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# **A CRITICAL ANALYSIS ON ENVIRONMENTAL CRIMES AND CORPORATE RESPONSIBILITY IN INDIA**

## **INTRODUCTION**

Environmental protection laws exist worldwide but remain scattered, inconsistent, and too weak to truly punish those who cause environmental harm. Historically, environmental damage was handled through civil law by compensating victims, but as industrial pollution grew and affected entire populations, civil remedies proved too slow and ineffective. This pushed governments to introduce criminal law into environmental protection, using imprisonment and heavy penalties to deter harmful conduct. However, applying criminal law to environmental crimes is deeply problematic because environmental damage is hard to prove, victims are spread across large areas, and harm sometimes takes years to appear. In India, despite officially recording environmental crimes since 2014, the system remains badly flawed as fines are too small to deter corporations, laws are poorly structured, judges lack environmental expertise, and cases drag on for decades while destruction continues. The fundamental question that remains is whether criminal law, a system originally built to handle individual crimes, can ever truly become an effective tool for protecting the environment from large scale corporate destruction.

Green Criminology treats corporate environmental destruction as a serious crime rather than a minor rule violation. For years, corporations have polluted rivers, poisoned the air, and destroyed forests simply to maximize profits, escaping punishment through small fines, legal tricks, and political influence. Green Criminology challenges this by demanding real accountability, pushing for heavy penalties, criminal charges against responsible executives, and proper justice for communities that have suffered due to corporate greed. It exposes the deliberate pattern of corporate wrongdoing and gives governments and courts a stronger framework to ensure that no corporation, regardless of its size or power, can destroy the environment and walk away without truly facing the consequences of the damage it has caused.

Industrialization has driven economic growth worldwide, but corporations have increasingly misused their financial and political power to prioritize profits over the environment. Instead of adopting cleaner production methods, they dump toxic waste into rivers, release poisonous gases into the air, and burn fossil fuels despite knowing the damage it causes to the climate.

Poor communities living near industrial zones bear the worst consequences, suffering from polluted air, contaminated water, and destroyed livelihoods, while corporations use expensive

lawyers and political connections to escape accountability. Although the Environmental Impact Assessment framework was created to regulate corporate behavior by requiring environmental disclosures before project approvals, corporations manipulate even this system by hiring consultants to produce misleading reports and bribing officials to ignore environmental concerns. Principles like the Polluter Pays Principle, which requires corporations to bear the cost of the damage they cause, are regularly bypassed through legal delays and minimal fines. While courts have delivered strong judgments pushing corporations to take environmental responsibility seriously, the battle is far from won. As long as corporations hold disproportionate economic and political power, protecting the environment from corporate greed remains one of the most urgent and critical challenges of our time.

### **ENVIRONMENTAL CRIME- BACKGROUND STUDY**

Environmental protection has become a critical part of global concerns, yet legal frameworks governing environmental harm and damage remain fragmented and inconsistent. A fundamental question arises: what level of environmental harm or damages that's, worthy of criminal punishment rather than merely a civil wrong? The answer requires understanding how environmental protection evolved from a matter of private property rights to a concern of public health and ecological sustainability.

The harm principle originated from libertarian philosophy. That suggests individuals should be free to act, unless they do not harm others or the environment. However, environmental harm presents unique challenges to this principle. Unlike traditional crimes with clear victims, These environmental pollution affects multiple people across time and space, damages ecosystems with no legal standing and creates risks that may manifest years later. These characteristics have forced both civil and criminal law to adapt significantly.

Historically, environmental harms were addressed through tort law. The civil remedies, compensation provided for harm or loss occurred. However, as industrialization accelerated and environmental degradation became a mass phenomenon affecting entire populations and ecosystems, the limitations of civil remedies became ineffective. The Compensation sometimes could not restore damaged environments, and litigation was too slow to prevent ongoing pollution or to restore it back existing condition. This led to recognizing that environmental harm required criminal intervention, the state's power to prohibit activities, impose imprisonment, and deter harmful conduct through severe penalties.

