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## Environmental Laws and Corporate Liabilities

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*Environmental protection has emerged as a critical priority in the wake of industrialisation and increasing ecological degradation. This paper examines important environmental laws in India like the Polluter Pays Principle (PPP), the Environmental (Protection) Act, 1986, the Wildlife (Protection) Act, 1972, the National Green Tribunal Act, 2010 and the Biological Diversity Act 2002, which are traced back to the Stockholm Conference for the development of statutory frameworks. The study further looks into the role of judicial interventions in enhancing environmental governance, especially through landmark cases that have been expanded in the scope of Article 21 of the Indian Constitution to include the right to a healthy environment. It closely evaluates the role of corporate industries in ecological degradation through pollution, natural resource depletion and hazardous waste mismanagement, depicted by incidents such as the Bhopal Gas Leak Tragedy. This study finds that although India has built a comprehensive legal framework backed by legislative bodies and judicial activism, corporate activities continue to considerably contribute to environmental degradation due to weak enforcement and regulatory gaps. India requires more robust implementation of environmental laws, and sustainable industrial practices are important to achieving long-term environmental protection and ensuring a healthier ecology.*

**Keywords:** *environmental laws, judicial interventions, corporate industries, pollution, environmental degradation.*

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## INTRODUCTION

The environment is one of the regulating bodies of the Earth. It provides us with the natural sources of light, air, water and soil. The organisms have evolved in the same natural environment over time. From micro-organisms to macro-organisms, including human beings, the natural environment has shaped it all. There is a give-and-take relationship between nature and the living organisms, specifically human beings. Nature provides us with its fresh oxygenated air, fertile soils, bright and richly filled vitamin D light source and the freshwater resources, which make the mountains and lands look hydrated. The humans in<sup>1</sup> return ought to take care of these gifts of nature by planting trees, saving the forests from undergoing deforestation and preventing water wastage and unnecessary mining, leaving the soil infertile. According to section 2(a) of the Environment (Protection) Act 1972, 'environment' includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organisms, and property.

Ever since the Industrial Revolution in the 18<sup>th</sup> century, there has been a significant rise in the number of pollutants found in the waterbodies and air. With the growing population and the rising demands of its population, there has been a scarcity of resources and heavy industrialisation. This leads to pollution of the rivers or water bodies and also degrades the air quality of that place. So, to conserve the environmental resources, we need to stop their degradation. The alarming rise in pollution and its ill effects on people made the heads of the country come together and formulate laws relating to the sustainable use of natural resources. These came to be known as Environmental laws. The environmental laws focus on conserving and protecting the natural resources and their habitats by providing the necessary rules and regulations that one needs to follow. The protection of air, water, land, biodiversity, etc form the different domains under environmental law. It also encourages economic development with environmental protection.

## EVOLUTION OF ENVIRONMENTAL LAWS IN INDIA

The Stockholm Conference held in the United Nations, with the active participation of India, brought environmental protection to the global agenda in June 1972. India also enacted certain

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<sup>1</sup> *Vedanta Ltd v State of Tamil Nadu* (2024) 14 SCC 340

laws for the protection and sustainable use of natural resources. It brought the Polluter Pays Principle (PPP) as one of the steps towards the execution of environmental governance. The Polluter Pays Principle (PPP) was first acknowledged by the OECD (Organisation for Economic Cooperation and Development) in 1972 in its guiding principles concerning international economic aspects of environmental policies, as an economic tool to assign costs of pollution control to the polluter to promote rational use of environmental resources by avoiding distortion of trade and investment. This principle simply means a situation where the polluter pays or compensates for the damage they caused to the environment through their regular activities. The PPP is also applied in cases of greenhouse gas (GHG) emissions. For instance in the case cited as *Vedanta Limited v State Of Tamil Nadu*, the Vedanta's Sterlite Copper smelter at Thoothukudi SIPCOT complex faced repeated closure orders from Tamil Nadu Pollution Control Board (TNPCB) for environmental violations including operating without consent and constant complaint from the locals of how it is contaminating the quality of its air and water due to its hazardous waste mismanagement and substantial presence of TDS (Total dissolved solids) in the water. However, the Madras High Court underlined the principle of polluter pays (PPP). The court ordered to pay a 100 crores fine for causing significant harm to the environment, and as the damage caused by the copper smelter was irreversible, the court also ordered the permanent closure of the industry.

