



Ecoethical Cultural Dynamism: An Educational Tyranny

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ABSTRACT: Our environment plays a pivotal role in the developmental process of human beings and mankind, which is played in terms of economic or social but also ethical manner. Whenever we deviate from our ethical responsibility, the nature reverts in form of disasters. Environmentalism can be defined as abiding to the code of conduct, our ethical responsibility and behavior towards the nature. Historians may eventually find that this vision had a greater impact on thought that did the Copernican revolution of the 16th century, which upset the human self-image by revealing that the Earth is not the center of Universe. From space, we see a small and fragile ball dominated not by the human activity and edifice but by a pattern of clouds, oceans, greenery and soils. Humanity's inability to fit its activities into that pattern is changing planetary systems, fundamentally. Many such changes are accompanied by life threatening hazards. This new reality, from which there is no escape, must be recognized and managed". The social cost of an individual's action contributes a lot to the concept of environmentalism.

Keywords: Environmentalism, sustainable development, education.

I. INTRODUCTION

Life from womb to tomb is a journey that gives an opportunity to make it worth, and hence, it should be eco-ethical. Environmental ethics can be described as a part of the professional as well as applied form of ethics that create a bond between the human beings and nature. However, sustainable ethics is different from the environmental ethics [1]. With respect to the environmental ethics, various questions arise in terms of the varied measures taken in support of the nature and our duty in that regard, which eventually led to the concept of 'Sustainable Development' [2]. It comprises of different forms of developments, including economic, social, financial, and environmental developments. Protection of our environment is considered as a global issue and its eco-systems are deeply associated with the human beings, animals, and plants. Hence, anything that hampers our nature will directly or indirectly affect the environment and may lead to endangering the nature [3, 4]. In the present day, the main issue is how to create a healthy balance between our environment or ecosystem and our lifestyle. The concept of economic globalizations may exhibit both negative impact (inducing environmental damage) and positive impact (promoting environmental protection), respectively. [5, 6]. It is anticipated that this globalization idea includes the issues related to environment and varied ways about making our lifestyles more sustainable. Actually, the present day lifestyle of human beings is posing a great threat to the nature and the environment as well as the support system of the planet Earth [7]. Nevertheless, the main question at this situation arises about the articulation of the environmental ethics. It includes the decisions and respective actions related to individual, social, professional, corporate, and public contexts [8, 9].

The World Economic Forum has stated that water crisis poses as a major threat to the society, hence critique and appreciation are juxtaposes of the concerned matter. Lots of hue and cry can be witnessed about the intergenerational equity and availability of clean water to

the coming generation. It also includes all living organisms. However, the conflicting interest of the developed nation and developing nation has resulted in the creation of a complete chaos. The United Nation organization is trying to play a vital role in such situations, but due to the lack of binding force of International Environmental Law (which is considered to be the toothless law) seems to be completely handicapped [10-12].

II. GLOBAL APPROACH TOWARDS ENVIRONMENT

International environmental Law was developed at a rapid rate. The first Public Health Act, 1875 was introduced so that there will be a strong law, which will act as a founding stone of the UK's newly devised Environmental Law that is followed by varied countries. The Famous *Smelter* case¹ described the crystallizing moment for the International Environmental Law as a well enunciated and established principal that each and every state should step back from doing any acts related to it. [13].

The United Nation has hammered on this subject in 1972 when they passed the first major initiative at the UN level programs, namely the 'Stockholm Conference on the Human Environment' and 'United Nations Environment Programme (UNEP)'.

Though not legally binding but still the '1972 Stockholm Declaration' formulated a list of general principles, which led to the emergence of the Environmental Law at both national and international platform. One of them is about the Ozone layer Protection, which is mentioned in the Principle 7^{2,3}. Another one is of the most prominent yet

¹ *Trail Smelter case (United States v. Canada)* Award 1941 3 UNRIA 1905

² Rio Declaration on Environment, 1992.

³ See e.g. Evelyn Swain, Marking the 25th Anniversary of the Most Successful Global Environment Agreement (2012) <http://www.thegef.org/gef/greenline/july-2012/montreal-protocol-marketing-25thanniversary->

later development in the law, i.e. Principal 17⁴ “Environmental Impact Assessment” (EIA). It is basically about how the environment is negatively affected. It also demanded for a detailed analytical report from an expert.⁵ Lack of an appropriate EIA has been proved to be fatal to the diverse developments. The developments in hydro-electric project in Sarawak turned to be fatal due to the lack of the proper EIA report.⁶ Some of other such projects under this principle include Sri Lanka – based phosphate-mining,⁷ Greece-based diversion of the River Achiloos⁸, and the redevelopment of the London-based Fulham Football ground⁹. One of the other principles is the right to public participation (Principle 10)¹⁰, which was elaborated during the Aarhus Convention, Europe¹¹.