## **CRIMINAL PRINCIPLES IN ENVIRONMENTAL HARM 2.2.1 THE HARM PRINCIPLE AND LEGAL LIABILITY**

The harm principle is a fundamental concept that guides both criminal and civil law. It came from libertarian ideas about individual freedom. The belief that people should be protected from government interference in their personal choices. Simply put, the harm principle says that people are free to do what they want to, as long as they don't hurt others. When actions do cause harm, society has the right to step in and make rules about what is allowed and what isn't.

Actions that involve force against another person or their property are clearly harmful. The government can respond to these actions in two ways: by making them crimes (criminal liability) or by treating them as wrongs that require compensation (civil liability). This protects people's legal rights and interests.

### **UNDERSTANDING OFFENSES AND CRIMES**

It's important to know the difference between an "offense" and a "crime," especially in environmental law where many violations are called offenses rather than crime. While people often think of offenses as minor violations and crimes as serious ones, the law sometimes treats these terms similarly. According to legal dictionaries, an offense is "a violation of the law" and can be either serious or minor. A crime is defined as "an act that the law makes punishable."

The key difference is that 'all crimes are offenses, but not all offenses are crimes'. Something is only considered a crime when it meets all the specific legal requirements of that particular crime. As people became more aware of how environmental damage harms human health, destroys homes and natural habitats, and ruins traditional ways of earning a living, society began to see these damages as legal problems. Initially, people treated environmental harm like other civil wrongs, as trespass, negligence, or nuisance cases where one person could sue another for damages. However, this approach wasn't enough. Pollution affects thousands of people at once, so simply paying money to individual victims seemed insufficient. Society felt that polluters needed to be punished more seriously.

### **EARLY HISTORY OF ENVIRONMENTAL CRIMINAL LAW:**

The first criminal laws against environmental damage appeared during the time of King Edward, when burning coal became illegal because it polluted the air. People who broke this rule faced extreme punishment like torture or execution. Environmental criminal laws became

more common during the Industrial Revolution, when factories caused serious pollution that damaged workers' health and made living conditions worse for entire communities.

Scholars Halsey and White describe two approaches to understanding what counts as "harm":

1. Legal approach: This looks at what the law specifically says is illegal. If a law forbids it, it's a crime.
2. Social approach: It includes not just what the law forbids, but also harmful practices that the law doesn't specifically address or allows to happen.

### **CRIMINAL INTENT AND ENVIRONMENTAL OFFENSES**

In traditional criminal law, a person is usually considered guilty only if they have a guilty mind or criminal intention, known as mens rea. This means the person must have knowingly committed a wrongful act with intent or awareness of wrongdoing. However, in environmental law, this strict requirement is changed because environmental harm is often complex, indirect, and caused by large-scale industrial activities.<sup>1</sup>

Instead of proving full criminal intent, environmental offences often rely on a lower standard called a "knowing violation." This means a person or company can be held responsible if they were aware that their actions were dangerous or could cause harm to people or the environment, even if they did not know every specific rule or legal requirement. This is sometimes described as a de minimis approach, where the focus is on general awareness of risk rather than detailed legal knowledge. In other words, it is enough that the accused knew their activity could be harmful, even if they did not fully understand the legal technicalities.

### **BURDEN AND STANDARD OF PROOF:**

The Indian Evidence Act (1872) generally requires the party making a claim to prove, the prosecution. The burden of proof normally shifts between parties depending on who is claiming and what are the fact. However, there are no specific sections in the Evidence Act dealing with environmental offenses.

In environmental criminal cases, the normal rule is reversed. The accused (the polluter) must prove that:

- They had no knowledge of the offense, OR
- They took all reasonable precautions to prevent the harm

This burden of proof is on the accused, not on the prosecution. This reversal goes against a fundamental principle of criminal law over the principal 'presumption of innocence'. In traditional criminal law, the prosecution must prove guilt "beyond reasonable doubt".

### **SENTENCING AND PUNISHMENTS:**

In criminal law, a sentence refers to the punishment that a court gives to a person after finding them guilty of an offence. This punishment may include imprisonment, fines, or both. The process through which the court decides the type and length of punishment is known as the sentencing process. Sentencing is a very important part of criminal justice because it determines how society responds to wrongdoing and whether punishment is strong enough to prevent future crimes.

