fine rather than follow the enactments' requirements. Corporations may be penalised with fines and/or imprisonment. The method and the admissibility of evidence are not wholly governed by general statutes, and the environmental statutes are governed by the strict and absolute liability principle. The most significant information in this essay is that environmental crimes do not receive the same level of attention as other types of crimes and that afforestation and reforestation regulations must be followed. Article 21[77] states that no one may be deprived of their right to life or personal liberty unless done so in compliance with the law. Additionally,State is required to guarantee that firms comply with the Companies Act of 2013[78] requirements for corporate social responsibility in a way that benefits the environment and minimises environmental harm. The

---

[74]Ananya Agarwal, Redefining Corporate Criminal Liability With Respect to Environmental Crimes, 2 International Journal of Legal Science and Innovation 39 (2020).
[75]Supra note 16art. 48A.
[76]Supra note 16 art. 51A(g)
[77]Supra note at 16 art. 21
[78]Companies Act, 2013, No. 18, Acts of Parliament, 2013 (India).

most crucial information in this book is that while the Board of Directors has the authority to impose jail, corporations do not. If they have enough awareness of the actions the corporation took to harm the environment, even other officers like the manager and secretary may be subject to punishment. To ensure proper punishments, public knowledge of long-term environmental damage and regulatory bodies with moral standards to safeguard the environment from greedy enterprises, environmental laws need to be altered. By doing this, the public will be made aware of how significant long-term environmental damage is.