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Beyond Section 304A: Redefining Criminal Liability for Environmental Negligence

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ABSTRACT

Amid the surge of development, India's fragile ecosystems are suffering destruction at the hands of unbridled urbanisation, indiscriminate infrastructure work and corporate indifference. From the sinking town of Joshimath to the Drakos-like threats posed by the Tehri Dam, the perils of transgressing the limits that nature sets are not distant prophecies — they are lived catastrophes. This paper looks at the legal and moral failures that allows for such tragedies to happen, and the loopholes in India's legal structure that allow for developers, corporations and the state to escape genuine accountability.

The issue is vexed at the core of Section 304A of the Indian Penal Code (IPC), a provision intended to punish those whose negligent actions result in a death. Through case laws, this study signals the pressing need to redraw the perimeter of criminal negligence to cover disasters environmental or infrastructural in nature.

It argues for a radical rethink of the notion of sustainable development in India. The only way out of this is through very strict laws holding corporations accountable and through amendments to existing laws which require holding responsible corporations accountable to climate-sensitive areas, and to changing the nature of Environmental Impact Assessments from an assessment of environmental loss to preventing it. Drawing on international best practices—from the UK's Corporate Manslaughter Act to Japan's climate-sensitive urban planning — it lays out a roadmap for India to make sure that progress occurs in tandem with the planet's well-being.

This is not just a legal debate; it's a call to action. As climate disasters accelerate in scale and severity, this country cannot afford the luxury of negligence anymore, and it must decide: Does it wish to continue down the road of negligence, or will it embrace a future that connects development and sound environmental management?

I. INTRODUCTION

In the cradle of Indian marvels lies a grim paradox: progress is a double-edged sword. Joshimath, once a bustling town nestled in the folds of the Himalayas, is now a bleak reminder of humanity's callousness towards nature's balance. Irregular construction, unchecked

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tunneling and a disregard for ecological fragility have led to land subsidence, cracking not just the earth, but the lives and dreams of thousands. This disaster is more than a natural disaster — it is a man-made tragedy, the product of neglect and short-sightedness.

India's stunning geographical diversity — its soaring mountains, expansive plains and long coastlines — belies a deep vulnerability. The country's ecosystems are already delicately balanced, but they are under constant barrage from rapid urbanization, deforestation and poorly conceived infrastructure projects. The Intergovernmental Panel on Climate Change (IPCC)² said over and over again that human activity is making climate change worse, driving more fragile places to disaster. Urban floods, landslides and ecological collapses — no longer distant warnings but now lived realities — are scant reminders of our collective failure to act responsibly.

Section 304A of the IPC³ in Indian law provides criminal liability for the causing of death by negligence but its scope has been narrow in consideration of environmental and infrastructure both of which can be linked to the charge of negligence. The Joshimath crisis highlights the immediate need to extend legal accountability in such cases. The images of homes collapsing, people displaced, call us to ask: Who is responsible for these avoidable disasters?

A glaring case in point of how ill planned infrastructure forays into ecologically fragile areas can manifest into perils is the Tehri Dam project. Built in a seismically active area, the dam triggered concerns about the calamitous risks it presented to nearby communities. Over the years, judicial pronouncements underscored the importance of complete risk assessments in these initiatives. The *Ravi Developers v State of Maharashtra*⁴ case presents a similar narrative, where the court recognised that uncontrolled urbanisation leads to urban flooding, while being consequential in holding developers responsible for taking away safety and sustainability. This body of legal precedent illustrates an increasing awareness of the correlation between infrastructure negligence and climate-driven calamities.

Corporate negligence also plays a major role in environmental degradation. One case in point is *Sterlite Industries*⁵, against which the judiciary intervened and restrained its environmentally destructive practices. The whole is a powerful cautionary tale about the stakes of profitability versus sustainability.

² *Intergovernmental Panel on Climate Change, Special Report on Climate Change and Land* (2019).

³ *Indian Penal Code, 1860*, No. 45 of 1860, § 304A (India).

⁴ *Ravi Developers v. State of Maharashtra*, 2018 SCC OnLine Bom 856.

⁵ *Sterlite Industries (India) Ltd. v. Tamil Nadu Pollution Control Board*, Appeal No. 19 of 2018, Nat'l Green Tribunal, Principal Bench (India).

The NDMA and other national guidelines⁶ insist on sustainable development practices to reduce risks like landslides, floods, and so on. Nevertheless, these measures are insufficient in the absence of strict enforcement. Policies exist only on paper and the ground reality continues to deteriorate, leaving a widening gulf between intent and action.

As climate activist Greta Thunberg so aptly stated, “The climate crisis is both the easiest and the hardest issue we have ever faced. The easiest because we know what we must do. The hardest because our current economics are still totally dependent on burning fossil fuels.”⁷ In the Indian scenario, her words evoke a deeper meaning, where habitat preservation takes a backseat in the name of development. It is an inescapable reminder that our decisions today will resonate for decades ahead.

The intersection of climate change and criminal negligence in infrastructure development is a wake-up call. It requires multiple avenues of response — strong legal tools, sustainable planning, an unflinching pledge to hold all responsible. Only with adherence to such principles can India aspire to prevent further tragedies, restore its scarred landscapes and protect the aspirations of its citizens. Let this be the moment when we choose balance over chaos, foresight over greed, resilience over ruin. Which, in saving our environment, we save the very fabric of all life.