This principle was applied to the Taj Trapezium Case, which urged the legislators to look into the concerning matter of its degradation, the rising pollution as a result of the neighbouring industrial activities and that strict costs shall be collected thereby as compensation, holding polluters liable.

In cases like *Research Foundation for Science Technology National Resource Policy v Union of India* and *Vellore Citizens' Welfare Forum v Union of India* [1996], the judiciary emphasised that the polluter pays principle is a crucial part of India's environmental laws. In addition, the creed was reaffirmed by India Constitution as citizens' right to life and right to personal liberty, enshrined in Article 21, includes "right to live in a healthy environment." The polluter pays principle furthers the realisation of the right in the constitution.

## **THE STATUTORY BODIES SUPPORTING THE ENVIRONMENTAL LAWS JURIDICALLY**

It is always that actions speak louder than words. So, just the thought of saving biodiversity and nature won't be fruitful. There must be a certain set of rules and regulations for the implementation of the same thought. The Constitution of India shows that the right to the protection of the environment comes under the fundamental rights of an individual. It is the fundamental right of every citizen of the country to live in a pollution-free environment and lead a better quality of life. The PPP principle alone could not support the goal of a pollution-free environment. Hence, the PPP principle is guarded by some other statutory bodies that enforce the laws regarding the preservation of the natural habitat. There are numerous Acts passed after Independence, and specifically dealing with different aspects of environmental problems. Some of the acts constituted for the prevention of industrial pollution include:

### **Constitutional Provisions:**

**Article 14:** It states that every person is equal before the law and no citizen shall be denied the right to equal protection.

**Article 21:** This article talks about the right to personal liberty. It states that no person shall be deprived of exercising personal liberty except when bound by law.

**Article 32:** It states that every citizen has the right to constitutional remedies. They may file a petition under this section in the Supreme Court on matters relating to environmental protection.

**Article 51-A(g):** It states the duty of every citizen to protect and improve the natural environment, including the forests, lakes, rivers and wildlife and to have compassion for living creatures.

**The Wildlife (Protection) Act 1972:** This act provides the legal framework for the protection of the wild habitat that is the flora and fauna, which includes wild animals, birds and plants. This law continues to be a foundation of India's wildlife conservation strategy, and its implementation has evolved through amendments, particularly in line with global conventions such as CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora). It is

concerned mainly with activities including hunting, poaching, and the trade of animal products. It aims to serve the purpose of protecting endangered species and prevention from extinction of the species. These boards also promote the idea of co-existing, that is, the existence of man and wildlife in the same natural environment. This statutory body provides for the building of zoological parks, wildlife sanctuaries, botanical gardens and other protected areas which are home to millions of different organisms. It not only safeguards the species but also serves as an educational tool for the youth who visit these parks and gardens. The 42<sup>nd</sup> Amendment Act 1976, Forests and Protection of Wild Animals and Birds, was transferred from the State to the Concurrent List. The act in recent times also covers the area of Jammu & Kashmir in its jurisdiction.

