

Strict and Absolute Liability in Environmental Crimes: Evolution and Application in India

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Abstract- The doctrine of strict liability, originating in the English common law case of Rylands v. Fletcher (1868), underwent a transformative evolution in Indian jurisprudence through the landmark judgment of M.C. Mehta v. Union of India (1987), wherein the Supreme Court of India propounded the doctrine of absolute liability – a rule without exceptions. This paper critically examines the conceptual distinction between strict liability and absolute liability, traces their historical development in English and Indian law, and analyses their application in the context of environmental crimes in India. The paper further explores the legislative framework governing environmental protection in India, including the Environment Protection Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981. Through an analysis of significant judicial pronouncements, the paper evaluates the effectiveness and limitations of these doctrines in addressing contemporary environmental challenges. The study concludes that while absolute liability has strengthened environmental jurisprudence in India, lacunae in enforcement, institutional capacity, and legislative gaps continue to impede its full potential.

Keywords: *Strict Liability, Absolute Liability, Environmental Crimes, M.C. Mehta, Rylands v. Fletcher, Environmental Law, India, Polluter Pays Principle.*

I. INTRODUCTION

The rapid industrialisation and technological advancement of the twentieth and twenty-first centuries have brought unprecedented environmental challenges in their wake. Industrial activities, mining operations, chemical manufacturing, and energy production have caused incalculable damage to ecosystems, water bodies, air quality, and public health. The question of who bears legal responsibility for such environmental harm, and to what extent, lies at the heart of environmental law.

Traditional tort law, with its emphasis on fault and negligence, proved inadequate to address the scale and complexity of industrial environmental damage. The common law doctrine of strict liability, as formulated in *Rylands v. Fletcher*,¹ offered a partial solution by imposing liability without proof of fault for the escape of dangerous things from one's land. However, the exceptions carved out under this doctrine – such as act of God, consent of the plaintiff, and act of a stranger – significantly diluted its effectiveness in environmental contexts.

It was against this backdrop that the Supreme Court of India, in the celebrated case of *M.C. Mehta v. Union of India* (the Shriram Gas Leak case),² crafted the doctrine of absolute liability – a rule of no exceptions that applies to enterprises engaged in inherently dangerous or hazardous activities. This paper undertakes a comprehensive examination of both doctrines, their doctrinal underpinnings, statutory expressions, and judicial application in the domain of environmental crimes in India.

India's environmental legal framework is multi-layered, comprising constitutional provisions, central and state legislation, international obligations, and judge-made law. Together, these form a comprehensive, if imperfectly enforced, architecture for environmental protection. The role of strict and absolute liability within this architecture is indispensable, as it provides the primary mechanism for deterrence, compensation, and remediation in cases of environmental crime.

II. STRICT LIABILITY: ORIGINS AND PRINCIPLES

2.1 The Rule in *Rylands v. Fletcher*

The doctrine of strict liability finds its classical formulation in the House of Lords decision in *Rylands*

v. Fletcher (1868).³ In that case, the defendant had engaged contractors to construct a reservoir on his land. Due to the negligence of the contractors, old mine shafts were not properly sealed, and as a result, water from the reservoir flooded the plaintiff's mines. The House of Lords, affirming the Exchequer Chamber, held the defendant strictly liable for damage caused by the escape of water from his land, even though the defendant himself was not negligent.

Justice Blackburn formulated the rule as follows: a person who, for his own purposes, brings on his land and collects and keeps anything likely to do mischief if it escapes must keep it at his peril, and if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape. The rule thus rests on the concept of non-natural use of land and the escape of dangerous substances.

2.2 Exceptions to Strict Liability

The strict liability rule under *Rylands v. Fletcher* is subject to several well-established exceptions, which have been recognised and applied by courts. These exceptions include: (i) Act of God – where the escape was caused by natural forces that no human foresight could guard against; (ii) Act of a stranger – where the escape was caused by the unforeseeable act of a third party; (iii) Consent of the plaintiff – where the plaintiff has expressly or impliedly consented to the presence of the thing; (iv) Common benefit – where the thing is maintained for the mutual benefit of both the plaintiff and the defendant; and (v) Statutory authority – where the act causing the harm is authorised by statute.