II. LEGAL FRAMEWORK: NEGLIGENCE AND CRIMINAL ACCOUNTABILITY IN INDIA

The relentless march of development tends to overshadow the land it seeks to alter. But in this constant chase, when there is negligence in infrastructure projects, the consequences aren't just catastrophic — they are grotesque. This is more than a failure of design; this represents a moral and legal dereliction of duty that contributes to the hideous toll of such negligence. These developments rely heavily on a fine-edged legal paradigm and thus will pay particular attention to the notion of negligence in the framework of Indian civil law. By doing so in careful scrutiny of relevant laws, judicial precedents and international comparisons we reveal the ways to accountability of the parties driving environmental risks.

In the Indian law, negligence is the failure to take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to cause injury to your neighbours. Section 304A of the Indian Penal Code (IPC) states that whoever causes death by doing any act so negligently as to endanger human life, or doing any act negligently, shall be punished with

⁶ National Disaster Management Authority, *Guidelines for Landslide Hazard Mitigation* (2009) (India).

⁷ Greta Thunberg, *Speech at COP24 Climate Summit* (Dec. 12, 2018).

imprisonment for a term which may extend to two years, or with a fine, or with both. This has been an important piece of a statute targeting cases in which infrastructure projects — through poor planning or lack of oversight — end in catastrophe. But it is controversial in environmental and infrastructure-related cases. To succeed in a claim under Section 304A, a claimant must prove that the defendant caused their death and breached the duty of care owed to them. This complicates matters when alleged negligence is associated with large, complex public infrastructure projects that might include multiple parties and potential indirect causes.

The landmark case of *Jacob Mathew v. State of Punjab*⁸ are an important milestone in the understanding of application of 304A, in that the Supreme Court specifically discussed and emphasized the necessity of establishing the particular link between negligence and the injury caused due to negligence in line of duty and the duty of care which has to be followed by every individual based on its profession. In the context of big infrastructure projects there is a great necessity to use this principle when determining negligence, as the repercussions of bad design or construction can be felt throughout a community, resulting in death, environmental devastation, economic loss, and changes to the built environment.

In a similar case, *Municipal Corporation of Delhi v. Subhagwanti*⁹, a building collapsed and lives were lost as the collapse could have been prevented. The court stated that the burden to answer was on the office bearers of government authorities and contractors which are tasked with design, construction and upkeep of constructions. This case set forth that when negligence is present, the burden of accountability lies squarely on those who are entrusted with keeping the public safe. This ruling sets an important precedent in defining the scope of liability in disaster situations related to infrastructure in India.

But it gets grayer on the corporate side — what gives when corporate entities are involved that add layers to the crime of criminal negligence. Consider *Union Carbide Corporation v. Union of India*¹⁰, the case based on the infamous Bhopal Gas Tragedy which reveals the extent of corporate malfeasance and the havoc it can wreak. What we saw was this case demonstrated how corporations can escape responsibility thanks to legal loop holes and in doing so curtailed the justice available for the victims. The case sparked a national debate on corporate accountability and the need for better laws in India, especially where the issue of corporate criminal negligence is concerned, in relation to environmental issues and infrastructure.

One of the more persuasive cases around the infrastructure development debate is *Narmada*

⁸ *Jacob Mathew v. State of Punjab*, (2005) 6 S.C.C. 1 (India).

⁹ *Municipal Corporation of Delhi v. Subhagwanti*, A.I.R. 1966 S.C. 1750 (India).

¹⁰ *Union Carbide Corporation v. Union of India*, 1989 S.C.R. (1) 136 (India).

Bachao Andolan v. Union of India¹¹, focused on the ecological ramifications of the Sardar Sarovar Dam project. In its ruling, the court highlighted the careful balance that needs to be struck between development and ecological safety, claiming that thorough assessments must be carried out before large-scale infrastructure projects are undertaken in climate-sensitive areas. It is a legal precedent for future infrastructure projects, too, pressing planners and policymakers to consider the long-term environmental costs and to do their due diligence to protect both human beings and ecosystems.

But the Indian legal regime does not function in a vacuum. Environmental and infrastructural risks are tackled through laws like the Environmental Protection Act, 1986, and the Disaster Management Act¹², 2005, which overlap with the principles of negligence. The Environmental Protection Act requires environmental clearance of projects that could potentially cause harm to the environment, however the implementation of the act has often been criticized as toothless. Likewise, the Disaster Management Act provides the framework for disaster preparedness, response and mitigation, yet does not specifically include guidelines to prevent letting negligence cause disasters related to infrastructure.

There have been respects internationally — especially in regions vulnerable to climate change — related to the issue of negligence. In the UK, the Corporate Manslaughter Act¹³ criminalizes corporations for causing death as a result of gross negligence in their business operations. This legislation has been an important tool for holding businesses responsible for things like industrial disasters leading to loss of life on major scales. A much-needed deterrence for negligence in infrastructure development can be achieved in India through a similar mechanism where penalties are levied on corporations and they are made to pay for the environmental and human costs of the damage caused.

In its reports on criminal negligence, the Law Commission of India has mooted reforms to ensure that responsible individuals and entities are held politically and criminally accountable when preventable disasters occur, particularly where there is a dimension of environmental degradation. Among the Commission's proposals are to broaden the definition of criminal negligence to include very large public construction and infrastructure projects and enterprises and improve environmental standards to prevent negligent endangerment of public health and safety.¹⁴

¹¹ *Narmada Bachao Andolan v. Union of India*, (2000) 10 S.C.C. 664 (India).

¹² *The Disaster Management Act*, No. 53 of 2005, Acts of Parliament, 2005 (India).

¹³ *Corporate Manslaughter and Corporate Homicide Act 2007*, c. 19 (U.K.).

¹⁴ *Law Commission of India, 186th Report on Proposal to Constitute Environment Courts* (2003).

Most infrastructure-linked disasters stem from poor project management, and that's where the Comptroller and Auditor General (CAG) Audit Reports come into play. Examples of specific issues include lack of risk assessment, lack of regulatory enforcement and lack of accountability all of which contribute to infrastructure disasters. These audits are an effective tool for exposing negligence and advocating for change.

