

Environmental Homicide Can Indian Criminal Law Punish Death Caused by Corporate Pollution

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Abstract

Industrialisation has created a recurring legal problem in India: when corporate pollution causes human death, should the resulting liability remain within environmental regulation and negligence law, or can criminal homicide provisions be invoked? This paper examines that question through the framework of Indian criminal law, environmental jurisprudence and corporate criminal liability. It analyses the transition from the Indian Penal Code to the Bharatiya Nyaya Sanhita, 2023, the constitutional environmental principles developed by the Supreme Court, the absolute liability doctrine in *M.C. Mehta v. Union of India*, and the criminal proceedings arising from the Bhopal gas disaster. It is argued that Indian law does not recognise a separate offence called environmental homicide, but deaths caused by corporate pollution can, in appropriate factual circumstances, attract the ordinary law of culpable homicide or murder where the required mental element and causal connection are established. The principal difficulty is not the absence of a homicide provision but proof of causation, attribution of corporate conduct to responsible individuals, and the distinction between knowledge, recklessness, negligence and mere regulatory breach. The paper proposes a calibrated approach in which environmental evidence, corporate decision-making records, foreseeability of harm and compliance history are integrated into criminal adjudication without converting every industrial accident into homicide. Such an approach can strengthen accountability while preserving the principles of legality, individual culpability and proof beyond reasonable doubt.

Keywords: Environmental Homicide, Corporate Pollution, Culpable Homicide, Corporate Criminal Liability, Environmental Law, Bhopal Gas Disaster

1. Introduction

Environmental harm has traditionally been addressed through regulation, compensation, civil liability and constitutional remedies. The criminal law dimension becomes more difficult when pollution causes human death. Toxic releases, contaminated water, hazardous waste and industrial emissions may expose populations to risks whose consequences appear only after substantial delay. The central question is whether such deaths should be treated only as environmental offences or whether homicide law can also respond.

The issue is important in India because the Constitution has been interpreted to protect a clean and healthy environment as part of the right to life under Article 21. The Supreme Court has developed absolute liability and the polluter pays principle in response to industrial hazards. In *M.C. Mehta v. Union of India*,

the Court held that a hazardous enterprise owes an absolute and non-delegable duty to the community and must compensate for resulting harm.¹ This strengthened environmental accountability but did not create a distinct criminal offence for pollution-related deaths.

The Bhopal gas disaster illustrates the gap between catastrophic environmental harm and criminal homicide. On the night of 2 and 3 December 1984, methyl isocyanate gas escaped from the Union Carbide India Limited plant in Bhopal, causing extensive deaths and injuries. The subsequent proceedings involved compensation, civil litigation and criminal prosecution. The Supreme Court's 1989 settlement decision in *Union Carbide Corporation v. Union of India* dealt primarily with the settlement of civil claims and related proceedings.² In 1991, the Court restored the criminal proceedings that had been terminated as part of the earlier settlement.³ The later criminal convictions were based on offences including causing death by negligence rather than a judicial finding of murder or culpable homicide in the strict sense.

The Bharatiya Nyaya Sanhita, 2023, in force from 1 July 2024, provides the current statutory framework. Section 100 defines culpable homicide, Section 101 defines murder and Section 105 prescribes punishment for culpable homicide not amounting to murder.⁴ The provisions are technology-neutral and do not exclude corporate or industrial contexts. The inquiry is therefore whether the facts satisfy the offence, not whether death occurred through a conventional weapon.

This paper therefore examines whether corporate pollution can constitute the factual basis for criminal homicide under Indian law. It focuses on three connected issues: first, whether environmental deaths can satisfy the mental and causal requirements of culpable homicide; second, how corporate criminal liability can be attributed to companies and responsible officers; and third, what lessons can be drawn from Indian environmental and Bhopal jurisprudence.

2. Research Problem

The research problem arises from the mismatch between modern corporate environmental risks and the traditional structure of homicide law. A pollution event may involve earlier decisions, multiple managerial layers, complex systems and scientific uncertainty. The question is therefore whether a particular accused can be held responsible with the mental state required by homicide law.

