

**Rethinking Corporate Criminal Liability for Environmental Crimes Through Feminist Legal Theory**

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**ABSTRACT**

*In the face of the rampant environmental challenges the recalibration the corporate liability for the environmental harms is the today's academic debate. The design of the environmental law and the markers for the identification of corporate liability are widely architected by the patriarchal, colonial, neo liberal and profit driven elements. As the effects of climate degradation are disproportionate for the different segments of society. Given their vulnerability of the women, aboriginal communities and marginalized factions there is debate in the legal environmentalism regarding the redefinition of the corporate liability and the environmental law from being stuck only in the deterrence. Feminist approach and the environmentalism being the two contemporary debates get their inception in the same time of the previous century. Feminist approach is poised to introduce the conception of determination of the cross-sectional harm, equitable remedial action and more sensitization to the long-ignored gender section so as to further the agenda of sustainable development along with the addressing of the gender-based concerns.*

**Keywords:** Corporate Criminal Liability, Feminist Legal Theory, Eco-Feminism, Sustainable Development

**INTRODUCTION TO ENVIRONMENTAL CORPORATE LIABILITY**

The rapid industrialization of the previous centuries has resulted in the environmental issues in the form of the climate change, water and air pollution, solid waste and the loss of the biodiversity. The magnitude of such challenges is quite enormous and tackling them is becoming a difficult task by each passing day. The subject of law along with the other related disciplines is poised to counter these environmental challenges. In the debate of the environmental harm caused by the companies and firms the company culture theory does pinpoints the corporations liable for the acts which cause the environmental degradation (Sodikin, 2025).

The pollution-oriented practices by the corporations are resulting in the loss of the public trust in business behavior (Setiawan, 2024). Several factors do contribute in the excessive behaviors of the corporate bodies including the weak enforcements, weak legislation, social and political pressures (Dewi, 2025). The corporate liability to level of civil compensation is not a remedy in the face of the degradation and environmental damage caused by the corporations the criminal straight liability is the required to stall the damage being caused by them (Zarzani, 2024).

**Traditional Doctrines of Gauging Corporate Criminal Liability**

In the furtherance of the business corporations and companies do act in a way(s) which is violation of the law and can be treated as act(s) of crime so this becomes the corporate liability. The subject of corporate criminal liability has become a pivotal topic in the domains of law and governance (Pramod, 2023). According to Arlen when the firms do falter in the actions of self-reporting, monitoring and cooperation they become liable for their actions and are bound to be tried as criminal (Arlen, 2012). As the corporations are meant to ensure the principles of deterrence, retribution and upholding of the legal

principles that is why they are liable for the acts which negate their moral and legal mandates. The corporate liability comes in the following forms.

### **Vicarious Liability Model**

This comes when the employees or the managers of any corporation do such acts which invoke the operation of the criminal law and the corporation comes under this operation of the law. The principle of the *respondeat superior* comes into play in such type of liability (Kraakman, 2009). If the conduct of any manager, employee is for the sake of the benefit for the corporation so that such firm is liable for the acts of the employee (Greenberg, 2014). The establishment of the *mens rea* on the part of any employee or the manager to give any advantage to his employer or firm is enough to hold such corporation as the accomplice in the eye of modern criminal liability regime (S, A. 2023).

### **Direct Liability Model**

When the fault lines do lie with the corporation in the forms of the policy failure, inability to establish the corporate culture and failure to prevent any harm this becomes the direct liability regime for the corporations. Van contends that under the influence this failure the corporations do contribute to the abuse of human rights, environmental harm and financial crimes (Van, 2025). Sodikin is of the view that in case of the direct liability the corporations are viewed as the real actors liable for their actions (Sodikin, 2025). When the question of the direct liability is settled than comes the establishment of the question of *mens rea* and the conduct of the employees in their individual and collective manner (Tariq, 2014).

### **Strict Liability Model**

This model of liability is centric to the prohibited acts and the results produced by such acts. Ikhsan and other researchers are of the view that the liability without fault is the basic principle in the corporate strict liability regime (Ikhsan, 2023). This type of liability exerts more focus on the element of the error and the results produced by this element of error (Lubis, 2021). (Rusdyani, 2021). Owing to the absence of the establishment of the doctrine of *mens rea* this type of liability is quite difficult to establish (Manirabona, 2016).