“The threat of climate change is not just an environmental issue but an issue of ethics, human rights and justice,” the eminent environmental lawyer, R. K. Pachauri, iterated¹⁵. It is a statement so powerful in what it conveys that it has to remind one about legal accountability for negligence in infrastructure. This is not only a corporate or governmental ethical duty, but a matter of justice demanding immediate and decisive action to avert climate change-related calamity.

This negligence needs to be legally defined, addressing the massively harmful impact of climate change on a country like India. India must move ahead by strengthening legal framework for corporate accountability and firm enforcement of environmental protection laws. Only then can we hope to meet and maintain the development and ecological balance that leads to a future that is rest, and sustainable.

III. THE ROLE OF SECTION 304A IPC IN CLIMATE VULNERABILITIES

Our ambitions shake the ground beneath our feet and the price of indifference goes beyond what we can bear. When projects of purported development collide with actual environmental risks, the damage is usually irreversible. For too long, India's legal structures have failed to hold those accounting for the disastrous results of such negligence. The Indian Penal Code (IPC): Section 304A: provides a powerful tool for governmental and non-governmental agencies and victims alike, but the application to climate-induced infrastructure disasters is wrought with difficulties, notwithstanding the law at home. Recognizing the limits of this provision is critical to curbing the increasing environmental and human costs that such negligence exacts.

So Section 304A IPC is the bedrock of criminal negligence in India. It makes criminal those negligent acts that result in death, with the implication that the accused must have acted with reckless disregard for the consequences. The section on cases involving infrastructure states that the defendant must have owed a duty of care, that he or she failed to meet that duty and that this failure was integral to the fatal outcome. Duty of care, foreseeability, and causation are the three elements of negligence that constitute Section 304A.

¹⁵ R.K. Pachauri, *Nobel Lecture* (Oslo, Dec. 10, 2007)

The degree of duty of care in infrastructure projects is huge. Engineers, architects, and developers must ensure that what they build does not expose the public to unnecessary risk, especially when they build in climate-sensitive regions. The foreseeability prong requires these project hands to take into account the environmental ramifications of their work. In other words, builders need to anticipate the effects of bad design and building practices, like more flooding or soil erosion. The most contentious thing is causation, especially when the connection between negligence and climate-based terror is indirect and compound.

The challenge comes from the indirect relationship between infrastructure negligence and climate disasters — applying Section 304A IPC is problematic. When floods, landslides, or environmental degradation occur, causality between negligence in a distant place and such an event often feels abstract. When a hydropower project speeds up glacier instability, or when deforestation worsens flooding, actually proving that negligence directly caused the disaster can be a complicated, often impossible challenge. This gap in causation seriously restricts the utility of Section 304A to situations where the detriment is not apparent in real time, or in which climate change is an enabler, but not a direct cause of harm.

The *Sterlite Industries Case*¹⁶ is one of the most illustrative examples of negligence in environmental management. In this instance, the corporation was liable for its contribution to serious ecological devastation as a result of improper disposal of industrial output. Despite the fact that it did not immediately cause death, it did ecological damage that resulted in serious pollution that would have lasting health implications for the people in the area. The case highlights the challenges of establishing a causal link between corporate negligence and actual harm under Section 304A IPC. Sterlite's actions led to widespread environmental damage, but under this section finding the link between them and specific deaths from their negligence proved elusive.

*Santosh Devi v. State of Rajasthan*¹⁷ illustrates the nuances involved in proving negligence for policies affecting climate-sensitive infrastructure. Despite Section 304A IPC, the courts stated that we needed stricter safeguards to substantiate accountability for infrastructural practices leading to natural disasters.

In *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage Workers*¹⁸, the applicability of Section 304A was examined in the context of the avoidable deaths of workers

¹⁶ *Sterlite Industries (India) Ltd. v. Tamil Nadu Pollution Control Board*, Appeal No. 19 of 2018, Nat'l Green Tribunal, Principal Bench (India).

¹⁷ *Santosh Devi v. State of Rajasthan*, 2017 SCC OnLine Raj 3573 (India).

¹⁸ *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage Workers*, (2011) 8 S.C.C. 568 (India).

due to the lack of safety standards in sewerage systems. The case shows how negligence that causes death can be established when it is vulnerable when the connection between the negligent act and death has an evident link. But those same principles don't apply as smoothly in cases where the negligence results in complex, long-term environmental damages, which is common with large infrastructure projects making climate vulnerabilities worse.

The ongoing Tehri Dam Project Litigation¹⁹ highlights the risks of large-scale infrastructure projects in environmentally/vulnerably-fraught zones. Opponents argue the project, in a seismically active area, threatened the environment, among other things, including local communities. The case highlighted the need for thorough environmental assessments and the challenges of guaranteeing safety when big infrastructure projects are located in sensitive areas. Questions arise around whether the existing provisions of law, such as Section 304A, are adequate to hold parties accountable for indirect acts of environmental harm, in light of the lack of sufficient safeguards for the long-term impacts of such projects on the local ecosystem.

The Comptroller and Auditor General (CAG) Report on Uttarakhand Floods²⁰, among others, highlight the shortcomings in governance and effectively expose the impact of inadequate infrastructure planning in increasing vulnerabilities to climate risks. The CAG report finds fault at the state for not addressing the risk posed by poor infrastructure in flood-prone areas. Neglecting to develop infrastructure sustainably has consequences that cascade, it warns, not just directly injuring people but also exacerbating the impacts of climate change. This audit highlights the existing shortcomings in regulatory framework and the need for urgent legislative intervention with respect to negligence in climate sensitive areas.