These exceptions significantly restricted the practical utility of the doctrine, particularly in environmental cases. The act of stranger exception was especially problematic, as industrial enterprises could escape liability by attributing escapes to the conduct of workers or third parties. The Bhopal Gas Tragedy of 1984, in which toxic methyl isocyanate gas leaked from the Union Carbide plant, killing thousands, starkly exposed these deficiencies.⁴

III. ABSOLUTE LIABILITY: THE INDIAN INNOVATION

3.1 *M.C. Mehta v. Union of India* (1987) – The Shriram Gas Leak Case

The doctrine of absolute liability was evolved by the Supreme Court of India in *M.C. Mehta v. Union of India* (the Shriram Food and Fertilizers case).⁵ In December 1985, oleum gas leaked from the Shriram Food and Fertilizers complex in Delhi, causing death and injury to several persons. The Supreme Court was called upon to determine the liability of the company. Chief Justice P.N. Bhagwati, writing for a Constitution Bench, held that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such activity, the enterprise is strictly and absolutely liable to compensate all those affected, regardless of any exceptions. The rule, he declared, was absolute and did not admit of any exceptions, including act of God or act of a third party.

The Court further held that the measure of compensation must be co-related to the magnitude and capacity of the enterprise, so that the rule serves as a deterrent against such enterprises. This aspect of the ruling introduced an element of punitive or exemplary damages into the civil liability framework, far beyond the compensatory approach of the *Rylands* rule.

3.2 Rationale for the Departure from *Rylands v. Fletcher*

The Supreme Court in *M.C. Mehta* articulated several reasons for departing from the strict liability rule and evolving a new, distinctly Indian principle. First, the Court observed that *Rylands v. Fletcher* was decided in the context of the relatively benign industrial conditions of nineteenth-century England, and was therefore inadequate to address the complexities of modern industrial enterprise. Second, as the highest court of a sovereign nation, the Supreme Court was not bound by English precedent and could devise a rule suited to Indian conditions and aspirations.

Third, and most importantly, the Court recognised that in an era of rapid industrialisation, the risks associated with hazardous enterprises must be borne by those who profit from them and have the capacity to take preventive measures. This rationale echoes the broader

principle of enterprise liability and the economic theory of risk-bearing, under which liability is allocated to the party best placed to prevent the harm and to insure against it.

IV. LEGISLATIVE FRAMEWORK FOR ENVIRONMENTAL CRIMES IN INDIA

4.1 Constitutional Provisions

The Constitution of India contains several provisions that provide the constitutional foundation for environmental protection. Article 48A (inserted by the 42nd Amendment, 1976) directs the State to endeavour to protect and improve the environment and to safeguard forests and wildlife. Article 51A(g) imposes a fundamental duty on every citizen to protect and improve the natural environment.

More significantly, the Supreme Court has, through creative constitutional interpretation, read the right to a clean and healthy environment into Article 21 (right to life and personal liberty).⁶ This constitutionalisation of environmental rights has provided the judiciary with a powerful instrument for environmental protection and has facilitated the expansion of judicial review in environmental matters.

4.2 The Environment (Protection) Act, 1986

Enacted in the aftermath of the Bhopal Gas Tragedy, the Environment (Protection) Act, 1986 (EPA) is the umbrella legislation for environmental protection in India. The Act empowers the Central Government to take all necessary measures for protecting and improving the quality of the environment. Section 15 of the Act provides that whoever fails to comply with or contravenes any provision of the Act shall be punishable with imprisonment for a term up to five years and a fine up to one lakh rupees, or both, with enhanced punishment for continuing violations.⁷

The Act introduced the concept of strict liability for environmental offences, in the sense that it does not require the prosecution to prove negligence or intent. Proof of violation of the statutory standard is itself sufficient to attract criminal liability. This feature aligns the legislative approach with the judicial doctrine of absolute liability, and represents a significant departure from traditional criminal law requirements of mens rea.

4.3 Water and Air Pollution Legislation

The Water (Prevention and Control of Pollution) Act, 1974, was India's first major environmental legislation, establishing Central and State Pollution Control Boards with powers to set standards and enforce compliance. Sections 43 and 44 prescribe criminal penalties for causing water pollution.⁸ Similarly, the Air (Prevention and Control of Pollution) Act, 1981 establishes standards for air quality and imposes obligations on industries to control air pollution. Section 37 provides for imprisonment and fine for contravention of its provisions.⁹

4.4 Indian Penal Code and Environmental Crimes

The Indian Penal Code, 1860 contains provisions that are applicable to environmental crimes, although they were not specifically designed for that purpose. Section 304A penalises causing death by negligence, and has been invoked in industrial disaster cases. Section 277 penalises fouling water of public springs or reservoirs, and has been applied to cases of industrial effluent discharge. Section 278 penalises making the atmosphere noxious to health.¹⁰

V. JUDICIAL APPLICATION: KEY CASES AND PRINCIPLES

5.1 Indian Council for Enviro-Legal Action v. Union of India (1996)

In *Indian Council for Enviro-Legal Action v. Union of India*,¹¹ the Supreme Court applied the principle of absolute liability to chemical industries in Rajasthan that had discharged untreated effluents containing hazardous chemicals, causing serious environmental damage. The Court directed the industries to pay compensation for remediation and applied the 'Polluter Pays' principle, holding that the financial burden of environmental remediation must fall on the polluting enterprise.