Worth mentioning is the 1990’s phase where the scientists hammered on the issue of Chloro Fluoro Carbons (CFC’s) which is being used in the refrigerants and other industrial processes. It has been proved to be a killer to the stratospheric ozone layer, which was a great shock to the farmers. This enlightenment resulted in the formulation of 1985 Vienna Convention, which was based on the Ozone Layer protection, followed by the 1987 Montreal Protocol based on the Ozone-Depleting Substances (ODS).

The Principles now is being injected into and found their ways into new or amended Constitutions such as in India¹² and Pakistan which have interpreted the guarantee to the right to life not only to the restricted form but also in an elaborated form. It also includes the right to live in a healthy environment. Notably these dynamic changes have been witnessed in the Constitution of various countries. Around 150 out of 250 countries are having the written constitution that adopts the right to live in clean and healthy environment.¹³

III. JUDICIAL ENVIRONMENTALISM

Article 8 provides the right to live a private life and a home, as per the European Court of Human Rights, in

most-successful-global-environment-agv accessed 1st October 2015.

⁴ Rio Declaration on Environment, 1992.

⁵ See Yang & Percival op cit p 627: “arguably the most widely adopted environmental management tool across the world”.

⁶ *Kajing Tubekv. Ekram BHD* (1996) 2MLJ388

⁷ *Bulankulamav. Ministry of Industrial Development S.C* Application No.884/99: South Asian Environmental Reporter vol.7 (2), June 2000.

⁸ *The Achiloos case* Supreme Administrative Court 2759/1994. See Houck Taking Back Eden: Eight Environmental Cases that Changed the World (Island Press, 2010) cap 7.

⁹ *Berkeley v Secretary of State* (2001) 2 AC 603

¹⁰ Rio Declaration on Environment 1992

¹¹ The UNECE Conventin on Access to Information, Public anticipation in Decision making and Access to Justice in Environmental Matters, adopted in Aarhus, Denmark in 1998. It now has 47 parties as far apart (geographical) as Iceland and Kazakhstan, and including the European Union itself.

¹² See *Charan Lal Sahu v. Union of India* (1990) AIR SC 1480. In *Vellore Citizen's Welfare Forum v. Union of India* AIR (1996) SC “precautionary principle” and the “polluter pays” principles into the Indian Laws.

¹³ James May Constituting Fundamental Environmental Rights Worldwide 23 Pace Env LR 113 (2005-06).

association with the protection of home environment.¹⁴ On the other hand, Article 24 of African Charter on Human and People’s Rights (1981) emphasizes more on the concept of sustainable development. At the global level, world have witnessed some extreme fine work done by the International Court of Justice by declaring that sustainable development is the part of International Law in Hungarian Dams case¹⁵. It also highlighted about the environmental issues in judgment concerning Whaling in the Antarctic¹⁶. Such matters related to the cleaning of rivers were also taken up by various countries with an immense importance. Some of the examples like work done by the Indian Supreme Court in various cases for e.g. *M.C. Mehta V. Kamal Nath*¹⁷, Supreme Court of Philippines in 2008 issued a continuous mandamus against ten government agencies with an order to secure the cleaning up of Manila Bay. Work done by Courts in Argentina for the cleaning action of the heavily polluted Riachuela River in Buenos Aires and other surrounding rivers¹⁸ will not only result in clean water but also solve the water scarcity issue across the globe.¹⁹ In 2014, U.S.A. had announced and launched a new set of EPA rules to limit the emission of carbon-gas from power plants by 2030, which is indeed an historical step to protect the environment. In such a scenario, only one Nation i.e. Ecuador leads in terms of the creation of rights “the right of nature”.²⁰

IV. ENVIRONMENTAL JURISPRUDENCE

The Environmental jurisprudence is emerging day by day. The United Nations has launched UN Environmental Assembly observing that the rule of law has expanded to encompass the “environmental rule of law”.²¹ Australia, New Zealand, and other countries

¹⁴ See eg *Lopez Ostra v Spain* judgment of 9 December 1994, Series A no.303-C, pp.54-55. The cases are reviewed in the Grand Chamber decision in *Hatton v United Kingdom* (2003) ECHR 338, para 96ff

¹⁵ *Gabcikovo-Nagymaros Project* (Hungary/Slovakia) Judgment, ICJ Reports 1997, p7

¹⁶ *Australia v Japan* 2014 General List No 148

¹⁷ WP 182/1996 (2002.03.15)