The NDMA Landslide Mitigation Guidelines provide necessary recommendations on refining infrastructure planning to mitigate environmental hazards. These guidelines emphasize the importance of conducting holistic risk assessments, including projecting for climate change levels, to ensure infrastructure projects will not amplify the impacts of natural disasters. But unless a strong legal framework is established, such guidelines will not prevent future catastrophes, as it does not directly force anyone from such entities to be responsible for any negligence.

As mentioned, the foundational legal framework is provided by Section 304A IPC, but it falls short of addressing the multi-faceted realities of climate-impelled negligence in infrastructure. That narrow focus on direct causation — and a failure to consider the long-term degradation

¹⁹ *Tehri Virodhi Sangharsh Samiti v. State of Uttar Pradesh*, W.P. (C) No. 104 of 1992, S.C.I. (India).

²⁰ *Comptroller and Auditor General of India, Report on Management of Floods in Uttarakhand* (2021).

of the environment — undermines its usefulness in a rapidly changing world. There needs to be a more nuanced reductionist wrt environmental accountability to close these gaps in infrastructure products. A broader definition of negligence that includes long-term environmental harm and those risks that beget climate change could make Section 304A a more useful tool for holding developers, corporations and government agencies accountable for their contributions to climate vulnerability.

Far81438 Ibid74859 IbidEven in its most convoluted form the enactment of Section 304A IPC does have a role to play in addressing the climate vulnerabilities of infrastructure development in India, and there are indeed actionable takeaways that can enhance the scope of its application. Although the article does give legal grounds for some compensation to the negligent party, the same is limited in that the legality of indirect causation and environmental damage are difficult to define. If we hope to protect our ecosystems, our communities, and our future from the disastrous effects of shoddy infrastructure, we need to shore up this provision and broaden its reach to include climate-induced risks. Only then will the law truly embody the interdependence of human conduct and the fragile health of the planet.

IV. CRIMINAL NEGLIGENCE IN INFRASTRUCTURE DEVELOPMENT: THE CLIMATE PERSPECTIVE

Progress comes at a cost, the latter part of which is often paid by nature when the former dominates. In Indian context, this total indifference transforms into brazen infrastructure antics causing immense environmental destruction straining even further the already precarious climate vulnerabilities of the region. Deforestation, over-concretization, and blockage of rivers—results of negligence in planning and execution—are triggers of climate-induced disasters, which contribute to the worsening of environmental crisis in the country. The law thus has an increasingly vital part to play in holding individuals accountable for actions that straddle the line between growth and sustainability.

The rapid pace of development often leads to negligent infrastructure practices that are directly related to climate disasters. A showcase of how not to do it has to be deforestation in fragile zones — the Himalayas, or Western Ghats — where infrastructure projects gobble up wide tracts of forests for roads, buildings, or mining. Disruption of natural ecosystems not only undermines biodiversity, it also drains the land of its ability to absorb rainfall, causing landslides and soil erosion. The tragic landslides in Uttarakhand and Himachal Pradesh, especially after heavy rains, are a direct result of this negligence. When forests are stripped carelessly, the land is destabilized so that nature's disasters become human-made ones.

Another major issue comes down to poorly planned infrastructure resulting in river blockages. Because environmental assessments aren't required, much of this construction alters river courses or the flow of water due to a dam, bridge, or tunnel. Such disruptions can lead to floods, particularly in states like Assam and Bihar, which are no strangers to floods. Indiscriminate construction in Uttarakhand blocked natural water flow, contributing to the extensive damage of the 2021 floods across the state; hydroelectric projects that had been constructed indiscriminately increased monsoon-induced damage and flooding. These cases illustrate the necessity of a systemic perspective that considers the complex interplay surrounding infrastructure and the environment.

Another challenge urban areas, which are growing fast and frequently developed without regard for the natural path of water, face is over-concretization. When cities over pave and hawk surfaces it sets prevents the land from absorbing water, causing urban flooding. This has become especially common in cities like Mumbai and Delhi, where there is widespread flooding due to heavy rains. Poor drainage systems and the concrete jungle preventing rainwater from seeping into the ground aggravated the 2005 Mumbai floods that killed hundreds and caused widespread destruction. These are endemic to cities that prioritize development but neglect to plan for sustainability.

Over the years, we have seen that the judiciary has assumed a significant role in tackling these problems and has tried to strike a balance between developmental needs and environmental protection. For example, the case of *Orissa Mining Corporation v. Ministry of Environment and Forests*²¹ is another example of how the Indian judiciary ruled against environmental clearances for a mining project that would have resulted in the destruction of biodiversity in the state. The verdict reinforces the principle that development should never come at the cost of nature, establishing an important precedent for the protection of biodiversity. The case highlighted the judiciary's shifting position on the need for robust environmental safeguards before infrastructure projects can go ahead.

The Char Dham Highway Project Litigation²² is another landmark instance of the court's delicate balancing act between development, especially military development, and ecological safety. The Supreme Court, in this matter, recognized the need for infrastructure for national security but also barred the project if it would limit irreversible ecological damage, including the risk of landslides and deforestation. The case led to a rethinking of the planning and

²¹ *Orissa Mining Corporation v. Ministry of Environment and Forests*, (2013) 6 S.C.C. 476 (India).

²² *Char Dham Highway Project Litigation (NGO Citizens for Green Doon v. Union of India)*, W.P. (C) No. 139/2020, Supreme Court of India.

execution of infrastructure projects in sensitive areas, and a demand for innovative, climate-responsible solutions.