### **Feminist Legal Theory**

This theory revolves around the concept that the existing laws are 'patriarchal' in the nature and doing injustice to the women and so as to ensure a delivering and equitable justice system there is a need of the more and balanced role of women in the formulation and implementation of the law. The underpinnings of the feminist legal theorists are centric to the existing legal ideological standings (Fineman, 2005). According to the feminist legal school of thought the universality that surrounds with the existing laws is 'male' in essence (Stamile, 2025). So according to this theory there is dire need of the paradigm shift so as to further the equitable justice and the protection of the basic rights. Alongside the other social, economic, cultural and humanistic equalities according to feminist legal theory there is need of the equal representation of the women in the lawmaking and jurisprudence (Sharma, 2025).

Feminist legal theorists are of the believe that the term gender is outdated now and there should be no gender curtain for the policy and law makers they must treat them equal rather than considering them on their sexuality and physical built (Conaghan, 2000). When it comes to the environmental sustainability and the impacts of the environmental degradation the feminist legal theory is not silent it extends a concept of the ecofeminism along with the legal backings so as to ensure the sustainable development and environmental justice to all regardless of the gender.

### **What is the Eco-Feminism?**

The environmental challenges are rampant and they are affecting the living people regardless of their gender, race and ethnicity and age. The actions which are considered as detrimental to the environment and the human lives are often considered as having the ideological base of the patriarchy. The women have been less involved in the decisions of the power generation designs especially the involvement of the fossil fuel burning which is the basic cause of the enhanced greenhouse gases emissions and resultant climate change. but they are now at the receiving end of the effects of the degraded environment. There are debates in the environmentalism that the precautionary role of all sects and genders of the society is the need of the hour to ensure the environmental sustainability.

When the role of the women is taken into account for the protection of the environment this becomes ecofeminism. The role of women is important for the sustainability of the environment as this concept is an attempt to dilute the inherent inequality which is prevalent in the system (Bangun, 2020). Factually degradation of the environment and other oppressions and subjugations of the women are interlinked so that ecofeminism has a wider scope for the equal treatment of the women and the provision of the sustainable environment for them (Hans, 2024). Ecofeminism does not only confine to environmental protection only it does call for the social equality and the equal political democracy for women in the environmentalism (Doley, 2025).

### **How Feminism and Environmentalism do Overlap?**

Feminism and environmentalism are two theories which incepted in the academic debate in 1960s as the both have commonality in the form of the identification of the subjugation to system failures and prevalent potent hierarchies in the societies dates back to the centuries (Carlarne, 2020). The both are seen grappling with the large structures of power and wealth and social inequalities (Carlarne, 2021). As the women's role is considered as the key in the fruition of the efforts which are meant to thwart the degradation of the environment and the protection of the intergenerational equity that is why the environmentalism in the case of the women does have the legal binding and their role is vital in this regard (Bangun, 2020).

On the lines of the environmentalism the ecofeminism does have the postmodernism and post structuralism trends and the both concepts are evolving and bound to produce the solution to the problems whether they are environmental in nature or they are otherwise which are the result of the social and cultural inequalities (Foster, 2021). The both subjects have numerous commonalities and common grounds but the scope of them do diverge in many ways. The objectives of both do converge to a greater extent.

### **Limitations on the Establishment of the Corporate Criminal Liability which are the Key Concerns of the Feminist Legal Theory**

In the development of the thesis of the corporate criminal liability it comes to the fore that there are some limitations which do hinder the establishment of this doctrine. These limitations are intricate, myriad and do have the interchangeable effects when they are established and they are in the process of attribution. The prevalence of these limitations does not only validate the concerns of the ecofeminism but this is an indication of the imperfection that lies with this system of attribution of criminal role for firms and corporations.

### **Attribution of Mens Rea**

Attribution of mens rea is the basic element of the establishment of the corporate liability but it is difficult to establish as there are many lacunae in the legal and policy framework which muddle the establishment of this intentional factor (Saxena, 2025). The complexity of the legal norms and the

corporate culture are in the core of the failure of the establishment of the intention on the part of the either firm or any person in the cases of CCL (Pramod, 2023).

### **Disjointed and Vague Legislation**

The laws and regulations in the establishing the criminal corporate liability do overlap and thus make it difficult to establish the definite criminal role played by any firm or corporation in the operation of their business (Biswas, 2021). In some cases, the burden of the liability is shifted to disposable employees and the managers and the firm go scot-free (Wibowo, 2024). The acts of serious violation are often dealt with the light corporate regulations and which is not commensurately with the penalties and remedies (Rusyana, 2024). The prevalence of this fact and the system of practice in place make the applicability and efficacy more dilute and disjointed.

### **Restricted Liability in some Sectors**

Some sectors are operating with mammoth rules and exceptions like banking and taxation sectors in which the element of fraud and tax evasion are often too intricate to fathom. In the cases of tax evasions, the rules and legal domain remain ineffective to provide the equitable relief due to these factors (Yoserwan, 2023). In mining sectors some environmental crimes go unnoticed and the liability fixation remains the limited due to regulatory failures and less monitoring (Ulinihayati, 2025). This restricted liability is not only limited to the financial and mining sectors only but it is visible in other financial and industrial sectors as well.