¹⁸ *Beatriz Silvia Mendoza and others v. National Government M.15698* July 2008 (Supreme Court of Argentina)

¹⁹ Kenneth S. Gould, an Introduction to Water rights in the Twenty first Century: the challenges Move East, UNIVERSITY OF ARKANSAS AT LITTLE ROCK REVIEW (2002): Andrew P. Morris, Bruce Yandle, Terry L Anderson, Principles of Water, TULANE ENVIRONMENTAL LAW JOURNAL (2002); Robert Mcgee & Water Block, Pollution trading Permits as a Form of Market Socialism and the search for a Real Market Solution to Environmental Pollution, 6FORDHAM L. & ENVTL J.51(1994); Roy Jr. Whitehead & Walter Block, Environmental Taking of Private Water Rights. The Case for water privatization, ENVIRONMENTAL LAW REPORTER, Volume Year XXXII, News & Analysis, October 2002; Barton H. Thompson Jr. Taking and Water Rights in WAATER LAW: TRENDS, POLICIES, AND PRACTICE 43-55 (Kathleen Marion Carr & James D. Crammond eds., 1995).

²⁰ See David R. Boyd, The Environmental Rights Revolution (University of British Columbia Press 2012).

²¹ United Nations Environmental Programme, Global Symposium on Environmental Rule of Law, “www.unep.org/uneaa/erl/asp

have adopted the Environmental Courts whereas India has adopted impressively the National Green Tribunal specifically for the environmental issues. Australia and New Zealand jointly have decided to become the leader in the monitoring the proper execution of the laws devised by Environmental Courts [14]. However, Australia is the world's first nation that has constituted the environmental court under the Land and Environmental Court Act, 1979.

In China, there is a revised law for Environmental Protection that is adopted on April 24, 2014 and was effective from January 1, 2015. It adds a new Chapter V, entitled "Information Disclosure and Public Participation" to its law book. Under this chapter, the Article 53 grants citizens and non-governmental organizations "the right to obtain environmental information", and to "participate and supervise the activities of environmental protection". In United States of America, the National Courts and Science Institute (Washington, DC) is exploring how to provide scientific education including the environmental science education for judges.²²

V. INDUSTRIAL ADVANCEMENT AND ENVIRONMENTAL DEGRADATION

The resource arrangement is witnessing a steady rise of the need of the environmental law in the field of manufacturing section. The increase in the demand of products has resulted in the increase of the production quantity, i.e. nearly \$32 billion²³. The manufacturing sector's contribution that hampers the environment includes:

- Procurement and use of natural resources,
- Industrial processes and activities, and
- Product usage and disposal

Micro, Small, and Medium Enterprises (MSMEs) can have a significant impact on the environment, as they can generally be equipped with obsolete, inefficient and polluting technologies and processes [15-17]. 70% of the total industrial pollution load in India is attributed to the MSME. For example: the release of methyl isocyanate from a pesticide factory in Bhopal in December, 1984 caused a major disaster in which thousands of people were killed and some other thousands were permanently injured.

VI. INDIAN LEGISLATIVE APPROACH

Environmentalism is deeply rooted in the history of India, including the acts and laws like the Indian Penal Code, the Code of Criminal Procedure, the Bengal Smoke Act of 1905, the Motor Vehicles Act of India, The Law on Factories, the forest law of India, Law on mines and minerals (regulation and development), Industrial law (development and regulation), forest law (conservation) and law of merchant traders.

The Indian penal code (1860): This law penalizes for the contamination of water due to the involvement of any public source or reservoir and issued fines or prison sentences. The code was formulated as an attempt to conserve its application for environmental purposes. Stockholm Conference on the Human Environment (1972) highlighted the point that every nation should follow the rules in favor of the health and safety of the human beings, plants, and animals.

The forest law of India (1927) is about the legal points in connection with the forests and transportation of the wild products.

The Law on the Prevention of Cruelty to Animals (1960): This law is in support of curbing the cruelty done on animals for domestic and commercial purposes.

Indian forest service (1966): Under the Indian Services Act of 1951, the Indian government introduced this aforementioned service with an intention to implement the national forestry policy of the country. It also included the scientific forestry management in a sustainable manner, e.g. wooden products.

Law on wildlife (1972): This law aims at protecting the wildlife from poaching, smuggling, and illegal trade. Furthermore, the Water Law (1974) publicized that there is a need to make sure that water pollution and its maintenance is managed properly. In 1977, additions were made to collect tax for water consumption done for industrial or commercial purposes.

Air Act (1981) ensured the proper management in preventing and reducing the air pollution in India.