5.2 Vellore Citizens Welfare Forum v. Union of India (1996)

The Supreme Court in *Vellore Citizens Welfare Forum v. Union of India*¹² addressed the severe water and soil pollution caused by tanneries in Tamil Nadu. The Court formally recognised the 'Polluter Pays' principle and the 'Precautionary Principle' as part of Indian law, drawing upon the Rio Declaration on Environment and

Development, 1992. The Court ordered closure of tanneries that failed to install effluent treatment plants and directed payment of compensation.

5.3 Sterlite Industries (India) Ltd. v. Union of India (2013)

In *Sterlite Industries (India) Ltd. v. Union of India*,¹³ the Supreme Court upheld the closure of Sterlite's copper smelting plant in Tuticorin, Tamil Nadu, on account of persistent and repeated violations of environmental norms causing air and water pollution. The Court levied substantial compensation and penalties, exemplifying the deterrent function of absolute liability in environmental enforcement.

5.4 Role of the National Green Tribunal

The National Green Tribunal (NGT), established under the National Green Tribunal Act, 2010,¹⁴ has become a vital institutional mechanism for the enforcement of environmental liability in India. The Tribunal has jurisdiction over civil cases arising from environmental disputes, including enforcement of the right to healthy environment, and has the power to award compensation and impose penalties. The NGT has consistently applied the principles of absolute liability, the Polluter Pays principle, and the Precautionary Principle, significantly expanding the reach of environmental jurisprudence.

VI. COMPARATIVE ANALYSIS: STRICT VS. ABSOLUTE LIABILITY

The distinction between strict and absolute liability in the environmental context is not merely academic; it has significant practical consequences for the extent of corporate responsibility and the protection afforded to victims and the environment. The following table summarises the principal differences between the two doctrines:

Basis of Distinction	Strict Liability (Rylands v. Fletcher)	Absolute Liability (M.C. Mehta)
Origin	English Common Law (1868)	Indian Supreme Court (1987)

Basis of Distinction	Strict Liability (Rylands v. Fletcher)	Absolute Liability (M.C. Mehta)
Exceptions	Several (Act of God, Act of stranger, etc.)	No exceptions whatsoever
Nature of Activity	Non-natural use of land	Inherently dangerous/hazardous activity
Escape Requirement	Physical escape from defendant's land required	No escape requirement; liability arises from activity itself
Quantum of Compensation	Compensatory only	Correlates with magnitude of enterprise (deterrent)
Applicability	Private and commercial activities	Primarily large industrial enterprises

The absolute liability rule, as applied in India, represents a significant doctrinal advance over strict liability. By eliminating all defences, it ensures that the burden of catastrophic environmental harm does not fall on victims who are least equipped to bear it. The deterrent aspect of the doctrine – whereby compensation is calibrated to the capacity of the enterprise – further strengthens its preventive function.

VII. INTERNATIONAL DIMENSIONS AND INDIA'S OBLIGATIONS

India's approach to environmental liability does not exist in isolation from the international legal order. India is a party to several international environmental agreements and has adopted the principles enunciated in them as part of domestic law. The Stockholm Declaration on Human Environment (1972)¹⁵ established the foundational principle that states have the sovereign right to exploit their own resources, but also the responsibility to ensure that activities within

their jurisdiction do not cause damage to the environment of other states or areas beyond national jurisdiction.

The Rio Declaration on Environment and Development (1992) further elaborated the Polluter Pays principle (Principle 16) and the Precautionary Principle (Principle 15), both of which have been absorbed into Indian environmental jurisprudence through decisions such as *Vellore Citizens Forum and Research Foundation for Science v. Union of India*.¹⁶ The Public Liability Insurance Act, 1991, enacted in the aftermath of Bhopal, requires owners of hazardous industries to take out insurance to provide immediate relief to persons affected by accidents.¹⁷ This legislative measure operationalises the principle of absolute liability in a practical insurance mechanism, ensuring that compensation is not merely a judicial aspiration but an economic reality.