A general principle in criminal law is that courts should prefer proportionate and lighter punishments, and if a harsher punishment is imposed, the court must clearly explain the reasons for it. This is meant to ensure fairness and avoid unnecessary severity in punishment.

In India, environmental laws generally provide for three main types of punishment:

- Minimum fines (basic monetary penalties)
- Maximum fines (upper limit of financial penalties)
- Imprisonment (custodial punishment in serious cases)

However, the application of these punishments in environmental cases has several structural problems.

### **MODELS OF CRIMINALIZING ENVIRONMENTAL HARM:**

Over time, many laws have started treating certain actions as crimes that were previously not considered criminal act. such as white-collar crimes (financial fraud) or new crimes like cybercrimes and environmental destruction. The European Union's Environmental Liability Directive (2004) requires polluters to pay for environmental damage through repair, prevention, or compensation either directly or through fines paid to authorities. Scholars Faure and Visser identified four different models that countries use to criminalize environmental harm. Each model takes a different approach to when and how environmental actions become crimes.

**Model A: Abstract Endangerment**

**Model B: Concrete Endangerment**

**Model C: Serious Environmental Pollution**

**Model D: Vague Statutes**

## **INDIAN JUDICIARY AND CRIMINAL SANCTIONS FOR ENVIRONMENTAL OFFENSES:**

When an environmental harm is criminalized, it becomes an environmental offense to which all the principles of criminal law can be applicable. The main principle of criminal law contains elements like, presumption of innocence, fair trial, and the burden of proof being on the prosecution. However, applying criminal law principles to environmental law faces serious difficulties. These difficulties include the imprecise definition of what environmental harm is, the difficulty of establishing cause and effect proving that a specific action caused specific harm, the complexity of examining scientific evidence and measuring how much harm was done are the elements that deciding whether the punishment is proportional to the crime or not.

As legal scholar H.L.A. Hart noted, while preventing crime is important, only the criminally guilty should be punished and only in proportion to the seriousness of their crimes. Stating in 2014, the National Crime Records Bureau (NCRB) introduced a chapter titled "offences against the environment" to officially track these crimes, many environmental criminal cases were decided by Indian High Courts and Supreme Court under specific environmental legislation, the Indian Penal Code (IPC), 1860, and the Criminal Procedure Code (CrPC), 1973.

From an environmental crime perspective, Indian environmental laws are not strong enough to deter a person from committing crime. There are several problems:

1. The prison sentences for first-time offenses are very short (miniscule).
2. There is no clear relationship between how much environmental damage was done and how harsh the punishment is.
3. imprisonment is not mandatory, judges can choose to impose only a fine, only imprisonment, or both. This discretion is left to the judge deciding the case. While judges can adjust the number of fines, they cannot go beyond the maximum prison sentence set by the law.

## **SIGNIFICANCE OF THESE PROPOSED AMENDMENTS:**

In 2022, the Ministry of Environment, Forest and Climate Change (MoEFCC) announced plans to amend the Environment Protection Act, 1986. The ministry invited suggestions and opinions from the public and interested organizations about these proposed changes. The most significant proposed amendments relate to the penalties for violating environmental laws. These proposed changes represent a major shift in how environmental crimes will be punished in India.

The proposed amendments suggest much stricter punishments than currently exist. For example, regarding the duty of owners and operators to provide assistance and information to environmental inspectors (Sections 10(2), 10(3), and 10(4)), the current law punishes violations with a fine up to 1 lakh rupees and 5 years imprisonment. If someone continues to violate this after a first conviction, they face an additional fine of Rs. 5,000 per day and imprisonment up to 7 years. This proposed amendment would replace the word "bound" with "render assistance as may be required" and move this violation to a new section called 14B. The proposed punishment under section 14B is much harsher: a fine of not less than 5 lakh rupees (500,000 rupees) extending up to Rs. 5 crore (50 million rupees), and if the violation continues, an additional daily fine of Rs. 1 lakh per day that can go up to Rs. 50 lakh per day. This represents a fifty-fold increase in the maximum fine.