Environmental Protection Act (1986) aimed at protecting and improving a country by conserving its natural resources and building a healthy balance between the mankind and nature. This was introduced in the UNESCO program of Man and the Biosphere (MAB), 1971.

Hazardous Waste Rules (1989): This rule was formulated against the finished and discarded hazardous chemicals. Moreover, India's Eco-Mark Scheme (1991) was suggested to promote awareness about the environmental issues. The main intention of this proposal was to spread encouragement among the common mass to buy the organic products.

Liability Insurance Act (1991) was formulated to compensate the accidental victims injured due to hazardous substances [18, 19].

The National Environmental Tribunal (1995) covers the destruction or damage caused by accidents occurred during the process of handling any form of hazardous waste.

Rules on biomedical waste (1998): It deals with collecting, receiving, storing, treating, and waste disposal of the hazardous substances.

Noise pollution regulations (2000) include the pollution caused in the air due to noises produced by industrial, commercial, residential, or silent areas.

The Biodiversity Act (2002) is about the attempt made by India to achieve the objective noted in the UN convention of the Biological Diversity, 1992. As per it, a country should sustain on its biological and natural resources.

Recognition of forest rights, 2006: It is about the law made for the registered tribes and the other denizens of the traditional forest.

National Authority for Environmental Reclamation (NEAA): Ministry of Environment and Forests highlighted about the instances requiring permission from the environmental departments.

National Environmental Appeals Authority Act (1997): It evaluates the appeals done to the industries related to their manufacturing activities that to some extent violate the **Environmental Act (Protection) of 1986**.

Green Law Act of 2010: Green National Court, developed on 18 October 2010, under this law entitled the cases that were in relation to the protection of the environment and conservation of forests and its resources.

²² See ASTAR courses, such as toxicology court cases at www.genomics.unc.edu

²³ National Productivity Council of India, 2016

VII. INDIAN JUDICIAL ACTIVISM AND ENVIRONMENTAL CONCERN

The judiciary, like in other circumstances plays a critical role in dealing with environmental issues. It has been widely observed that the Public Interest Litigations have been increased in environmental cases during last decade and which clearly shows the public concern towards environment. Because of Public Interest Litigations, many historical evidences have been displayed in public domain.

R.L. & E. Kendra, Dehradun v. State of U.P.²⁴, (also termed as **Doon Valley Case**) was the first of its kind in India that raised the issues related to environmental and ecological balance. This case highlighted about the conflicting issues in between the development and conservation of the environment and ecology. The presiding judge of the court stressed more on reconciling the two parties. The main reason denoted in this case was mining in the Mussoorie Hills. It was gradually loosening the roots of trees and forests and causing soil erosion, landslides. It was also hampering the groundwater that posed as the main water source for many rivers and springs into the river valley.

In **A.R.C. Cement Ltd. v. State of U.P.**²⁵, the Supreme Court denied the operation of the cement factory in the Doon Valley area and decided upon restoring the valley to its original form. It also declared this area as a non-industrial area. The government was ordered to look for an alternate location for the installation of the plant.

In **Tarun Bharat Sangh v. Union of India**²⁶, as an answer to the public interest litigation filed by a commoner, the court decided on the restrictions to mining operations in the state on the basis of the harm caused to the environment and wildlife. It had already been declared that allowing mining operations in an area may result in degradation of the environment. Hence it can be declared as "reserve forest".

In **M.C. Mehta v. Union of India**²⁷, case, the Apex court gave its verdict of curbing the mechanical stone crushing activities in the Delhi, Faridabad and Ballabgarh complexes with immediate effect. They were instructed for allocation of new sites in the village of Pali, where a new separate "crushing zone" has been established.

In another case of Punjab and Haryana High Court in **Ishwar Singh v. State of Haryana**²⁸, the Court had issued instructions to close the stone crushing activity of those not located within the identified area. The Court also ordered that those wishing to continue their work of crushing stone should move to the identified areas. One of the most important indications provided by the Supreme Court was the claim for compensation for those who had suffered due to pollution caused by the owners of stone crushers.

A noteworthy judgment was delivered by the Supreme Court in **M.C Mehta v. Union of India**²⁹. The Bhopal catastrophe is only a manifestation of the potential risks of all chemical industries in India, none of which is capable of effective regulation. People have hardly left the shock of the Bhopal disaster when there was a large loss of Oleum from one of the Shriram Chemicals units

in Delhi and this loss has hit a large number of people between workers and the public. In this case, the Court has developed many principles that are new to the "environmental jurisprudence" of India.

