

CORPORATE RESPONSIBILITY IN ENVIRONMENT PROTECTION: LEGAL FRAMEWORK AND GAPS

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BEST CITATION – MS. DIWANSHI ROHATGI, CORPORATE RESPONSIBILITY IN ENVIRONMENT PROTECTION: LEGAL FRAMEWORK AND GAPS, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (1) OF 2024, PG. 936-943, APIS – 3920 – 0001 & ISSN – 2583-2344.

Corporate Responsibility towards Environment or Corporate Environment Responsibility (CER) embodies a paradigm shift in corporate ethos, emphasizing the accountability of organizations beyond mere financial success. It encapsulates the commitment of businesses to minimize their ecological footprint, conserve resources, and proactively address environmental challenges. Moreover, corporate environment responsibility encompasses strategies that integrate environmental sustainability into core business models, fostering innovation and competitiveness while mitigating adverse impacts on ecosystems. CER is not just about altruism; it is increasingly tied to corporate reputation, customer preferences, and investor interests. Stakeholders, including consumers, investors, and regulatory bodies, are placing greater emphasis on company's environmental practices. Businesses that prioritize CER often experience enhanced brand image, improved competitiveness, and stronger relationships with stakeholders. The paper begins by providing an overview of the legal framework on CER obligations. It explores how international agreements, such as the Paris agreement and Sustainable Development Goals, influence national legislation, creating a domino effect that shapes corporate responsibilities towards environmental conservation. However, within this framework, a notable gap lies that impede the efficacy of corporate environment responsibility. These gaps manifest in ambiguities surrounding enforcement mechanisms, inconsistencies in compliance requirements across jurisdictions, and insufficient penalties for non-compliance. Moreover, emerging environmental challenges often outpace the evolution of regulatory measures, leaving a void that corporations may exploit. The paper highlights the loopholes or shortcomings in existing environmental regulations concerning corporate responsibility, influence of stakeholders in driving corporate environment responsibility, enforcement action against corporations failing to adhere to environmental standards and, proposed reforms in legal frameworks to enhance corporate accountability in environmental protection in India.

Keywords: *Corporate Environment Responsibility (CER), Legal Framework, Loopholes, enforcement action, proposed reforms.*

I. INTRODUCTION

Corporate responsibility towards environment refers to a corporation's commitment and obligation to conduct its operation in an environmentally sustainable and responsible manner. It involves considering and mitigating the harmful environmental impact of business activities while pursuing economic objectives. It goes beyond mere compliance with regulations; it encompasses voluntary efforts by corporations to minimize their ecological

footprint and contribute positively to environmental sustainability.¹⁶³²

Corporate environment responsibility (CER) aims to minimize adverse effects of corporate activities on ecosystems, reducing pollution, resource depletion, and habitat destruction. Encourages the adoption of renewable

¹⁶³² Kunal Saini, *Corporate Environmental Responsibility: An Uncharted Territory in the Indian Environmental Landscape*, Bar and Bench (Dec. 18, 2023, 12:00 PM), <https://www.barandbench.com/apprentice-lawyer/corporate-environmental-responsibility-an-uncharted-territory-in-the-indian-environmental-landscape>.

resources, waste reduction, and energy efficiency, contributing to long-term environmental sustainability. Embracing CER fosters innovation, driving the development of eco-friendly products and services that cater to evolving consumer preferences and regulatory demands.

Companies that prioritize environmental responsibility are better equipped to manage regulatory risks and potential legal liabilities, safeguarding their long-term financial health. Moreover, integrating sustainable practices often leads to cost savings through optimized resource usage and streamlined processes.¹⁶³³

Also, by demonstrating commitment to environmental responsibility builds trust among stakeholders, including customers, investors, employees, and communities. Companies often enjoy a positive brand image, leading to increased brand loyalty and market differentiation. The responsible corporate behaviour positively impacts local communities by promoting clean environments, better health, and improved quality of life.

Some of the examples are:

Tata Steel: Known for its initiatives in sustainable mining, energy efficiency, and reducing carbon emissions.

Tata Motors: Focuses on manufacturing electric vehicles and developing sustainable mobility solutions.

Tata Power: Engaged in renewable energy projects and committed to reducing its carbon footprint.

Infosys: Known for its commitment to sustainability and green initiatives, Infosys has implemented various measures to reduce energy consumption, manage waste, and promote renewable energy.

Wipro: Actively pursued environmental sustainability through its initiatives like reducing carbon emissions, water conservation efforts, and green technology innovations.

Mahindra & Mahindra: Engaged in producing electric vehicles, focusing on sustainable agriculture, and implementing green manufacturing practices.