A second problem concerns the distinction between negligence and homicide. Industrial actors may violate environmental standards without intending to kill or possessing knowledge that death is a probable consequence. At the same time, a corporation may knowingly continue an activity despite repeated warnings, known failures in safety systems and foreseeable exposure of nearby communities. Treating both situations identically would undermine proportionality. Treating both as mere regulatory violations may also understate the seriousness of deliberate risk-taking.

3. Objectives of the Study

The objectives of this study are:

1. To examine the statutory framework governing culpable homicide and murder under the Bharatiya

¹ M.C. Mehta v. Union of India, Supreme Court of India, 1987, 1 Supreme Court Cases, 395. <https://indiankanoon.org/doc/1482499/>

² Union Carbide Corporation v. Union of India, Supreme Court of India, 1989, 2 Supreme Court Cases, 540. <https://indiankanoon.org/doc/1966214/>

³ Union Carbide Corporation v. Union of India, Supreme Court of India, 1991, 4 Supreme Court Cases, 584. <https://indiankanoon.org/doc/1867684/>

⁴ Government of India, Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023. <https://www.indiacode.nic.in/>

Nyaya Sanhita, 2023.

2. To analyse whether deaths caused by toxic emissions, industrial accidents and contaminated environments can satisfy the legal requirements of homicide.
3. To examine the relationship between environmental principles and criminal liability, particularly the absolute liability doctrine.
4. To analyse the Bhopal gas disaster litigation as a case study in corporate environmental criminal accountability.
5. To identify the evidentiary and attribution problems involved in prosecuting corporations and corporate officers for environmental deaths.
6. To propose a legally balanced approach to environmental homicide that protects life without diluting the requirement of proof beyond reasonable doubt.

4. Research Questions

The principal research questions are:

1. Can death caused by corporate pollution constitute culpable homicide under Indian criminal law?
2. Under what circumstances can environmental risk-taking establish the mental element required for culpable homicide?
3. How can criminal responsibility be attributed to a corporation and its officers where decisions are distributed across organisational structures?
4. What lessons does the Bhopal gas disaster provide for the relationship between environmental regulation and homicide law?
5. Is a separate statutory offence of environmental homicide necessary, or can existing criminal and environmental laws adequately address such deaths?

5. Hypothesis

It is hypothesised that Indian criminal law is capable of punishing deaths caused by corporate pollution as culpable homicide in appropriate cases, but only where the prosecution can establish a legally sufficient causal connection and the mental element required by the Bharatiya Nyaya Sanhita. Mere violation of environmental regulations or proof that an industrial activity was dangerous should not automatically amount to homicide. However, where responsible decision-makers knowingly expose communities to a substantial and foreseeable risk of death, existing homicide provisions can potentially operate alongside environmental statutes. The principal weakness lies in evidentiary and attribution mechanisms rather than in the absence of a homicide offence.

6. Related Research Work

Indian environmental scholarship has extensively examined the constitutionalisation of environmental protection, the precautionary principle, sustainable development and corporate environmental responsibility. The Supreme Court's environmental jurisprudence has also established that economic development cannot be pursued by transferring industrial risks to the public. In *Vellore Citizens Welfare Forum v. Union of India*, the Court recognised the precautionary principle and polluter pays principle as essential features of Indian environmental law.⁵ These principles are particularly relevant to corporate

⁵ *Vellore Citizens Welfare Forum v. Union of India*, Supreme Court of India, 1996, 5 Supreme Court Cases, 647. <https://indiankanoon.org/doc/1934100/>

conduct involving known environmental risks.

Research on corporate criminal liability has focused on whether a corporation, as an artificial legal person, can possess the mental element necessary for offences traditionally associated with natural persons. In *Standard Chartered Bank v. Directorate of Enforcement*, the Supreme Court rejected the proposition that a corporation could not be prosecuted merely because an offence prescribed imprisonment and fine.⁶ In *Iridium India Telecom Ltd. v. Motorola Incorporated*, the Court accepted that criminal law can attribute a company's state of mind through the directing mind and will of the corporation.⁷ These decisions provide a foundation for considering corporate criminal responsibility in environmental cases.