Indian Council for Enviro-Legal Action v. Union of India³⁰, is a monumental judgment on environment protection and sustainable development. In this case, a GDP related to the environmental pollution caused by private industrial units was presented. The GDP was not presented for the issuance of a command or order or direction against such units, but against the Indian Union, the State Government and the Contingent State Council involved to force them to carry out their statutory duties in the matter and their violation of their functions has violated citizens' right to life under Article 21 of the Constitution.

In **Buffalo Traders' Welfare Association v. Maneka Gandhi**³¹, the court considered slaughterhouses one of the dangerous industries that operated in Delhi and stopped operating in the city of Delhi to protect the environment. He was allowed to operate only for a certain period until certain conditions were met and the slaughterhouses were kept clean and until the alternative site was repaired.

The Supreme Court in **M.C. Mehta v. Union of India**³², has held that in order to reduce the risk to the community from industrial risks, the Indian government must develop a national policy for the location of chemical and other hazardous industries in areas where the population is poor and there are few risks to the community, and when hazardous industries are located in such areas, care must be taken that there is not a large human around them. There should preferably be a green belt from 1 to 5 km. wide around dangerous industries.

In **V. Lakshmi pathy v. State**³³, the High Court of Karnataka in public interest litigation (GDP) ordered the Municipal Corporation to stop the established industries in the residential area. The Court also noted that land intended for residential purposes should not be used to configure the industries. According to the laws of the country, the responsibility for the treatment of industrial effluents is that of industry. However, it has been noted that several tanneries operating in different parts of the country have not complied with the laws of the country.

In **M.C. Mehta v. Union of India**³⁴, (popularly known as **Ganga Water Pollution** case or Kanpur tanneries case), a public interest dispute was set up, among other things, for the issue of instructions that prevent tanneries from discharging commercial effluents into the river Ganges until the start of treatment plants necessary to treat commercial effluents in order to stop the contamination of the water in the aforesaid river. The tanneries that discharge the effluents in the Ganga River have not installed a primary treatment plant even if they have been asked to do so for several years. Nor did they worry about appearing in the Supreme Court to express their willingness to set up a pre-treatment facility. As a result, the Supreme Court ordered them to stop working. The Supreme Court had also explored that "The fiscal capability of tanneries should be deemed inappropriate while requiring them to set up primary treatment

²⁴ AIR 1985 SC 652

²⁵ 1993 Supp (1) SCC 57

²⁶ 1992 Supp (2) SCC 448

²⁷ (1992)3 SCC 256

²⁸ AIR 1996 P. & H 30

²⁹ AIR 1987 SC 965

³⁰ (1996) 3 SCC 212

³¹ (1996) 11 SCC 35

³² AIR 1987 SC 965

³³ AIR 1992 Kant. 57

³⁴ AIR 1988 SC 1037

facilities, just as an industry that cannot pay minimum wages to its workers cannot be allowed.

Vellore Citizens' Welfare Forum v. Union of India,³⁵ (popularly known as **T.N. Tanneries case**), is a historical judgment of the Supreme Court. This case was also presented as a Public Interest Litigation cause and was directed against the pollution caused by the huge discharge of untreated effluents from tanneries and other industries in the State of Tamil Nadu. Because of the untreated effluent discharge, all the surface waters and the subsoil of the Palar River was contaminated, causing the lack of availability of drinking water for the residents of the area. According to a survey, almost 35/000 hectares of agricultural land in the tanning belt was partially or totally unfit for cultivation [20, 21]. These effluents had impaired the physico-chemical properties of the soil and contaminated groundwater by filtration. About 350 wells of the total of 467 used for drinking and irrigating were contaminated.

The Supreme Court also held that, in view of the Indian constitutional provisions contained in Articles 21, 47, 48-A and 51-A (g) and in other legal provisions contained in the Water Act (Pollution Prevention and Control) 1974, the air (Law on Prevention and Control of Pollution) of 1981 and the Environmental Law (Protection) of 1986, hesitated to argue that the principle of caution and the principle of contaminated payments are part of the environmental law of the country. The Indian judiciary has shown its concern over the problems of urbanization and the need to protect and preserve the environment.

In **M.L. Sud v. Union of India**³⁶, it was stated that the Delhi Development Authority (DDA) was stripping the forest by cutting down trees and building roads in the forest area of the city that was listed in the general plan as "green" and should be maintained as an urban forest. The Supreme Court has issued the necessary instructions to the authorities concerned to maintain the city's forest.

In **People United for Better Living in Calcutta v. State of West Bengal**,³⁷ The High Court of Calcutta has stated that it is up to the Court to find a balance between the development program and the environment. In this case, the Supreme Court emphasized the importance of wetlands and their role in maintaining environmental balance in the city of Calcutta. In view of the facts and circumstances of the present case, the Supreme Court issued an injunction against the recovery of wetlands. It was also claimed that wetlands are important for maintaining environmental balance and necessary for preserving the environment.