Mahindra Susten: Focuses on renewable energy projects and sustainable solutions in the energy sector.

ITC Limited: Known for its commitment to sustainable agriculture, water stewardship, and reducing its carbon footprint across various operations.

Hindustan Unilever Limited (HUL): Committed to reducing its environmental impact through sustainable sourcing, water conservation, and waste reduction initiatives.

UltraTech Cement: Focused on reducing emissions and adopting sustainable practices in cement production.

Corporations have adopted best practices to reduce environmental harm and promote sustainability. To quote some prominent strategies inculcated by corporations are:

Corporations in India are increasingly sourcing energy from renewable sources like solar, wind, or hydroelectric power. Building on-site renewable energy installations to power operations sustainably. Implementing energy-efficient technologies and equipment to reduce energy consumption and streamlining processes to minimize energy waste and improve overall efficiency.¹⁶³⁴ Adopting practices that reduce waste generation at the source. Implementing robust recycling programs and embracing circular economy principles to minimize waste and promote reuse.¹⁶³⁵ Collaborating with suppliers

¹⁶³³ M. S. SAI VINOD & N. SIVAKUMAR, *Corporate Environmental Responsibility of Indian Companies Comprising the Nifty Index: Analysis and Categorization*, (Dec. 18, 2023, 12:15 PM), https://www.researchgate.net/publication/329610124_CORPORATE_ENVIRONMENTAL_RESPONSIBILITY_OF_INDIAN_COMPANIES_COMPRISING_THE_NIFTY_INDEX_ANALYSIS_AND_CATEGORIZATION.

¹⁶³⁴ Atul Mudaliar, *Corporate renewable energy sourcing: the way to 100% renewable electricity in India*, (Dec. 19, 2023, 15:24 PM), <https://www.theclimategroup.org/our-work/news/corporate-renewable-energy-sourcing-way-100-renewable-electricity-india>.

¹⁶³⁵ Sadhan Kumar Ghosh, Sannidhya Kumar Ghosh & Rahul Baidya, *Circular Economy in India: Reduce, Reuse, and Recycle Through Policy Framework*, (Dec. 19,

committed to sustainability and responsible sourcing. Prioritizing environmentally friendly products and materials in procurement processes. Implementing systems to recycle and reuse water within operations. Employing technologies and practices that minimize water consumption. Investing in projects that offset carbon emissions to neutralize their impact. Setting and achieving ambitious targets for reducing greenhouse gas emissions. Developing and promoting products that are environmentally friendly and have a lower carbon footprint. Conducting assessments to understand and minimize the environmental impact of products throughout their life cycle. Regularly reporting environmental performance and progress on sustainability goals to stakeholders. Providing transparent information about environmental practices and initiatives. Engaging with local communities and stakeholders on environmental initiatives. Training and educating employees on sustainability practices to foster a culture of environmental responsibility. Supporting environmental conservation initiatives, reforestation, and biodiversity conservation. Contributing to local communities through environmental programs and initiatives.

II. LEGAL FRAMEWORKS FOR CORPORATE ENVIRONMENTAL RESPONSIBILITY

A. Environmental Protection Acts and Regulations:

The Environment (Protection) Act, 1986: Forms the basis for environmental governance in India, providing powers to the central government to take necessary measures to protect and improve the environment.¹⁶³⁶

The Water (Prevention and Control of Pollution) Act, 1974: Regulates water pollution and establishes boards for the prevention and control of water pollution.¹⁶³⁷

The Air (Prevention and Control of Pollution) Act, 1981: Addresses air pollution and sets standards for emissions from industries.¹⁶³⁸

The Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016: Governs the management and handling of hazardous wastes.

The Wildlife Protection Act, 1972: Aims to protect wildlife and their habitats, regulating activities that may harm them.¹⁶³⁹

B. National Green Tribunal (NGT):

Established under the National Green Tribunal Act, 2010, to hear cases relating to environmental protection and conservation.

C. Corporate Social Responsibility (CSR) Reporting:

Section 135 of Companies Act, 2013: Mandates certain qualifying companies to spend a portion of their profits on CSR activities, which can include environmental sustainability initiatives. Companies are required to report on CSR activities in their annual reports.¹⁶⁴⁰

D. Environmental Impact Assessments (EIA):

EIA Notification, 2006 (as amended): Requires industries and projects falling under specific categories to undergo an environmental impact assessment before initiation.

E. Pollution Control Boards:

State Pollution Control Boards monitor and regulate pollution levels, emission standards, and waste management activities within their respective states.