In the Ganga Pollution Case²³, the Supreme Court recognized the representative character of certain ecosystems that invite the application of the precautionary principle in its cumulative effects. The case involved the degradation of the Ganges River, which had been grievously affected by industrial effluents and raw human sewage. The ruling also highlighted the necessity for accountability in the face of neglectful infrastructure development that can lead to environmental degradation. The case became a landmark decision, being among the first to directly consider the environmental impact of industrial negligence, and it has served as a precedent for further cases involving ecosystem degradation.

Internationally, best practices have developed from which India can learn. In Italy, following a deadly earthquake in 2009²⁴, several officials faced prosecution for a gross lapse in building construction standards that cost many lives. This exposes a grievance for each bad construction firm, that is accountable for wrongdoing done instead of the population, which is a way in which they must know both public and corporate bodies to be responsible for misstatements associated with an infrastructure. Such model could be advantageous for India, especially when the onus is on developers in relation to poor-quality infrastructural projects being developed in earthquake-prone or ecologically fragile areas.

In Japan, the government has introduced climate-sensitive construction policies with the integration of disaster risk reduction into urban planning. This resulted in more resilient infrastructures, built to endure extreme weather events and minimize the overall environmental footprint. Japan's implementation of construction codes²⁵ that integrate climate change projections, and emphasize the use of sustainable materials is a model for the entire world to follow for climate-sensitive infrastructure development.

Data on how infrastructure development compounds climate vulnerabilities, as captured in IPCC Reports, like the 2014 Reports on Infrastructure and Climate Risks²⁶, are particularly invaluable. Landslides in Kerala and Washi in the Philippines have shown that while creeping up on infrastructure projects, environmental risks must be factored into the picture, from the

²³ *M.C. Mehta v. Union of India*, A.I.R. 1988 S.C. 1037 (India).

²⁴ *L'Aquila Earthquake Cases*, Tribunal of L'Aquila, 2012 (Italy).

²⁵ *Japan Ministry of Land, Infrastructure, Transport, and Tourism, Climate-Resilient Infrastructure Guidelines* (2015).

²⁶ *Intergovernmental Panel on Climate Change, Climate Change 2014: Impacts, Adaptation, and Vulnerability, Part A: Global and Sectoral Aspects* (2014).

genesis of projects. The Supreme Court Expert Committees on Environmental Impact²⁷ have also been played significant role in making suggestions about the reduction of the negative environmental impact of infrastructure development. They stress that environmental sustainability and development objectives should be inter-linked and take a holistic approach.

Criminal negligence towards the development of infrastructure when deprived of sight and neglected by forces that were supposed to clear the air is not just a legal crime but also a crime against humanity and also against nature. The contributions discovered within this section illustrate the growing necessity to build an environmentally conscious approach during infrastructure development from the ground up. While India boasts rapid growth, without making sustainable development a priority, future generations will continue to pay the tragic price of negligence. A holistic future strategy to avoid progress hurting the environment.

V. THE INTERSECTION OF ENVIRONMENTAL AND CRIMINAL LAW

When the scales of justice massively tip towards development and nature loses out, its consequences are impactful and far-reaching. Such aspects may also apply to the reckless approach toward environmental jurisprudence by the concerned authorities in India. With climate change-related disasters disproportionately affecting vulnerable communities as a result of predatory development practices, there is an urgent need for a comprehensive legal framework that brings environmental laws within the scope of criminal liability. Such conjuncture not only delineates the ethical and legal accountability of the parties involved but also suggests through environmental laws, PILs as well as responsiveness of executive and judiciary such as the NGT.

One of the significant pillars that underpins the accountability of negligent parties for environmental harm is rooted in the Environmental Protection Act, 1986 (EPA)²⁸ — the premier form of environmental legislation. Although the IPC covers aspects of criminal negligence and its ramifications, the provisions under the EPA fortify these by specifically addressing environmental protection. It requires the authorities to adopt laws designed to combat pollution and protect the integrity of ecosystems, with the ability to penalize individuals or entities whose actions are deemed to violate established environmental norms. Section 3 empowers taking preventive action and acts as a complement to the IPC covering a more direct approach in dealing with ecological damage. Such a framework also allows the judiciary to hold developers and companies legally responsible for the role that their developments play in climate disasters,

²⁷ *Supreme Court Expert Committees on Environmental Impact*, referenced in Supreme Court judgments (India).

²⁸ *The Environment (Protection) Act*, No. 29 of 1986, Acts of Parliament, 1986 (India).

such as deforestation or water pollution.

Apart from statutory provisions, Public Interest Litigations (PILs) have also served as a crucial tool in ensuring large and careless parties are made answerable. Public Interest Litigation (PIL) is the legal term for litigation initiated by members of the public on behalf of the environment or communities affected by environmental degradation, which may lead to the courts intervening in cases of environmental mismanagement. The Supreme Court decision in *M.C. Mehta v. Kamal Nath*²⁹, in which the apex court ruled that the state had a constitutional obligation to protect natural resources under the public trust doctrine, established a new dimension of responsibility and the role of public interest litigations in enforcing accountability in the environmental realm. In this case, the Court held that while the state could lease land for commercial development, it could not permit acts causing environmental damage that would infringe on the public's right to clean and healthful living conditions. This case demonstrated the ability of PILs in India to use the public trust doctrine to ensure that those at the helm fail to address a certain responsibility to protect the environment, especially in climate-sensitive infrastructure projects.