This principle allows decision-makers to make discretionary decisions in situations where there is a possibility of harm while taking a certain course or when a particular decision is taken in the absence of extensive scientific knowledge on the subject. The principle implies that there is a social responsibility to protect the public from exposure to harm when scientific research has found a plausible risk. These protections can be loosened only if further scientific results emerge that provide strong evidence that no harm will occur.

VIII. JUDICIAL REMEDIES FOR ENVIRONMENT POLLUTION

³⁵(1996) 5 SCC 647

³⁶1992 supp (2) SCC 123

³⁷AIR 1993 Cal 215.

The resources found for environmental protection in India include legal as well as tortious resources. The tortious remedies available are intrusion, annoyance, objective responsibility and negligence. The legal remedies include: lawsuit for citizens under the Indian Penal Code, 1860. For example an action presented under Article 19 of the Environmental Protection Act (1986), Article 133 - Criminal Procedure Code, 1973 and the activity under Section 268 for absolute irritation. In addition to this, a written petition may be filed under Article 32 of the Supreme Court of India or Article 226 of the High Court.

IX. TORTIOUS LIABILITY

The Indian judiciary system is comprised of varied tortious remedies:

A. Damage

In the recent of *Shriram Gas Leak* case, the loss of Oleum gas resulted in the adverse impact of environmental damage on the citizens of Delhi. The Apex court found that the damages caused due to Oleum gas is comparable with harm caused by pollution. However, the same Court deviated this point during the *Bhopal Gas* tragedy³⁸.

B. Injunction

The main objective of this injunction is to avoid the future issues. However, the Sec. 37 to 42 of the Specific Relief Act, 1963 monitors the grant of perpetual ruling.

C. Nuisance

Discomfort means the act that creates an impediment in a person's enjoyment in the form of smell, air, noise, etc. According to Stephen, every inconvenience is something that injures or disturbs the lands, the houses of another and does not constitute an intrusion. The annoyance can be divided into two categories:

- Private perturbations: It can be defined as a substantial and unreasonable interference including the joy and happiness of owning a land.

- Public distress: It can be referred as an unreasonable interference or hurdles along with the general public right.

D. Trespass

Indicate direct interference in the matters related to personal or property rights without legal excuses.

The two important requirements for such illegal entries include:

1. Intentional or negligent interference.
2. Such interferences must be direct and non-consequential.

E. Negligence

It basically denotes to the failure caused by ignoring something to exercise that should be done in certain instances.

F. Strict Liability

The rule set out in *Rylands v. Fletcher* of Blackburn J. describes the strict liability rule. According to it, a person permitting to carry out a dangerous element in his/her land is liable to receive punishment, if the element causes any form of damage to its neighboring inhabitants. The doctrine of objective responsibility is of great benefit in the event of environmental

³⁸Role of the supreme court in the protection of the environment, *available at*: urisonline.in/2010/.../role-of-supreme-court-in-environment-protection.

contamination, especially in cases relating to the damage caused by the loss of dangerous substances³⁹.

G. Doctrine of Absolute Liability

In *Union Carbide Corporation v. Union of India*, the court found that when a company is indulged in any form of intrinsically dangerous activity, is responsible to the destructive results caused by such dangerous operations. E.g.: in case of a poisonous gas leak accident – the company owning the plant is responsible for the accident and hence is obliged to compensate monetarily to the victims or their families. The Supreme Court has also order to obey this law without any exemption.

H. Polluter Pays Principles

"If anyone intentionally spoils the water of another...let him not only pay damages, but purify the stream or cistern which contains the water..." – Plato

The "polluter pays" principle is a very popular concept. "If you create the mess, it's your duty to clean it" is the fundamental notion of this slogan. Actually, "polluter pays" principle does not refer to "lack". Instead, it supports to the corrective methodology referring to the repair work involved in the damaged caused to nature.

I. Precautionary Principle

The Supreme Court of India formulated three concepts as the precautionary principle during the *Vellore Citizens Forum Case*⁴⁰.

- Environmental measures should include the anticipation, prevention, and focus on the main issues causing environmental degradation.
- Measure should not be postponed owing to the lack of scientific certainty.
- Onus of proof is the sole responsibility of the defaulter to prove that his/her action was compassionate.

X. PUBLIC TRUST DOCTRINE

It basically denotes to the principle that – Certain resources including air, water, sea, and forests are required to be made public rather than restricting it as a subject of private property. This doctrine is devised under the Law of the Land.

