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Forty Years, Over 300 Tonnes: Why India's Hazardous Waste Law Struggles to Clean Up After Itself

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On the 3rd night of December 1984, a toxic gas leaked from the Union Carbide plant into the atmosphere of Bhopal resulting in one of the worst industrial catastrophes in the history of India. Four decades later, the waste it left behind remained at the site. In December 2024, the Madhya Pradesh High Court denounced the authorities for their inaction¹ and mandated a four-week deadline for its removal. In January 2025, around 337 tonnes were removed to a disposal facility in Pithampur, where the incineration process began in a few months.

Why did removing toxic waste from a disaster site need a court ultimatum, that too after forty years? The answer insinuates something grave about the wider system. Indian Judicial precedents indoctrinated strong principles on hazardous waste and liabilities attached to it, but the statute² now relies on weak penalties, and no one is clearly responsible for orphan waste or when the polluter is gone.

The Law's Ambit

Under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016³, hazardous waste is any waste that endangers or is likely to endanger health of organisms or the environment because of its toxic, chemical, flammable, explosive, corrosive

¹ Jatindra Dash, *Toxic waste from India's 1984 Bhopal gas tragedy site moved for disposal after 40 years*, **Reuters**, (January 3, 2025, 2:38 AM) <https://www.reuters.com/world/india/toxic-waste-indias-1984-bhopal-gas-tragedy-site-moved-disposal-after-40-years-2025-01-02/>

² Jan Vishwas (Amendment of Provisions) Act, 2026, No. 8, Acts of Parliament, 2026 (India).

³ Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, Gazette of India, (Mar. 4, 2016).

or similar nature and composition⁴. Exposure to it can cause respiratory, reproductive, skin and eye problems. The Rules are made under the Environment (Protection) Act, 1986 (EPA) and govern how such waste is stored, transported, treated and disposed of.

Strong principles

Article 21, the right to life, has been used by the Indian courts to read a right to a healthy environment into the Constitution, while persistently asking for a balance between development and ecology. Two precedents stand out. The oleum gas leak case⁵ decided after a gas leak disaster in Delhi, the Supreme Court held that businesses handling in hazardous activities are absolutely liable for the harm they cause directly or indirectly, without exceptions. In the “H” acid case⁶, the Court applied the polluter pays principle to toxic sludge left by chemical factories in Bichhri, Rajasthan, and made the industries foot the bill of repairing the environmental damage so caused.

Why the enforcement lags?

Principles hold weight only if they are enforced. The Bichhri industries kept challenging the order, and the Supreme Court was still dealing with their applications till 2011, nearly fifteen years after the judgment, which delayed the enforcement. The same pattern is seen in the Bhopal waste: years of delay, and action only under judicial pressure.

Meeker Penalties

The 2023 reform⁷ moved in the wrong direction. Before it, contravening the EPA or its rules could entail 5 years of imprisonment and a fine⁸. The Jan Vishwas (Amendment of Provisions) Act, 2023 replaced this with monetary penalties that would be decided by an adjudicating officer the penalty ranges from 10 Thousand Rupees to 15 Lakh Rupees. For the habitual defaulters, this could act as secondary operational costs.

The Act aimed to decriminalise minor offences and improve ease of doing business. That is a fair goal for paperwork lapses, but hazardous waste is different: the harm is physical, lasting

⁴ Environment (Protection) Act, 1986, s. 2(e).

⁵ *M.C. Mehta v. Union of India* (1987) 1 S.C.R. 819 (India).

⁶ *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

⁷ Jan Vishwas (Amendment of Provisions) Act, No. 18 of 2023, Acts of Parliament, 2023 (India).

⁸ The Environment (Protection) Act, 1986, s. 15, No. 29, Acts of Parliament, 1986 (India).

and often irreversible. For a large producer, a fine of this size can cost less than proper treatment and disposal.

Weak consequences also shape public attitudes. When people see that violators are rarely punished, they begin to treat non-compliance as normal. Enforcement is a form of environmental education, and right now it is teaching the wrong lesson.

The legacy-waste gap

Polluter pays works only when there is a polluter to pay. Where a company has collapsed, left or disputes liability, waste stays where it is, continually contaminating the environment nevertheless. Bhopal suggests that when the polluter is gone, no one is clearly accountable for removing what remains. Disposal is a problem too: the Pithampur plan attracted strong local opposition over safety concerns⁹.

What should change?

Three steps would help. Firstly, restoration of previous penalties for serious or wilful violations, and linking fines to the profit gained and the harm caused. Secondly, creation of a funded clean-up mechanism for legacy and orphan waste sites, with a named authority and fixed timelines, with the officials keeping a vigilant check on its operations. Third, publish enforcement data, so that penalties are publically visible and compliance becomes the norm.

India does not lack principles on hazardous waste; it lacks follow-through. A system that needs a High Court ultimatum to clear a disaster site after four decades is not managing hazardous waste. It is postponing it.

⁹ Mehul Malpani, Union Carbide waste disposal: Protests erupt across Pithampur, **The Hindu**, (January 04, 2025 12:16 am) <https://www.thehindu.com/news/national/madhya-pradesh/union-carbide-waste-disposal-protests-rock-pithampur-two-attempt-self-immolation/article69057483.ece>