VIII. CHALLENGES AND LIMITATIONS

8.1 Enforcement Deficit

Despite the doctrinal strength of the absolute liability rule and a robust legislative framework, environmental enforcement in India faces significant challenges. Pollution Control Boards are frequently understaffed and under-resourced, and are susceptible to regulatory capture by industry. Criminal prosecutions under environmental statutes are rarely initiated and even more rarely result in conviction. The institutional capacity for monitoring, sampling, and prosecution is inadequate relative to the scale of environmental crime.

8.2 Mens Rea and Corporate Liability

While strict and absolute liability operate without the requirement of fault in civil law, the position in criminal environmental law is more complex. The Indian Penal Code requires proof of mens rea for most offences, and courts have sometimes been reluctant to apply environmental statutory offences without any element of knowledge or intent on the part of corporate actors. The identification of responsible individuals within large corporate hierarchies remains a persistent challenge.

8.3 Balancing Development and Environment

Indian courts have also grappled with the tension between environmental protection and developmental imperatives. In *Narmada Bachao Andolan v. Union of India*,¹⁸ the Supreme Court permitted the continuation of the Sardar Sarovar Project despite environmental concerns, balancing the benefits of irrigation and power generation against the cost of displacement and ecological damage. Such decisions reflect the inherent tension between the absolute nature of environmental liability and the pragmatic demands of economic development.

8.4 Public Trust Doctrine and Accountability

The public trust doctrine, increasingly invoked by Indian courts,¹⁹ posits that the state holds natural resources as a trustee for the public. This doctrine creates a further layer of accountability over and above the private law principles of strict and absolute liability. However, accountability of the State itself as a party to environmental harm – through grant of polluting licences or failure of oversight – remains insufficiently developed in Indian law.

IX. THE WAY FORWARD: SUGGESTIONS FOR REFORM

In light of the foregoing analysis, the following reforms are suggested to strengthen the doctrine of absolute liability in the context of environmental crimes in India. First, there is an urgent need for legislative codification of the absolute liability principle, so that it is no longer solely a judicial construct but has statutory force with defined scope, standards of compensation, and procedural mechanisms. Second, dedicated environmental courts at the district and high court levels, with trained judges and scientific advisers, would improve the quality and speed of adjudication in environmental matters.

Third, the enhancement of institutional capacity of pollution control boards, including increased budgetary allocations, trained enforcement personnel, and modern testing infrastructure, is essential for effective environmental crime prosecution. Fourth, India should adopt clear provisions for corporate criminal liability, including personal liability of directors and officers for systematic environmental

violations, moving beyond the current pattern of nominal fines that do not deter large enterprises.

Fifth, mandatory environmental impact assessments, independent third-party audits, and real-time pollution monitoring linked to centralised regulatory databases would provide a stronger evidential foundation for enforcement proceedings. Sixth, in the spirit of the T.N. Godavarman²⁰ line of cases, a standing environmental commission with suo motu powers could continuously monitor compliance with environmental orders and impose immediate consequences for violations.

X. CONCLUSION

The evolution from strict liability to absolute liability represents one of the most significant contributions of Indian constitutional jurisprudence to global environmental law. The Supreme Court, in a bold act of judicial creativity, recognised that the doctrines of nineteenth-century English common law were ill-suited to the realities of modern industrial India, and fashioned a rule that places the full burden of hazardous industrial activity on those who profit from it.

The legislative framework for environmental crimes in India, including the EPA 1986, the Water Act 1974, and the Air Act 1981, provides a comprehensive regime of strict statutory liability that reinforces the judicial doctrine. The National Green Tribunal has further institutionalised environmental justice, making it more accessible, expeditious, and expert.

Nevertheless, the gap between doctrinal aspiration and enforcement reality remains wide. Challenges of institutional capacity, corporate accountability, and the development-environment tension continue to impede the full realisation of environmental justice. The reform agenda suggested in this paper, if implemented, would significantly strengthen the architecture of environmental liability in India, ensuring that the promise of M.C. Mehta is translated from judicial dictum into lived reality.

In conclusion, the doctrines of strict and absolute liability, supported by a robust legislative framework and an increasingly proactive judiciary, constitute the

cornerstone of India's environmental crime jurisprudence. Their continued development and effective enforcement are indispensable to the achievement of sustainable development and environmental justice in India.

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