In India, environmental and criminal negligence issues are increasingly tackled by the National Green Tribunal (NGT). The NGT, the National Green Tribunal Act, 2010³⁰, is specialized in the matter for environmental violation cases, it is a specific judicial forum for the environment disputes. The Tribunal has been pivotal in dealing with the enforcement of environmental laws and holding parties answerable for their negligence in climate-sensitive infrastructure projects. One important instance exemplifying the effectiveness of the NGT in holding accountable corporations responsible for environmental negligence is *Sterlite Industries v. Tamil Nadu Pollution Control Board*³¹. Here, the NGT cancelled Sterlite Industries' permits for its inability to comply with the required environmental standards, thus reinforcing the NGT's administrative power to enforce environmental laws and also punish perpetrators for causing prolonged ecological destruction. Such interventions highlight the increasing role of bespoke tribunals like the NGT in dealing with the intersection of environmental harm and criminal negligence.

Another significant case at the intersection of environmental law and criminal accountability is *Vellore Citizens Welfare Forum v. Union of India*³². This created the precautionary principle in which environmental justice must take place even amidst scientific uncertainty about the

²⁹ *M.C. Mehta v. Kamal Nath*, (1997) 1 S.C.C. 388 (India).

³⁰ *The National Green Tribunal Act*, No. 19 of 2010, Acts of Parliament, 2010 (India).

³¹ *Sterlite Industries (India) Ltd. v. Tamil Nadu Pollution Control Board*, Appeal No. 19 of 2018, Nat'l Green Tribunal, Principal Bench (India).

³² *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 S.C.C. 647 (India).

environmental impact. The Supreme Court applied this principle to make the Union of India liable for environmental degradation of Vellore, commenting in particular upon the industries which neglected to appreciate the long-term effects of their enterprises. The court noted that it is the precautionary principle that must steer development projects; that is to say, all possible estimated environmental impacts of any infrastructure projects proposed must be determined, and where such negative impacts are identified, plans should be made to minimise these before approval of any proposed infrastructure project. This case shows the necessity of a comprehensive legal approach that includes not only crimes but also environmental law in tackling negligence in the field of development.

*Bharat Coking Coal Ltd. v. State of Bihar*³³ is a landmark case that expanded the scope of environmental protection and its intersection with criminal negligence, which the Supreme Court confronted in this case. The case was about industrial pollution and its devastating impact on the community and the environment. This, it concluded, held even when a defendant claims to act in accordance with applicable environmental rules and laws. This case showed that meeting the stringency of the lowest level of the legal requirement does not absolve individuals or corporations from the moral and legal obligation to ensure that they do not contribute to the compromise of the environment in ways that increase vulnerabilities to climate change.

The recent Law Commission Reports on Environmental Crime have re-emphasised the need for a public interest defence in cases of environmental negligence. The Commission has drawn attention to the increasing prevalence of environmental crimes, especially in relation to infrastructure projects in ecologically sensitive areas. Last year the International Criminal Court (ICC) received two reports^{34,35} urging the investigation of environmental crimes as a development towards the strengthening of the intersection of criminal and environmental law in International Law and providing ultimate safe gauge against natural resources wastefulness. They are calling for the expansion of existing laws to include new species of environmental harm from the existing infrastructure, particularly in the face of climate change which often exacerbates the impact of inattention to infrastructure.

In low-lying coastal zones and hilly regions, where climate-resilience is a top challenge, the NGT Orders on Climate-Sensitive Zones³⁶ have been crucial — it mandates strict environment

³³ *Bharat Coking Coal Ltd. v. State of Bihar*, A.I.R. 1987 S.C. 983 (India).

³⁴ *International Criminal Court, Office of the Prosecutor, Draft Policy on Environmental Crimes* (2024).

³⁵ *The Office of the Prosecutor Launches Public Consultation on a New Policy Initiative to Advance Accountability for Environmental Crimes*, International Criminal Court (2023).

³⁶ *In re: News Item Published in 'The Hindu' Authored by Smt. Vandana Shiva Titled 'Large-Scale Developmental Projects in Uttarakhand Causing Environmental Degradation'*, Original Application No. 501/2014, National Green Tribunal (Principal Bench).

management plans for infrastructure projects. The NGT has stepped in quite a few instances where the ecological and environmental cost of projects being undertaken were found to threaten the ecological balance and held developers responsible for not having in place measures to ensure environmental protection. These orders paved the way for integrating environmental considerations into the decision-making process of federally funded projects and not compromising infrastructure with additional climate vulnerabilities.

The harmonious interrelation of criminal law and environmental law through the mediation of PILs and specialized tribunals (notably the National Green Tribunal, NGT) and enforcement of key legal principles lies at the heart of holding parties accountable for climate-induced disasters borne out of negligent infrastructure practices. As India experiences the scourge of the development-challenge/ climate-change conundrum, the role of the judiciary in melding these two areas of Human Responsibility is which is why Environmental responsibility and criminal responsibility needs.... It is evident from *M.C. Mehta v. Kamal Nath*, to the *Sterlite Industries* case, we have seen the Indian Judiciary recognizing the growing gap in combining both criminal law approach with the civil law in the realm of environmental crime.

The integration of the environment and criminal law is essential not just in its legal implications but also in its moral undertones because the climate crisis is moving at an accelerating pace. Through legal capacitation, efficient implementation of the existing statutory measures, and leveraging public interest litigations and specialized tribunals, India can strike the vexing balance between development and environmental sustainability. For world leaders already recognizing the urgency of climate change, the lessons learnt from these landmark cases and the growing corpus of judicial interventions is clear: the law can and must evolve to protect the environment and ensure accountability for passive third parties.

VI. LEGISLATIVE AND POLICY RECOMMENDATIONS

The need for legal framework and policy on infrastructure development thus becomes necessary as India deals with the attacks of climate change. Climate-inspired disasters, worsened by lax infrastructure processes, have bared the weaknesses in India's legal framework. The Indian Penal Code (IPC) Section 304A is an inadequate provision since criminal negligence under Section 304A does not entirely mirror the nature of environmental degradation due to infrastructure development in climate-sensitive infrastructure. This chapter offers a multidimensional framework to tighten legal reconstitution in this regard through amendments to Section 304A, better EIAs, corporate control, and international assistance. Additional recommendations will further examine judicial interventions as well as additional

policy reforms.