XI. DOCTRINE OF SUSTAINABLE DEVELOPMENT

The Brundtland Report states that Sustainable development signifies to "the growth meets the needs of the present that is devoid of compromising the capability of the future generations to congregate their own needs". This doctrine discussed about the urge of maintaining a balance between the development and protection of the environment.

XII. THE CONSTITUTIONAL ASPECTS ON ENVIRONMENTAL LAW

Article 48-A of Indian Constitution discusses about the increase in the awareness level among the common people related to the importance of the environmental conservation against the increasing pollution. This is mostly required in the urban places. Pollution caused by smoke, industrial wastes, harmful fumes from car exhaust and other combustion engines are harmful to people's health and well-being. They mainly result in

clog the atmosphere. Conservation of forests and reforestation through afforestation has long been recognized in India as being of great importance with regard to rain and to avoid soil erosion, depriving it of the forests that protect it. Conservation of wildlife is considered as a necessary action towards the "conservation of ecological balance" notion. Article 48-A rightly emphasizes a state must act in the direction of not only breath-in in a better environment, but also to join hands in maintaining the same.

Article 39 (e), 47 and 48-A of the Directive on the Principles of State Policy have a clear influence on environmental problems. It itself imposes the extra work of guaranteeing a clean environment for the health of people; improve both public health and environment.

As per the Article 49 of the Indian Constitution, 'Environmental pollution can damage monuments of national importance, whose protection is a state obligation'. Hence this article includes the directives about the state's obligations to protect the monuments, places, and objects of national importance. The Supreme Court of India got inspired by this Article 49 in the case of the TajMahal. It decided upon the right of ancient and archaeological monuments and remains (after 1958). The case was against the harmful industrial emissions that eroded the walls of monument and surroundings of the TajMahal in Agra.

Article 51 (c) states that the State should promote the respect for international law and the obligations deriving from the treaties in the relations between organized persons. Therefore, with respect to the international treaties, legal obligations and the treaties referred to in Article 51 (c), read in conjunction with the provision of specific treaty, can also serve to strengthen the hands of the judge for conservation. The Constitution (forty-two amendments) inserted Part IV-A in the Indian Constitution. This new part prescribes some fundamental duties for the citizens of India. The only article in this part, Article 51-A, specifies ten fundamental duties.

*It will be the duty of every citizen of India.....*⁴¹

(g) To protect and improve the natural environment, including forests, lakes, rivers and wildlife and to have compassion for living creatures. Thus, the Indian Constitution imposed a joint responsibility on the state; and every citizen of India to protect and improve the natural environment.

According to the Indian Constitution, under Article 32 - the jurisdiction can be conferred by writing to the Supreme Court. Rests of the higher jurisdictions are considered under the Article 226. This led to the emergence of the 'public interest litigation', which is considered as one of the effective mechanism for environmental protection. This has paved the way for one of the most effective and dynamic mechanisms for environmental protection, namely, public interest litigation. Part III - Fundamental Rights Article 21 (Protection of life and personal freedom): This article states that no individual can be deprived of his life or his personal liberty, except in accordance with other law procedures.

Article 32: Remedies to enforce these fundamental rights

(1) The right to transfer appropriate procedures for the enforcement of the rights is guaranteed by the Supreme

³⁹ Available at urisonline.in/2010/.../role-of-supreme-court-in-environment-protection.

⁴⁰ <https://documents.mx/documents/environment-law-project.html>

⁴¹ <http://www.legalservicesindia.com/article/article/shit-environment-170-1.html>

Court.

(2) The Supreme Court has the power to issue instructions or orders, (including habeas corpus, mandamus, prohibition, quo warranto and certiorari), depending on the case, for the execution of one of the rights conferred by the opponent party [22, 24].

Thanks to Maneka Gandhi, the court started considering various inarticulate freedoms under Article 21. The case of Dehradun Cave paved the way for the right to a healthy environment and focused on this ongoing conflicting topic.

India was the first country to include an amendment to its Constitution that allows the state to protect and improve the environment to safeguard public health, forests and wildlife [5, 24]. Amendment 42 was adopted in 1976 and was effective from 3rd January, 1977. The State Policy Principles Directive's (Article 47) language requires a protectionist position on the part of the State. It should also oblige the State to seek improvement strategies against pollution. Environment Article 253 of the Constitution of India gives the government of the Union ample powers to enforce laws for any part of India in relation to treaties concluded with another country or decisions taken by an international organization. For internal environmental issues, the Constitution establishes a division of legislative powers between the Union and the States. This was done through the creation of three jurisdictional lists: Union, State and Concurrent.