Bhopal scholarship has examined mass tort liability, corporate accountability, compensation, jurisdiction and criminal prosecution. The litigation demonstrates that enormous loss of life does not itself establish homicide liability. Criminal responsibility depends on the offence charged, evidence of individual conduct and proof of the required mental element. The gap between environmental harm and homicide therefore requires analysis across environmental, criminal and corporate law.

7. Research Methodology

This study adopts a doctrinal and analytical legal research methodology. Primary sources include the Constitution of India, the *Bharatiya Nyaya Sanhita*, 2023, relevant environmental legislation, and judgments of the Supreme Court of India. Particular attention is given to *M.C. Mehta v. Union of India*, *Union Carbide Corporation v. Union of India*, *Union Carbide Corporation v. Union of India* concerning restoration of criminal proceedings, *Vellore Citizens Welfare Forum v. Union of India*, *Standard Chartered Bank v. Directorate of Enforcement* and *Iridium India Telecom Ltd. v. Motorola Incorporated*.

Secondary sources include scholarly books, legal commentaries, journal literature and institutional material concerning environmental criminality and corporate liability. A comparative and conceptual approach is used only to illuminate the Indian position; the principal analysis remains based on Indian law. No empirical survey has been conducted. The conclusions are therefore doctrinal rather than statistical.

8. Legal Framework of Environmental Homicide

8.1 Culpable Homicide Under the *Bharatiya Nyaya Sanhita*

Section 100 of the *Bharatiya Nyaya Sanhita* provides the statutory foundation for culpable homicide. In substance, culpable homicide is committed where a person causes death by an act done with the intention of causing death, with the intention of causing bodily injury likely to cause death, or with the knowledge that the act is likely to cause death. Section 101 identifies circumstances in which culpable homicide amounts to murder, while Section 105 deals with punishment for culpable homicide not amounting to murder.

The environmental context creates no conceptual exception to these provisions. An act may consist of releasing a toxic substance, disabling a safety mechanism, knowingly permitting hazardous emissions or continuing an industrial operation despite information demonstrating a serious risk of fatal exposure. The legal character of the conduct depends on intention, knowledge, causation and the surrounding circumstances.

⁶ *Standard Chartered Bank v. Directorate of Enforcement*, Supreme Court of India, 2005, 4 Supreme Court Cases, 530. <https://indiankanoon.org/doc/1352504/>

⁷ *Iridium India Telecom Ltd. v. Motorola Incorporated*, Supreme Court of India, 2011, 1 Supreme Court Cases, 74. <https://indiankanoon.org/doc/1776721/>

The most difficult category is knowledge. Corporate pollution often involves prolonged risk accumulation rather than a single act directed against an identified victim. Knowledge does not require a desire that death occur. The question is whether the accused knew that the conduct was likely to cause death. Scientific reports, warnings, previous incidents, regulatory notices, risk assessments and ignored safety measures may be relevant.

8.2 Distinguishing Negligence From Culpable Homicide

A central safeguard is the distinction between criminal negligence and culpable homicide. A negligent act causing death may attract liability under the specific provision dealing with causing death by negligence, while culpable homicide requires the additional mental element specified by Section 100. The fact that a corporation failed to maintain equipment, violated a permit condition or breached an environmental standard does not automatically establish knowledge that death was likely.

Nevertheless, negligence cannot be used as a universal shield. If evidence shows that serious warnings were received, a fatal risk was understood, necessary safeguards were deliberately rejected for economic reasons and the hazardous activity was continued, the prosecution may argue that the conduct crossed the boundary from inadvertence into knowledge-based culpability. The determination must remain fact-specific and must satisfy the criminal standard of proof.

This distinction is important because environmental law often employs strict or absolute liability standards for compensation. Those standards serve regulatory and remedial purposes and should not simply be transplanted into criminal homicide. Absolute liability can establish civil responsibility for hazardous enterprises, but criminal conviction still requires proof of the statutory ingredients of the offence.