**The Environment (Protection) Act 1986:** This act provides for the protection and improvement of the environment and matters related thereto. It defines key elements like what the environment is, environmental pollutants, environmental pollution, handling, hazardous substances, etc. This act led to the creation of the Central Pollution Control Board (CPCB) at the national level and the State Pollution Control Board (SPCB) at the state level, authoritative bodies which deal the environmental issues specifically. It also laid down the provisions for constant checks and balances to control the handling, storage and use of hazardous substances. The act also encourages the government to check for proper discharge of harmful pollutants in a way which is not harmful to the people residing nearby. In case of any mishap, these specialised bodies are entrusted to perform for the speedy recovery of the damage so caused. It also laid down harsh penalties and fines in case the inhibitor fails to abide by the rules so stated. It has prompted the implementation of pollution control measures in the manufacturing sector, raised awareness of environmental issues, and improved the quality of water and air in many areas.

**The National Environment Tribunal Act 1995:** This act provides for the strict liability for the occurrence of accidents that take place due to the mishandling of hazardous substances. It operates with a view to providing relief and compensation for the damages caused to the person, property and environment and for matters related thereto. The Supreme Court had, in the case of *M.C. Mehta v Union of India*, laid down that any person who brought dangerous substances on his demesne would have a strict liability to compensate persons who suffered injuries by that substance escaping, and it would not be open to that person to defend the claim by saying that

he had taken acceptable precautions and wasn't careless. The primary objective of this act is to provide effective recovery to the appellant in case of environmental protection, conservation of forests and other natural resources and enforcement of any legal right relating to the environment.

**The National Green Tribunal Act 2010:** This act is the modified version of the National Environment Appellate Authority Act, 1997, which was established due to the rising concerns of industrial pollution and the immediate need for judicial supervision on matters related thereto. The NGT Act is concerned with the immediate or time-bound disposal of cases relating to environmental protection and conservation of forests and other natural resources, including enforcement of any legal right relating to the environment, and giving relief and compensation for damage caused to persons and property that are the victims of environmental damage and for matters incidental thereto. This body contains judicial bodies, which are specialised legal forums comprising judicial and expert members to promote the goal of sustainable development.

**The Biological Diversity Act 2002:** This act provides for the conservation of biological diversity. It encourages the sustainable use of the components and fair and equal sharing of the benefits derived from the biological resources. It also aims to protect the traditional rights and knowledge of the local communities.

## **HOW ARE THE CORPORATE INDUSTRIES CONTRIBUTING TO THE ENVIRONMENTAL DEGRADATION?**

Environmental degradation is one of the concerning global factors that occurs due to the prolonged period of the environment's exposure to the pollution caused by the industrial hubs. The pollutants involve silica dust, toxic emissions of gases, including greenhouse gases and toxic materials due to mismanagement of waste discharge. Industrial processes are a double-edged sword, driving economic growth while simultaneously wielding significant environmental impact. Reckless corporate activities are often acted out at the cost of environmental health daily.

For instance, the current condition of the Yamuna River. The Yamuna through Delhi, which was once the lifeline of Delhi and was home to several aquatic habitats, is now no more than a still river with its habitat dead and toxic foam floating over its surface. The river exits the city as one of the most polluted rivers with black and stinky water, and the pollution stats are going down

to 99.99%. This is the result of the nearby industry's reckless discharge of its toxic waste without treating it. It is also the outcome of people's expulsion of their personal wastes by bathing in it and performing religious rituals, harming themselves, as well as further polluting the water body. At least 22 drains open into the same river. All these factors contribute to the pollution of the holy Yamuna River.

Another example could be the case of Union Carbide Corporation v Union of India. The infamous Bhopal Gas Leak Tragedy which clearly shows the negligence of the authoritative heads of the Union Carbide Factory in the handling of such poisonous gas. The Bhopal gas leak took place at midnight on 2<sup>nd</sup> December, when the MIC (methyl isocyanate) gas from the appellant's factory (Union Carbide Ltd.) immediately consumed more than 2660 lives, leaving more than 30000 to 40000 people severely injured, causing long-term environmental damage. The Union of India filed suits to recover compensation for the victims in both U.S. Courts and later in the Bhopal District Court. The doctrine of strict liability was applied by the Supreme Court without any exceptions for hazardous industries like the UCC (Union Carbide Corporation). The court ordered an overall settlement of 470 million dollars to be paid to the Union of India by the UCC, which in turn will be distributed to the victims of the tragedy.