F. Renewable Energy and Energy Conservation:

National Action Plan on Climate Change: Encourages the promotion of renewable energy and energy-efficient practices to address climate change.

2023, 16:00 PM), https://link.springer.com/chapter/10.1007/978-981-16-0913-8_6.

¹⁶³⁶ The Environment (Protection) Act, 1986, No. 29, Act of Parliament, 1986 (India).

¹⁶³⁷ The Water (Prevention and Control of Pollution) Act, 1974, No. 6, Act of Parliament, 1974 (India).

¹⁶³⁸ The Air (Prevention and Control of Pollution) Act, 1981, No. 14, Act of Parliament, 1981 (India).

¹⁶³⁹ The Wildlife Protection Act, 1972, No. 53, Act of Parliament, 1972 (India).

¹⁶⁴⁰ The Companies Act, 2013, No. 18, Act of Parliament, 2013 (India).

Energy Conservation Act, 2001: Promotes energy efficiency and conservation measures in industries.

G. Biodiversity Conservation:

Biological Diversity Act, 2002: Aims to conserve biological diversity and regulate access to biological resources and associated knowledge.¹⁶⁴¹

H. Sustainable Development Goals (SDGs):

India aligns its policies with the United Nations' SDGs, including goals related to environmental sustainability, such as climate action and life on land.

India has been a signatory to several international agreements and treaties that address environmental protection and sustainability. These agreements align with Corporate Environmental Responsibility by emphasizing the importance of conservation, pollution control, and sustainable development. Some of the key international agreements and collaborations involving India related to CER includes:

Paris Agreement: Aimed at combatting climate change and keeping global temperature rise well below 2 degrees Celsius. India is a signatory and has committed to reducing its carbon intensity and increasing the share of renewable energy in its energy mix. Encourages India to adopt sustainable practices, reduce emissions, and promote clean energy, influencing corporate strategies towards environmental responsibility.¹⁶⁴²

Montreal Protocol on Substances that Deplete the ozone Layer: Aims to phase out the production and use of ozone-depleting substances. India is a party to the protocol and has undertaken measures to reduce the use of ozone-depleting substances. Corporates involved in manufacturing or using these substances are obligated to comply with

restrictions and find alternatives, aligning with environmental responsibility.

Convention on Biological Diversity (CBD): Focuses on the conservation and sustainable use of biodiversity. India is a signatory and has implemented measures to protect its rich biodiversity. It encourages businesses to consider biodiversity conservation in their operations, impacting industries involved in natural resource extraction and utilization.¹⁶⁴³

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal: Regulates the movement and disposal of hazardous wastes across international borders.¹⁶⁴⁴ India is a party and regulates the management and disposal of hazardous wastes. It affects industries involved in generating hazardous wastes, imposing responsibilities on their proper management and disposal.

International Labour Organization (ILO) Conventions: Several ILO conventions emphasize sustainable development, occupational health, and safety. India has ratified various ILO conventions and works towards aligning labour practices with environmental sustainability. It encourages corporations to maintain environmentally safe workplaces and sustainable labour practices.¹⁶⁴⁵

III. LOOPHOLES OR SHORTCOMINGS IN EXISTING ENVIRONMENTAL REGULATIONS CONCERNING CORPORATE RESPONSIBILITY

While environmental regulations in India have made significant strides, several loopholes or shortcomings still persist, impacting effective corporate environmental responsibility. Some identified loopholes are stated herein below:

¹⁶⁴¹ Biological Diversity Act, 2002, No. 18, Act of Parliament, 2003 (India).

¹⁶⁴² *Historic Paris Agreement on Climate Change*, (Dec. 20, 2023, 11:00 AM), https://unfccc.int/files/press/press_releases_advisories/application/pdf/pr_20151112_cop21_final.pdf.

¹⁶⁴³ *Convention on Biological Diversity*, United Nation Decades of Biodiversity, (Dec. 20, 2023, 11:55 AM), <https://www.cbd.int/undb/media/factsheets/undb-factsheets-en-web.pdf>.

¹⁶⁴⁴ *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal*, United Nations Audiovisual Library of International Law, (Dec. 20, 2023, 16:00 PM), https://legal.un.org/avl/pdf/ha/bcctmhwd/bcctmhwd_ph_e.pdf.

¹⁶⁴⁵ *International labour standards: A global approach*, International Labour organization, (Dec. 20, 2023, 16:35 PM), https://www2019.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_087692/lang-en/index.htm.