8.3 Environmental Principles and Criminal Liability

The environmental principles developed by Indian courts reinforce the seriousness of hazardous corporate conduct. In *M.C. Mehta v. Union of India*, commonly associated with the Oleum gas leak, the Supreme Court developed the doctrine of absolute liability for enterprises engaged in hazardous or inherently dangerous activities. The doctrine was formulated to ensure that enterprises cannot escape responsibility by relying on traditional exceptions to strict liability.

The doctrine has major implications for prevention, but its function differs from criminal homicide. Absolute liability focuses on compensation, whereas homicide focuses on culpable conduct and mental state. The two can coexist. A company may owe environmental compensation without homicide liability, while sufficiently serious and knowing conduct may support both forms of liability.

The precautionary principle strengthens this distinction. It requires preventive action where there is a credible risk of serious environmental harm even when scientific certainty is incomplete. For criminal law, however, precaution cannot replace proof of the elements of the offence. It may nevertheless provide contextual evidence concerning whether a risk was known, foreseeable or responsibly manageable.

9. Corporate Criminal Liability

Environmental homicide raises a distinctive question: who is the offender when the harmful decision emerges from a corporation? A company is a legal person capable of owning property, entering contracts and being prosecuted. Indian criminal jurisprudence has increasingly rejected the idea that corporations are categorically immune from criminal prosecution.

In *Standard Chartered Bank v. Directorate of Enforcement*, the Supreme Court held that a company could be prosecuted even where the relevant statute contemplated imprisonment and fine, with the practical

consequence that the punishment must be adapted to the corporate offender. The decision is significant because it rejects a blanket corporate immunity argument.

Iridium India Telecom Ltd. v. Motorola Incorporated went further in recognising the attribution of mens rea to a corporation through the directing mind and will doctrine. In environmental cases, this raises an important evidentiary inquiry into who possessed relevant knowledge and authority. Board decisions, executive instructions, compliance reports, technical warnings and communications between management levels may demonstrate the corporation's knowledge.

However, corporate prosecution and individual prosecution are not identical. The criminal liability of a company does not automatically make every employee, director or manager guilty. Individual responsibility generally requires a statutory basis and evidence connecting the person with the offence. Environmental statutes may contain provisions concerning offences by companies and persons in charge of their business, but those provisions must be applied according to their wording and judicial interpretation.

A legally sound prosecution should therefore distinguish three questions: whether the company committed the offence, whether the company's state of mind can be established, and whether particular natural persons can independently be shown to have participated in or authorised the culpable conduct. This approach avoids both corporate impunity and indiscriminate attribution.

10. Bhopal Gas Disaster as a Case Study

The Bhopal gas disaster remains the most important Indian example for analysing mass death caused by industrial activity. The release of methyl isocyanate from the Union Carbide India Limited plant caused extensive loss of life and long-term health and environmental consequences. The legal response involved litigation in India and abroad, settlement, compensation and criminal proceedings.

In *Union Carbide Corporation v. Union of India*, the Supreme Court approved a settlement under which Union Carbide Corporation agreed to pay a substantial sum in full settlement of civil claims arising from the disaster. The decision generated sustained debate concerning adequacy of compensation, the role of the state and the treatment of criminal liability. In 1991, the Supreme Court revisited the settlement and restored the criminal proceedings against the accused. The Court held that the criminal proceedings could not simply be extinguished through the settlement in the manner previously ordered.

The subsequent criminal case illustrates the evidentiary difficulty of transforming a catastrophic industrial event into homicide liability. The convictions ultimately recorded against responsible individuals were under provisions including causing death by negligence. The case therefore demonstrates that mass fatalities do not automatically establish culpable homicide. The prosecution must prove the precise mental element and causal responsibility required by the offence charged.

At the same time, Bhopal demonstrates why regulatory compliance cannot be treated as the complete measure of criminal responsibility. Where a hazardous enterprise has deficient safety systems, inadequate emergency planning, known technical risks and managerial decisions that increase exposure to those risks, those facts may become important in determining whether the conduct was merely negligent or reflected knowledge of a likely fatal consequence. The lesson is not that every industrial disaster should be prosecuted as homicide, but that homicide law should remain available where its statutory requirements are genuinely met.