Improve and amend Section 304A IPC

Death by Negligence mentioned in IPC section 304A is a very significant part of Indian Criminal Law. But it is still far from targeted to the specific risks presented by climate-sensitive infrastructure projects. In order to properly account for the increasing environmental vulnerabilities associated with climate change, explicit provisions should be added to Section 304A.

Geographic Limitations for Climate-Sensitive Areas

Section 304A must be amended immediately to incorporate a provision which addresses negligence in climate-vulnerable zones: flood-prone, coastal or landslide-prone states must define negligent conduct based on the parameters of specific regions. Construction in such areas, if not taken care of the environment can lead to disastrous scenarios like those witnessed in Uttarakhand floods or 2013 Kedarnath disaster. Infrastructure development in such protected areas should be subject to stricter scrutiny and should come with clear penalties for negligence that results in death or destruction of ecosystems. By including a provision in Section 304A that punishes negligent developers, contractors and even government departments in these zones, stronger deterrence will be put in place and greater responsibility in development encouraged.

Laying Out More Stringent Laws on Corporate Accountability

Corporate negligence, particularly in huge infrastructure projects, is now a primary driver of environmental destruction. We need tougher laws on corporate accountability that should cover environmental destruction due to corporate wrongdoing. In the Chennai Oil Spill Case³⁷, for example, corporate negligence resulted in severe harm to the environment, but the penalty was considered insufficient in relation to the magnitude of the damage caused. The UK-style introduction of corporate manslaughter laws that would make corporations criminally liable for environmental damage due to negligence could help prevent harm. Such laws would mean that the companies who execute monstrous infrastructure or industrial projects would be forced to pay for the human costs and environmental devastation they cause.

Enhancing Environmental Impact Assessments (EIAs)

Environmental Impact Assessments (EIAs) are a necessary mechanism that attempts to keep such infrastructure development from causing irreparable environmental damage. But existing

³⁷ M.E. Raja v. Inspector General of Coast Guard, W.P. No. 2662 of 2017, Madras High Court (2017).

EIAs often overlook climate risk analysis, a crucial process for understanding how climate change can exacerbate the impacts of development.

Environmental Impact Assessments and Climate Risk Analysis

Right now, EIAs tend to assess only the immediate environmental impacts of projects, with little consideration of future climate-related risks. In order to fill this gap, the government needs to formalise the inclusion of climate risk assessments into the EIA process. These assessments should take into account climate-induced changes such as rising sea levels, increased flooding, droughts, or more extreme weather events. Projects that are in regions sensitive to climate change should undergo rigorous assessments to determine whether they would contribute to worsening the risks posed by climate change. An apt case in this context was the *Essar Oil Ltd. v. Halar Utkarsh Samiti*³⁸, which highlighted the need for judicial intervention to strike a balance between development and environmental accountability, urging that EIAs must be more than a matter of regulatory compliance, but rather a long-term and robust mechanism for sustainability.

Post-Construction Monitoring of Environmental Impact Assessments (EIAs)

Another important recommendation is related to strengthening the post-construction monitoring in EIA process. And once a project is rubber-stamped, it should be mandated to undergo continuous environmental monitoring, ensuring that no detrimental effects take place that could not be predicted beforehand. This applies especially to large infrastructure projects in vulnerable environments, where negligence can have a delayed impact. Regular evaluations — not arbitrary but combined with strong legal punishment for negligence — will ensure that infrastructure works are not aggravating climate Destruction.

International Instruments and Legal Reforms

Since climate change does not recognize borders, effective legal reforms at all levels are essential, and international cooperation is important in the approach to climate-sensitive infrastructure development. Sharing of best practices along with adoption of international standards can assist India in strengthening its legal framework.

Embracing International Engines of Climate Accountability

India needs to learn from international frameworks like the UN's Climate Accountability Reports³⁹ that offers parameters to punish countries and corporations for the harms they are

³⁸ *Essar Oil Ltd. v. Halar Utkarsh Samiti*, A.I.R. 2004 S.C. 1834 (India).

³⁹ *United Nations, Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment* (2019).

causing through climate actions. And these standards could help spur laws and regulations that hold developers and governments accountable for projects that worsen the risks of climate crisis. Adopting such standards would put India on a legal footing with global efforts to mitigate the human and environmental cost of infrastructure projects in the era of climate change.

Partnering with Nations Committed to the Climate

To this end, India could learn from climate-responsible countries like Germany and Norway that have enacted successful legislation to make both the public and private sectors liable for damage caused to the environment due to climate change. India can partner to learn best practices (for accountability, strengthening EIAs and enforcing climate sensitive infrastructure).

VII. ADDITIONAL LEGISLATIVE AND POLICY RECOMMENDATIONS

A National Climate Risk Agency

A National Climate Risk Agency could be created to assess the threat a project could pose to ecosystems and the climate of the nation as a whole. This would be to ensure that the long-term effects of development take center stage, and all projects are aligned with climate-resilient development goals. By instituting a specialized body able to evaluate not just the direct environmental deprivations, but the indirect ones as well, India would have been better prepared to avoid catastrophes like the one unleashed by climate change on its infrastructure.

Government Officials Accountability

A second recommendation is to create system of climate liability for government officials who approve the projects. Governments should be personally liable for environmental damages if climate risk is not considered in the decision making process. This would compel officials to take environmental issues more seriously, and would lead to greater investment in sustainable development.