Weak or Inadequate enforcement of environmental regulations leads to non-compliance by some companies. Resource constraints and lack of skilled personnel in regulatory agencies hinder effective enforcement. Lack of clarity in some regulations leads to interpretation variances and compliance challenges for corporations. Different interpretations of rules across States may result in disparities in enforcement. Delays in obtaining environmental clearances for projects contribute to project cost escalations and operational delays for corporations. Lack of transparency in approval processes can lead to corruption and favouritism. Limited monitoring capabilities result in gaps in overseeing compliance with environmental standards. Inconsistent or inaccurate reporting by companies hampers transparency in environmental disclosures. Regulations often prioritize end-of-pipe solutions rather than emphasizing pollution prevention strategies. Fines and penalties for environmental violations might be insufficient to deter non-compliance, making it economically viable for some companies to flout regulations. Regulations might not adequately hold corporate leadership or decision-makers accountable for environmental damages. Gaps in handling and disposing of hazardous wastes may lead to improper disposal practices. Environmental regulations might not always align or integrate seamlessly with sector-specific regulations, leading to inconsistencies and overlaps.

Addressing these loopholes and shortcomings in environmental regulations is crucial to enhancing corporate environmental responsibility and by strengthening the enforcement mechanisms, enhancing transparency, promoting pollution prevention strategies, ensuring swift approvals, and imposing adequate penalties for non-compliance can significantly improve the efficacy of these regulations. Additionally, fostering collaboration between regulatory bodies, promoting innovation for sustainable practices, and integrating environmental

considerations into policymaking can further bolster corporate environmental responsibility efforts.

IV. INFLUENCE OF STAKEHOLDERS IN DRIVING CORPORATE ENVIRONMENTAL RESPONSIBILITY

Consumer Influence:

Increasing consumer awareness and preference for environmentally friendly products and services push corporations to adopt sustainable practices.¹⁶⁴⁶ Consumers tend to Favor brands demonstrating environmental responsibility, encouraging companies to invest in sustainable initiatives to maintain loyalty.

Investor Pressure:

Environmental, Social, and Governance (ESG) criteria are increasingly crucial for investors. They prioritize companies with strong ESG practices, including environmental responsibility, for investment.¹⁶⁴⁷ Shareholders may pressure companies through resolutions or engagement to improve environmental performance, influencing corporate strategies.

NGO Advocacy and Activism:

NGOs play a vital role in raising awareness about environmental issues and pressuring corporations to adopt responsible practices through campaigns and advocacy. NGOs often monitor corporate activities, highlighting environmental violations or shortcomings, driving companies to improve practices to avoid reputational damage.¹⁶⁴⁸

Regulatory and Policy Influences:

NGOs may lobby governments for stricter environmental regulations, influencing policymakers to enact or enforce stronger

¹⁶⁴⁶ Greg Petro, *Consumers Demand Sustainable Products and Shopping Formats*, Forbes, (Dec. 20, 2023, 18:12 PM), <https://www.forbes.com/sites/gregpetro/2022/03/11/consumers-demand-sustainable-products-and-shopping-formats/?sh=3e16bbde6a06>.

¹⁶⁴⁷ *Sustainable environmental, social and governance (ESG)*, BSI, (Dec. 20, 2023 19:00 PM), <https://www.bsigroup.com/en-GB/insights-and-media/insights/blogs/sustainable-environmental-social-and-governance-esg/>.

¹⁶⁴⁸ *Role of NGOs in environmental protection*, BalRakshaBharat, (Dec. 20, 2023, 20:15 PM), <https://balrakshabharat.org/blog/others/role-of-ngos-in-environmental-protection/>.

environmental laws. Governments are increasingly responsive to consumer and investor demands for stronger environmental protections, driving regulatory changes.

Market Competition:

Companies showcasing strong environmental responsibility gain a competitive edge, incentivizing others to adopt similar practices to remain competitive in the market. As more companies integrate sustainability into their business models, it becomes an industry norm, raising expectations for others to follow suit.¹⁶⁴⁹

Reputation and Brand Image:

Negative publicity from environmental controversies can damage a company's reputation, affecting consumer trust and investor confidence. Demonstrating commitment to environmental responsibility boosts brand reputation and positively impacts consumer perception.

Supply Chain Influence:

Corporations often impose environmental standards on their suppliers, cascading the responsibility for sustainability practices throughout the supply chain. A collaboration between corporations and suppliers fosters shared responsibility for sustainable practices.