11. Can Pollution Causing Death Amount to Homicide

The answer is legally possible but factually demanding. Three elements require particular attention: causation, mental state and attribution.

First, causation must connect the accused's conduct with the death. Environmental causation may be scientifically complex because victims can be exposed through air, water or soil and symptoms may develop after varying periods. A prosecution should therefore rely on robust scientific evidence, toxicological analysis, exposure pathways, medical evidence and where necessary epidemiological evidence. The more complex the causal chain, the greater the need for reliable expert evidence.

Second, the mental element must be established. Intention to kill will rarely be present in corporate pollution cases. The more realistic route is knowledge that the conduct is likely to cause death. Evidence of repeated warnings, prior fatalities, ignored safety audits, deliberate disabling of protective equipment, concealment of known defects or continuation of hazardous operations despite clear information may be relevant. The court must distinguish actual knowledge from what a reasonable person ought to have known, because the latter may establish negligence but does not necessarily satisfy the statutory homicide standard.

Third, attribution must be established. A corporation acts through people, systems and delegated authority. The prosecution must identify the decision-makers or organisational mechanisms through which the culpable state of mind existed. This is especially important when a harmful decision results from collective failure rather than a single instruction.

Environmental homicide should therefore be understood as an application of existing homicide law to environmental facts, not as an automatic offence arising from pollution-related death. This preserves legality while recognising that environmental conduct can legally constitute an act causing death.

12. Role of Environmental Legislation

Indian environmental statutes provide an additional layer of criminal and regulatory control. The Environment Protection Act, 1986 empowers the central government to take measures for protecting and improving the environment and contains penal provisions for contraventions.⁸ The Water Prevention and Control of Pollution Act, 1974 and the Air Prevention and Control of Pollution Act, 1981 also regulate pollution and prescribe offences.⁹ These laws are essential because environmental harm often develops before a homicide prosecution becomes legally viable.

The relationship should be complementary. Regulatory statutes establish standards, permits, monitoring duties and preventive controls. Homicide law addresses the exceptional case where conduct satisfying its requirements causes death. Environmental offences should not immunise an offender from homicide prosecution, while homicide law should not convert every regulatory violation into homicide.

A particularly useful evidentiary function of environmental regulation is that permits, inspection reports, compliance directions and technical standards can reveal what risks were known and what precautions were expected. Such evidence may assist a court in assessing knowledge and foreseeability, although regulatory breach alone cannot substitute for proof of the homicide offence.

13. Challenges in Prosecuting Environmental Homicide

Several obstacles can prevent effective prosecution.

⁸ Government of India, Environment Protection Act, 1986, Act No. 29 of 1986. <https://www.indiacode.nic.in/>

⁹ Government of India, Air Prevention and Control of Pollution Act, 1981, Act No. 14 of 1981. <https://www.indiacode.nic.in/>

The first is delayed causation. Pollution-related illness may arise after prolonged exposure, making it difficult to connect an individual death with a particular emission or discharge.

The second is scientific uncertainty. Criminal courts require proof beyond reasonable doubt, while environmental science often involves probabilistic conclusions. Expert evidence must therefore be carefully tested rather than converted into an assumption of causation.

The third is organisational complexity. Responsibility can be divided between owners, directors, plant managers, engineers, contractors and compliance officers. A prosecution based only on formal designation may be vulnerable if it cannot show actual participation, knowledge or statutory responsibility.

The fourth is the risk of hindsight reasoning. After a disaster, the consequences are obvious. Criminal law requires assessment of what the accused knew or intended at the relevant time, not merely what became apparent after the event.

The fifth is enforcement capacity. Environmental investigations may require specialised sampling, toxicology, industrial safety expertise, digital records and long-term health data. Without technically competent investigation, even a strong legal framework may produce weak prosecutions.