AI is hailed as a game-changer, but beneath its transformative potential lies a pressing concern: its environmental impact. The development, maintenance and disposal of AI technology all come with a large carbon footprint and electronic waste disposal. Behind the workings of AI's magic lies an energy-intensive process with a staggering carbon footprint. As datasets and models become more complex, it directly impacts the greenhouse gas emissions, aggravating climate change. According to OpenAI researchers since 2012, the amount of computing power required to run these cutting-edge models has doubled every 3.4 months. The e-waste produced by the hardware refreshes to run the latest AI technology contains chemicals, including lead, mercury and cadmium, that can contaminate nearby soil and water supplies and endanger both human health and the environment.

The excessive mining projects and rapid deforestation disturb the natural balance of the soil. It results in endangering habitats and reducing biodiversity. The overexploitation of resources leading to depletion of non-renewable resources is the outcome of the irresponsible behaviour of the industrial hubs towards the natural providers of raw materials.

## **THE CORPORATE INDUSTRIES AND THEIR LIABILITIES**

As previously discussed in the above topic, industrial processes are a double-edged sword, driving economic growth while simultaneously wielding significant environmental impact. So, corporations cannot always be about expanding and earning profits, but they should also ensure that the environmental impact is as low as possible or better, negligible. In India, the principle of absolute liability is in force. That is, even if the industry/corporation did not mean to cause any damage to the natural surroundings and the damage has been caused thereby, then the corporation is itself obliged to fix the damage so caused. Every corporation is bound by Corporate Environmental Responsibility (CER). CER makes the operating corporations answerable for their actions and act responsibly to avoid any repercussions for harming the environment's health. Instilling the concept of CER in every corporate entity becomes crucial to uphold social interests and ensure the preservation, protection, and sustainable management of the environment.

There is another responsibility which the corporations are bound to. That is known as the Corporate Social Responsibility (CSR) stated under the Companies Act 2013. CSR is obligatory for all eligible companies/corporations under section 135 of the Companies Act 2013. CSR ensures that every company must contribute 2% of their average net profits made in the preceding three financial years for the funds relating to the welfare of the environment. It plays a crucial role in balancing between profit-making and social accountability. For instance, Adani Group: Concentrated on renewable energy, education, and community infrastructure.

## **THE COMPANIES ACT, 2013**

According to section 135(1) of the act, it states that every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be independent.

There are two ways in which the corporation could be made liable: firstly, via civil law and secondly, via criminal law. Under civil law, specifically under tort law, strict liability is applicable in cases of escape of water, fire or any harmful substance causing damage to the property. But in

recent times, the doctrine of absolute liability has been followed. Absolute liability holds individuals liable for the harm caused by hazardous activities, irrespective of the precautions taken. In the Oleum Gas Leak case cited as *M C Mehta v Union of India (Oleum Gas Leak case)*, Mr M.C. Mehta, under Article 32, filed a PIL for the closure of units of Shriram Foods and Fertilisers as it was built in a densely populated area of Delhi, citing hazardous operations being carried out. During the pendency of the petition, the oleum gas leak took place from one of the units of the Shriram industry, killing one advocate and leaving more than two hundred people injured. The court held the company under absolute liability for settling such a hazardous industry in such a populated area, resulting in environmental damage. The court ordered 20 lakhs of compensation and 15 lakhs for bank security for further cases of leaks, to be paid by Shriram Industry. The industry was allowed to restart only on the condition of following the safety precautions in future.