V. ENFORCEMENT ACTIONS AGAINST COMPANIES FAILING TO ADHERE TO ENVIRONMENTAL STANDARDS IN INDIA

In India, enforcement actions against companies failing to adhere to environmental standards can take several forms, driven by regulatory bodies and legal frameworks. If companies found violating environmental regulations can face fines and penalties imposed by regulatory authorities like the Central Pollution Control Board (CPCB) or State Pollution Control Boards (SPCBs). Continuous non-compliance results in daily fines until

corrective measures are taken by the companies. The regulatory bodies can also initiate legal proceedings against non-compliant companies through the courts. Our courts issue injunctions in orders to stop activities causing environmental harm until compliance is achieved. In severe cases of non-compliance, regulatory authorities issue orders to temporarily halt operations until environmental standards are met. Infact, the regulatory bodies have the authority to revoke or suspend permits or licenses of companies not complying with environmental norms. Courts or regulatory bodies can order companies to pay compensation for environmental damages caused by their actions. Companies can be directed to undertake specific corrective actions within a stipulated timeframe to rectify environmental violations. In extreme cases, regulatory authorities might seize equipment or assets involved in non-compliant activities and might publicly disclose the names of non-compliant companies, leading to reputational damage. Severe or repeated violations can result in criminal liability, with legal actions against company officials or executives responsible for the non-compliance and companies may be directed to take specific actions to mitigate environmental harm caused by their activities.¹⁶⁵⁰

VI. PROPOSED REFORMS OR IMPROVEMENTS IN LEGAL FRAMEWORKS TO ENHANCE CORPORATE ACCOUNTABILITY IN ENVIRONMENTAL PROTECTION IN INDIA

Some reforms which can be implemented are:

Increase the frequency and rigor of environmental inspections and monitoring by regulatory bodies to ensure compliance. To provide for regulatory agencies with more resources, manpower, and technological

¹⁶⁴⁹ Gerard Escaler, *Transforming Sustainability into a Competitive Advantage*, Forbes, (Dec. 20, 2023, 21:00 PM), <https://www.forbes.com/sites/forbescommunicationscouncil/2020/09/09/transforming-sustainability-into-a-competitive-advantage/?sh=7acf77c282e>.

¹⁶⁵⁰ *Environmental offences and penalties*, Legalline, (Dec. 21, 2023, 11:00 AM), <https://www.legalline.ca/legal-answers/environmental-offences-and-penalties/#:~:text=The%20penalties%20for%20committing%20an%20environmental%20offence%20can,it%20earned%20as%20a%20result%20of%20he%20offence.>

support for effective enforcement. Review and revise penalty structures to impose more substantial fines for environmental violations, making non-compliance economically unfeasible. Mandate comprehensive and standardized reporting on environmental performance, making it publicly accessible to enhance transparency and accountability. Implement mechanisms to protect and encourage whistleblowers reporting environmental violations. Mandate boards of directors to oversee environmental risks and compliance, integrating environmental concerns into corporate governance practices. Hold company executives or top management personally accountable for environmental violations. Strengthen the EIA process by making it more robust, comprehensive, and inclusive of public consultations for major projects. Ensure meaningful engagement of local communities in decision-making processes concerning projects with potential environmental impacts. Provide incentives or tax breaks for companies adopting eco-friendly technologies and sustainable practices. Support research and development in green technologies and sustainable solutions through public-private partnerships. Ensure uniformity and consistency in environmental laws and standards across states to prevent regulatory gaps and discrepancies.

Implementing these reforms could foster a more robust framework that promotes corporate accountability, drives proactive environmental stewardship, and mitigates environmental risks, contributing to sustainable development in India.

VII. CONCLUSION & SUGGESTIONS

Corporate Environmental Responsibility stands as a pivotal facet of modern business ethics, intertwining corporate success with environmental sustainability. The evolving landscape demands more than mere compliance; it calls for proactive engagement, innovative solutions, and a profound commitment to safeguarding our planet. CER represents a paradigm shift, transcending legal

obligations to embrace a holistic approach where corporations act not just as entities driven by profit but as stewards of the environment. In the realm of CER, compliance with environmental regulations serves as a baseline. However, true accountability surpasses adherence to legal frameworks. It encompasses a proactive attitude toward reducing ecological footprints, mitigating risks, and innovating sustainable practices that harmonize economic growth with environmental preservation. The influence of stakeholders, from consumers and investors to NGOs, continues to catalyse this evolution, shaping corporate strategies and fostering an ecosystem where sustainability is not an option but an imperative.

Reforming legal frameworks is integral to reinforcing corporate accountability. Stricter penalties, transparent reporting, and a focus on board-level oversight all play crucial roles. Yet, the essence of CER lies in a cultural shift – a mindset where environmental consciousness is ingrained within the core values and operations of corporations. Empowering regulatory bodies, encouraging technological innovation, and promoting community engagement constitute pivotal steps toward fostering a culture of environmental responsibility.

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