## **LEGAL FRAMEWORK FOR ENVIRONMENTAL PROTECTION**

Green Criminology is a field of study that takes environmental harm as seriously as any other crime. Just like how criminology studies regular crimes such as theft or murder to find their causes and punish those responsible, Green Criminology does the same for environmental crimes. It looks deeply into why environmental damage happens, who is behind it, and how justice can be delivered to the people and communities who have suffered because of it.

The core idea behind Green Criminology is simple. Destroying a forest, polluting a river, or poisoning the air should be treated as a serious crime, not just a minor rule violation or a small fine that corporations can easily pay and move on. When a company dumps toxic waste into a water source and makes thousands of people sick, that is not just a regulatory issue. It is a crime, and the people responsible must be held accountable in the same way any criminal would be.

## **GREEN THEORETICAL FRAMEWORKS IN GREEN CRIMINOLOGY:**

Green Criminology does not depend on one fixed or strict theory. Instead, it works as an umbrella framework, meaning it includes many different approaches to study environmental harm and its connection with crime. Different researchers use different methods depending on what they are studying, such as pollution, wildlife crime, corporate environmental damage, or climate change.<sup>15</sup>

According to Rob White, one of the key scholars in this field, researchers should not force all environmental issues into a single rigid model. Instead, they should choose the most suitable approach based on the specific topic they are analyzing. This flexible approach allows Green Criminology to be applied to a wide range of environmental problems.

ENVIRONMENTAL JUSTICE:

### **GREEN CRIMINOLOGY, VALUES AND ENVIRONMENTAL CRIME (EXPANDED EXPLANATION)**

Green Criminology strongly argues that values, ethics, and moral beliefs play a central role in understanding environmental crime. It explains that laws are not created in isolation; instead, they are made by people who are influenced by their social, cultural, political, and moral values. Because of this, legal systems naturally reflect the dominant values of society at a particular time. In other words, what a society considers “harmful” or “criminal” is deeply shaped by what it believes is right or wrong.

Green Criminology therefore supports value-based research, where ethical and moral principles guide the study of environmental harm. This approach does not reject scientific evidence, but it argues that science alone is not enough to fully understand environmental crime. Values act as a guiding framework that helps connect different factors—such as law,

### **GREEN VICTIMOLOGY**

Green victimology is a significant aspect of green criminology, which tries to identify and quantify the damage of environmental crimes. The old fashioned victimology aims at assisting crime victims, giving them a voice and guarding their rights. Nevertheless, the traditional victimology has one significant issue: they overlook those victims who are victimized by the strong forces such as the government and big corporations. This is a grave error since such victims are the ones who require protection most more so when there is such a big disparity between the offender and the victim. This is a lack of balance of power, between governments and poor people, human beings and nature.<sup>23</sup>

In order to grasp the victimization of many people in environmental crimes we can consider them as street crimes.

## **CONCLUSION AND SUGGESTION**

As a result, many environmental disputes in India are increasingly addressed through mechanisms such as Public Interest Litigation (PIL), which allow courts to intervene more flexibly in matters of public concern. Nevertheless, corporate influence remains a significant obstacle to effective environmental governance. Large corporations often possess substantial financial resources, access to expert legal representation, and, in some cases, political connections, enabling them to evade strict enforcement or dilute regulatory actions. This imbalance of power weakens the overall effectiveness of environmental laws.

In conclusion, while the incorporation of criminal law into environmental protection represents an important step forward, it is not sufficient in isolation. There is a pressing need for comprehensive reforms, including clearer and more cohesive legislation, stronger and better-equipped enforcement agencies, and the development of advanced scientific investigation techniques. The establishment of specialised environmental courts or tribunals, along with proper training for judges and regulatory officials in environmental science and technology, is also essential. Only through a coordinated and well-informed approach can India effectively address corporate environmental crime and ensure that penalties are proportionate to the harm caused to individuals, society, and the ecosystem at large.