Whereas under the criminal law, due to the inapplicability of mens rea in every upcoming case, the court held the directors or shareholders individually liable for a company's wrongful act. It also addresses the crimes committed behind the veil of corporate identity. Thus, effective legislation targeting environmental crimes is essential to ensure corporate accountability. The LG Polymer Gas Leak incident of 2020, cited as *Gas Leak from LG Polymers India Pvt Ltd v State of Andhra Pradesh*, has also come under intense scrutiny, with ongoing criminal proceedings initiated under several sections of the Indian Penal Code. On 7<sup>th</sup> May 2020, there was a leakage of Styrene gas at the LG Polymers plant in Vishakhapatnam, killing 12 people and injuring several others. The NGT exercised the suo motu powers and ordered to pay an interim compensation of 50 crores, for the purpose of assisting the victims and to clean up the environment. The Tribunal used both the strict liability and polluter pays doctrine and made LG Polymers liable not only to the immediate fallout, but also to the overall harm related to the ecology.

The LG Polymers were involved in the manufacture, storage, and import of hazardous chemicals, is listed in the Hazardous Chemical Rules of 1989. In the case of *Sterlite Industries (I) Ltd v Union of India & Ors.*, the court levied a substantial compensation amount based on the company's profit. Thus, in certain cases, the civil liabilities are found inadequate to judge the situation. So the importance should be given more to the strict punishment of perpetrator companies harming the natural environment intentionally or unintentionally. The concept of

mens rea (guilty mind) should be interpreted liberally to ensure offenders are held accountable. Hence, rigorous enforcement mechanisms must be implemented to ensure true compliance.

## **STEPS TAKEN BY THE CORPORATIONS TO MITIGATE ENVIRONMENTAL EXPLOITATION**

The way the corporate industry runs in accordance with its public perception is one of the marketing parameters for corporations. It enhances their reputation and public image when they also consider environmental impacts alongside their production processes, leading to the formulation of environmental laws and policies. The corporations perform the following activities, which show their realisation regarding the issue of the impact on environmental health.

**Step 1: Environmental Impact Assessment (EIA):** Every corporation must undergo an environmental impact assessment before the initiation of any major project which directly involves nature. The EIA ensures to measure the probable risks of damage that may arise due to the ongoing operations of the corporations. It helps decision makers to understand the potential environmental effects of the proposed action. The central and state control boards (CPCB/SPCB) grant consent, and any violation of any legal provision may halt the project.

**Step 2: Pollution Control Measures:** Most of the time, the industrial outputs result in different forms of pollution. They can be air pollution, water pollution or soil pollution. Regardless of the pollution it causes, the corporations must take measures to control their pollutant levels. They must use more scientific technologies and proper waste disposal methods, so they leave no environmental footprint. Their effluent levels, if found in non-compliance with the stated standard of the expected level of effluent, might be prosecuted criminally.

**Step 3: Liability for Causing Environmental Damages:** The corporations are liable for every reaction that is generated from taking every step towards the profit-making of their industry. This works mainly on the principle of the polluter pays principle (PPP). According to this principle, every corporation must fix or pay the cost of managing pollution to avoid damage to human or environmental health.

**Step 4: Sustainable Resource Usage:** The corporations ensure that they use resources sustainably, thereby avoiding overusage or overexploitation of the resources. Sustainable use of

resources involves the three Rs, that is, Reduce, Reuse and Recycle. This ensures that there is minimal wastage of resources and also that the resources are used efficiently.

**Step 5: Mitigating the Climatic Conditions:** One of the major crises the earth is facing is the Ozone layer depletion resulting from the increased percentage of air pollutants. Industries majorly contribute to air pollution by emitting greenhouse gases and other toxic chemicals into the air. It leads to adverse fluctuations in the weather, leading to occurrences like acid rain. So, the corporations must regulate the emissions of the gases, trying not to pollute the atmosphere.

**Step 6: Report Presentation and Transparency:** The corporations must keep the accounts of all the activities it does while being exposed to the natural environment. It must remain transparent to its accountable government by presenting regular reports so that in case of any escalated calamity, the government can provide further assistance. This includes disclosing environmental impacts, reporting on compliance with environmental laws, and being transparent about environmental management practices.