### **Proving the Link between Individual Act and Corporate Benefit**

The link between the employee and the corporation is of the vital salience and sometimes it crosses the portfolios of the both. In the quest to hoard the profits and to gain the undue advantage many employees and corporations act recklessly and invoke the criminal liability. From here does begin the establishment of the corporate injustice which is a negation to the sustainable development (Rakhimov, 2024). The premise behind the economic development does embolden the corporations to take short cuts and employees are bound to do some individual acts which are meant to profit the organization and sometimes the direct linkage of such actions with the firm is difficult to establish (Ms, 2024).

### **Limited Capacity of Law Enforcement**

The attribution of the corporate crimes on the individuals as well as the firms is limited due to the prevalence of the skewed capacity at the part of those who are tasked with the enforcement of the law at its all stages. Inadequate resources, lack of the technical expertise in carrying out the investigations and weak judicial and prosecution systems do add to the reckless behavior of the corporates (Sari, 2023). Saputra and other researchers are of the view when law enforcement officers are with little capacity to enforce the law and put a check on the corporational behavior it is like giving the corporates a space to roam freely (Saputra, 2025).

### **Financial and Polity Challenges**

Political class plays a role of bridge between the financial institutions and the law making and thus they tend to make things less rigorous at the time of the law making due to prevalence of the corruption, vested and ulterior interests and under the fear of the political backfires (Singh, 2021). Sometimes the economic card is played so as to further the economic interests of any region or state at the expenses of the environmental, regulation and the protection of the human rights regime.

## **FEMINIST FRAMEWORK FOR CORPORATE LIABILITY IN ENVIRONMENTAL CRIMES**

### **Reconstruction of the Vulnerability**

Given the fragility of the women and their vulnerability to the environmental degradation and the inefficiency of current touchstone of measuring the corporate criminal liability there is need of redesigning the corporate liability and the insolvency frameworks (Gant, 2025). Environmental justice audits and the organizational culpability standards must be revisited in the eye of the ecofeminism and the feminist justice theory so as to make the equitable remedial action and environmental justice a reality for the women. Bender is of the view the adjustments in the tort remedies and the compensatory model can do a justice to this and other weak segments of the society (Bender, 1990).

### **Intersectional Harm Analysis**

The concept of the intersectional harm is nonexistent in the current regime of the corporate criminal liability hence this gives a theme of injustice towards the weaker sections of the society in general and women in particular. Therefore, there is need of reforms to be incorporated in the current corporate social responsibility (CSR) regimes (Gallhofer, 2018). This change or reforms are to make bound to carry out the cross sectional and cross sectoral analysis in order to fathom the magnitude and to extend an equitable relief. In this regard the differentiated impact assessment models can be formulated and enforced in letter and spirit which do give weightage to the community and sectional voices in the process of formulation, implementation and enforcement.

### **Restorative and Transformative Remedies**

The realignment of the system of remedies and the awards can make a real change in the plight of the women when they are under the stress of the environmental issues and do face their consequences. For that purpose, the community orientation remedial fund system can be introduced so as to ensure the equitable compensation for the incurred environmental harms. In the process of formulation, the involvement of the women in the designing of that regime is indispensable so as to establish a robust accountability mechanism having a participatory outlook.

### **Procedural Accessibility**

Procedural accessibility is vital for the sake of the information and reporting of the reckless actions carried out by the corporate culture. Therefore, a system should be in place which is easy to access to all without any distinction of the gender and require the no specific knowledge to monitor and get acquainted with it. Representation along with the regime of legal assistance can be imbued in that system so as to make it effective and working in the face of the challenges. The doctrine of the alternate dispute resolution shall be in sync with such system so as to make the speedy disposal of the legal issues and challenges without wasting of any considerable time.

## **CONCLUSION**

Environment challenges are rampant and affecting the all sections of society in general and weaker and marginalized groups in particular. Corporate reckless behavior is in the core of the soured environmental issues. The designs of gauging and implicating the corporate criminal liability are patriarchal and based on male thinking in the eye of the feminist legal approach. Therefore, in order to liberalize these legal and enforcement regimes there is need of incorporation of the ecofeminism in it for the better protection of the environment and making criminal liability an effective control for the corporate environmental crimes. Given the inadequacies prevalent in the establishment of the corporate criminal liability models it is the need of the hour to reconsider and rectify it with the help the feminist legal theme and modern legal and legislative tools.

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