PILs for Climate Accountability

Public Interest Litigations (PILs) have been the key component of India's jurisprudence on environmental issues. Broadening the definition of PILs to include climate-related negligence would enable communities and individuals, who are impacted by climate-related disasters, to hold both private corporate entities and government agencies accountable. The Deepak Nitrite Case⁴⁰ that related to violations connected with industrial pollution was an example of the

⁴⁰ *Deepak Nitrite Ltd. v. Gujarat Pollution Control Board*, Appeal No. 27 of 2004, Gujarat High Court.

scope of public interest litigations, to tackle environmental violations. Adding negligence in climate-sensitive infrastructure projects to PILs would increase public participation in holding the guilty parties accountable for their actions.

Tackling Climate-Resilient Infrastructure: Strengthening Local Governance

Creating enabling local governance systems to monitor and enforce climate resilient infrastructure standards. Shifting the enforcement of these regulations from a Federal level to local communities would allow the directly affected parties to be better prepared for the infrastructure-related climate threats they may face. This might involve establishing local climate councils that report closely to national agencies that can issue conditions on development projects with the highest environmental quality.

There is a need for India's legal and policy frameworks to adapt to the increasing backlash from climate change as well as the adverse consequences of development of large infrastructure projects. Providing a robust Section 304A IPC that ensures stringent actions against negligence causing loss in climate-sensitive zones, stringent corporate laws and improving the quality of EIAs will play pivotal roles in climate resilience, making EIAs non-trivial and creating global partnerships will guide us towards a sustainable future. Judicial interventions, PILs and more legislative reforms will be crucial towards holding negligent parties accountable for their actions, but also ensuring that India's infrastructure projects are more climate-friendly and resilient. Once those reforms are in place, India can head toward a future where development and environmental protection are mutually reinforcing.

VIII. CONCLUSION

At a point in history when development must be reconciled with the footprint of that development if we are to face the consequences of a changing climate, India now finds itself at a crossroads. Emphasis is on a legal framework particularly pertaining to criminal negligence in the arena of infrastructure development. As evident through the line of narrative in this paper, the crossroad of climate change and infrastructure-oriented negligence exposes a systemic loophole in India's legal framework. The absence of climate migrants on this list is not merely a legal blind spot, it is a moral failing leaving communities that already bear the burden of climate change even more vulnerable. The time has come for environmental accountability to be incorporated in the criminal negligence framework, especially Section 304A of the Indian Penal Code, on such acts.

Through the lens of criminal negligence, this paper shows that while the criminal law may frame robust statutes, the nature and complexity of climate change risks in infrastructure

projects far outpace the capacity of Indian law. Climate smart infrastructure continues to be developed in the much climate sensitive regions (natural disaster prone or otherwise adverse affected), without an indicator or interest about sustainable infrastructure with wider environment and societal considerations. The current legal provisions do not take into account specifically the long-term impact of the development of these areas. This gap demands an overhaul that incorporates the analysis of climate risk, as well as holding developers, contractors, or even government agencies accountable for the environmental destruction resulting from negligent practices. Section 304A needs to be amended to cover climate-sensitive zones and negligent acts in this zone must lead to maximum penalties.

As important, we need much more accountability for corporations. The consequences of industries refusing to uphold environmental safety standards have been disastrous, and that was in the cases such as the Chennai Oil Spill and *Sterlite Industries v. Tamil Nadu Pollution Control Board*. These cases show that when corporations sidestep environmental safeguards, the destruction is not merely an isolated incident, it is a crisis for entire ecosystems and communities. We need stricter corporate accountability laws so that companies can be held criminally responsible for their environmental negligence, particularly when they are exacerbating climate risks.

As law evolves, so do the systems in place for EIAs. While the current system is a valuable tool, it often fails to consider the long-term and cumulative impacts on the environment from development, especially in a time of climate change. Climate risk assessments are integral to the EIA process, ensuring that infrastructure projects are built to withstand climate change impacts. Implementing these considerations will move India from reactive to proactive environmental governance—identifying potential harm before it becomes a law or regulation.

Judicial activism is an essential driver of such reforms. A recent example of this can be seen in landmark Public Interest Litigations (PILs) like *M.C. Mehta v. Kamal Nath* or *Vellore Citizens Welfare Forum v. Union of India* that prove how the judiciary can hold both the state and corporations liable for causing environmental degradation. The role of judiciary must be extended to include negligence towards climate while assuring that development projects are in sync with environmental sustainability. Climate risks are increasingly clear and sufficiently actionable, and a growing body of scholarship suggests that the judiciary needs to become more fulsome in making sure that development does not come at the cost of the earth, or its people.

Moreover, international partnerships unlock an opportunity for India to align with global best practices in the intersection of infrastructure development and climate action. Germany and

Japan have since implemented laws that tie environmentalism to the development of a country's infrastructure, hinting that development and sustainability aren't necessarily mutually exclusive. The UN's Climate Accountability Reports and other international frameworks offer valuable roadmaps for developing laws that hold countries and corporations accountable for their contributions to climate change. Such collaborations can help India align its legal reforms with the global struggle to address climate change.

The way ahead must therefore represent a comprehensive, connected vision of climate change, criminal negligence, and infrastructure progress. As this paper has highlighted, there is an urgent need to amend India's criminal negligence laws to include environmental risks in infrastructure projects. Time to roll back judicial activism with legislative reforms and the courts will play a critical role in saving the future, especially in the fight for environmental accountability. Subsequently, international partnerships would also complement India's requirements and provide the right tools and frameworks to build a robust, sustainable infrastructure ecosystem. This is the only way India can avoid development being successful economically but not in an environmentally friendly way with these reforms in mind. The future of our nation, our people, our environment all hinges on the decisions we make now — decisions that must be made putting the planet above profit, and future generations ahead of short-term gain.