The sixth is the tension between corporate settlement and criminal accountability. Bhopal demonstrates that compensation arrangements and criminal proceedings raise different considerations. A civil settlement should not automatically substitute for criminal adjudication where independent determination of culpability is required.

14. Proposed Legal and Institutional Approach

A separate offence called environmental homicide is not presently necessary. Existing homicide provisions are sufficiently broad to cover deaths caused by environmental conduct where their elements are proved. Creating a special offence could generate uncertainty about its relationship with culpable homicide, murder and death by negligence.

What is needed is stronger investigation and clearer attribution. Environmental crime units should be capable of preserving corporate records, safety logs, monitoring data and communications immediately after a serious incident. Independent scientific teams should be used where pollution is suspected to have caused death. Regulatory agencies should preserve data in forms capable of being used as evidence.

Corporate compliance systems should also be treated as potential sources of evidence. Repeated internal warnings, risk assessments, ignored maintenance recommendations and decisions to reduce safety expenditure may help establish actual knowledge. Conversely, evidence of genuine safety systems, prompt corrective action and unforeseeable technical failure may assist an accused in demonstrating the absence of the required mental element.

Courts should adopt a structured analysis: identify the hazardous act or omission; establish the exposure pathway; establish medical and scientific causation; determine what the accused knew at the relevant time; assess the degree of control exercised by each accused; and finally determine whether the statutory definition of culpable homicide is satisfied beyond reasonable doubt. This method can prevent both under-criminalisation and over-criminalisation.

15. Findings and Discussion

The study produces five principal findings. First, Indian criminal law does not require a separate environmental homicide offence before pollution-related deaths can attract homicide provisions. The

ordinary definition of culpable homicide is sufficiently general to include deaths caused by environmental or industrial conduct.

Second, absolute environmental liability and criminal homicide operate on different standards. The former can impose responsibility for hazardous activities without requiring proof of the same mental state as homicide. It should therefore not be assumed that a finding of environmental liability automatically proves criminal homicide.

Third, the knowledge requirement is the central doctrinal threshold. Where a company or responsible decision-maker knowingly continues conduct that presents a likely risk of death, the factual foundation for culpable homicide becomes stronger. Where the evidence establishes only that greater care should have been taken, liability may more appropriately fall under negligence or environmental offences.

Fourth, corporate criminal liability is legally possible, but individual liability requires careful attribution. The directing mind principle can assist in determining corporate mens rea, while individual prosecutions require evidence connecting the person to the relevant conduct.

Fifth, Bhopal demonstrates the limitations of relying solely on post-disaster criminal prosecution. Prevention, transparent safety systems, environmental monitoring and rapid evidence preservation are essential. Criminal law should remain a serious backstop rather than the primary mechanism of environmental governance.

16. Conclusion

Corporate pollution can cause consequences that are indistinguishable in human terms from other forms of lethal conduct. Indian criminal law should not become incapable of responding merely because the mechanism of death is toxic exposure rather than physical violence. The Bharatiya Nyaya Sanhita provides sufficiently broad homicide provisions to permit prosecution where an accused causes death with the required intention or knowledge.

At the same time, environmental homicide should not become a form of strict criminal liability. The absolute liability doctrine developed in environmental jurisprudence serves a different purpose and cannot eliminate the mental element required for criminal conviction. A serious regulatory breach, an unsafe industrial condition or an unfortunate accident may justify environmental or negligence liability without necessarily amounting to culpable homicide.

The appropriate legal approach is therefore one of principled integration. Environmental regulation should establish preventive standards and generate reliable evidence about known risks. Scientific investigation should establish causation. Corporate law should assist in identifying the relevant decision-making structure. Criminal law should then determine whether the conduct satisfies the statutory definition of homicide beyond reasonable doubt.

The central lesson of Bhopal is that accountability must address both corporate scale and individual culpability. Indian law already possesses important tools for this purpose. The priority should be effective investigation, evidence-based attribution and consistent application of existing provisions rather than creation of a separate offence with uncertain boundaries. Where corporate pollution knowingly creates a likely risk of death and that risk materialises, homicide law should respond with the seriousness required to protect human life.

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