Hence, these are not just legal obligations which the corporations need to fulfil, but rather it is the fundamental duty of every single person to protect the natural environment and biodiversity and live freely in a non-polluted place.

## **PERSONAL INSIGHTS**

The Earth's environment, in which we reside, is a beautiful abode to many organisms, including human beings. Just like we take care of the house we live in, similarly, we also must take care of the nature we live in. We breathe the oxygen, use the gifts of nature at the cost of their destruction. Analogous to how we keep refuelling our automobiles every time it empties, we ought to recycle, reduce and reuse too. We must keep planting trees again so that the ecology remains balanced.

With the coming of the industrial revolution in the 18<sup>th</sup> century, many species became endangered, some went extinct, and some became adapted to the changing environment, which was also known as the peppered moth experiment. Seeing this, the people ruling different regions of the world realised the adverse effects it could have on their people if ignored now. So the world leaders came together, recognising this global issue, and formulated laws both internationally and nationally as well.

India, under Prime Minister Indira Gandhi, participated in the UN Stockholm Conference in June 1972. India also formulated several environmental laws and laws that could hold the corporate industries directly liable for their activities. But again, all the principles like the Polluter Pays Principle (PPP), environmental laws like the National Green Tribunal (NGT) 2010, the Environmental Protection Act, 1986 (EPA), would be just a set of norms noted on a piece of paper if not implemented accordingly.

Consequently, apart from performing environmental impact assessments (EIA) and other measures, the government should establish dedicated government agencies that check on the smooth functioning of the regulatory bodies like CPCB & SPCB. The government must keep making amendments in parallel with changing times in EPAs and aim to simplify by removing any unnecessary overlaps. It should adopt heavy penalties for those who fail to abide by the provisions stated in the acts. The government can adopt stricter emission and discharge standards and strengthen enforcement of environmental laws.

The government must also recruit more regulatory officers and form institutions which would also give rise to employment. It must also check for the adherence of the corporations to the CSR promptly. The government must also provide incentives and support to its staff to keep them motivated to work diligently, and should also publish action plans to explain the hierarchy in the workplace and how plans should be executed. These steps ensure zero confusion to the end goal of securing a safe environment. It also ensures that there are fewer risks of environmental hazards by taking proper care and precautions and performing regular checkups.

## **CONCLUSION**

The environment and its repercussions resulting from ignorant human activities are no joke but crucial issues in society. It is high time that the common public is made aware of the ill effects it may produce towards the upcoming mankind. The government must promote the establishment of a physical environment filled with fresh air and devoid of any pollutants, leading to a safer environment. The governments must allocate the permits for the corporation buildings to be built in remote areas of the city, far from residential areas, unlike the carbide corporation, which was built in the middle of the city of Bhopal.

The corporations also involve human staff in their production process. Although their ultimate aim is to derive huge amounts of profit, they cannot ignore the carbon footprints and harmful emissions they release. These harmful emissions not only harm the environment but also, in some extreme cases, mutate the genes, which is deadly for the upcoming generation of their own as well. They are all working as a slow poison, slowly contributing to the depletion of the Ozone layer, which also contributes to the degradation of environmental health.

The important regulatory bodies of the Central Pollution Control Board (CPCB) and the State Pollution Control Board (SPCB) play a crucial role in the effective enforcement of the Environment Protection Act (EPA) and ensure that limits are put on corporate behaviour. The corporations must truly adhere to the formation of Corporate Social Responsibility (CSR). They must act responsibly towards society, being answerable to them. By allocating additional resources to the enforcement agencies, simplifying and modernising the regulations, improving coordination between government agencies, and minimising political interference, the Central Government and the State Governments can further enhance the impact of the EPA and contribute to a more sustainable and environmentally responsible corporate sector in India. The efficient coordination between the Indian government and the corporations would make sure the non-occurrence of any industrial menace, assuring a safe and healthy biosphere for the youth of tomorrow.