XIII. ROLE OF THE UNION GOVERNMENT IN THE ENVIRONMENTAL PARADIGM

During 1962, the Union Ministry of Health was preparing to deal with water problems through the appointment of a study committee. In 1969 a law was introduced, water pollution preventionary was installed, and its modified form called as the Water Law (pollution prevention and control) was approved in 1974. The Department of the Environment (DOE), created in 1980, played a supervisory role for the Government of the Union. The DOE conducted environmental assessments of development projects, monitored air quality and water, set up an environmental information system, promoted research and coordinated activities between the Union, the state and the administrations.

XIV. MINISTRY OF ENVIRONMENT AND FORESTS (MOEF)

The Government of India recognized the shortcomings and created in 1985 the Ministry of Environment and Forests (MOEF). The agency consisted of eighteen divisions and two independent units, the Ganga Project Management and the National Mission in the Development of Desolate Lands. The ministry completed its environmental action plan in the month of the December 1993 and integrated the development strategies into the environmental considerations. It basically included the reduction of industrial pollution. The Ministry created industrial zones to segregate the industries from the local inhabitants to provide services to both public and environment.

Basically, the industrial sectors and project size are the determining factors of the environmental impact assessment (EIA) evaluation by the MOEF or the state governments. However, the ministry authorizes EIA mostly in the polluting sectors like power plants, cement, and petro-chemicals, the MOEF generally authorizes the EIA. The Apex Court in *M.C. Mehta v. Union of India*

ordered the Union government to give instructions to all the state governments and union territories to enforce the respective authorities as a condition for a license in all the theaters, for obligatory Exposure at no cost as a measure for spreading awareness regarding EIA. In addition, the Indian Law Commission, in its 186th report, presented a proposal for the establishment of the environmental court. Therefore, there is an urgent need to strengthen the hands of the judiciary by creating separate environmental courts, with a professional judge to handle environmental cases / criminal acts, so that the judiciary can play its role more effectively.⁴²

XV. THE RESEARCH ANALYSIS AND COMPENDIUM

To further analyze the root causes of the concerned problems the extensive empirical research was conducted in association with this article to test the hypothesis in this out of total respondents, there were 8% students, 10% housewives, 68% Service Class individuals and 14% Business Class individuals and the following Hypothesis was tested

Hypothesis: The level of knowledge and awareness about environment protection is not associated with law of environmental degradation.

XVI. METHODOLOGY

The current research is both exploratory and analytical in nature. The governmental policies and documents related to it would be analyzed to find out the loopholes [24, 25]. Visits to the concerned area were arranged to crosscheck the pollution level and the respective measures implemented for protection and management. Interviews and in-depth as well as ground-level study in India would provide primary data for this research. Prior literature was analyzed for this research. The Chi-square & Karl Pearson coefficient of correlation was computed. R-Programming is applied wherever necessary to draw conclusions during data analysis. Probability sampling and stratified Random sampling methodologies was implemented in the current study.

Summary of results for Hypothesis

	Proposed Relationship	Results
1.	Occupation - Awareness of Water Prevention and Control of Pollution Act 1974	-ve, Rejected
2.	Occupation - Awareness of Water Prevention and Control of Pollution Cess Act 1977	+ve, Accepted
3.	Occupation - Awareness of Air Prevention and Control of Pollution Act 1981	+ve, Rejected
4.	Occupation - Awareness of Air Prevention and Control of Pollution Rules 1982	+ve, Rejected
5.	Occupation - Awareness of Wildlife Protection Act 1972	+ve, Rejected
6.	Occupation - Awareness of Forest Conservation Act 1980	-ve, Rejected
7.	Occupation - Awareness of Environment Protection Act 1986	-ve, Accepted
8.	Occupation - Awareness of Power of Central Government to take measures to protect and improve environment	-ve, Accepted
9.	Occupation - Awareness of National Environment Appellate Authority Act 1997	-ve, Rejected
10.	Occupation - Awareness of Factories Act 1948	-ve, Accepted

⁴²M.V Ranga Rao, Role of judiciary in environmental protection, pp.9, vol. 3, Supreme Court Journal, September- December, (2001).

11.	Occupation - Awareness of Public Liability Insurance Act 1991	-ve, Rejected
12.	Occupation - Awareness of National Environment Tribunal Act 1995	+ve, Accepted

XVII. ANALYSIS AND CONCLUSION

Based on the above references technically the inference drawn using different tools as mentioned in the methodology are such that the value of Karl Pearson coefficient of correlation is 0.1, which conclude that there is a positive correlation between gender and awareness of Water Prevention and Control of Pollution Act 1974. Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 5.001 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness for Water Prevention and Control of Pollution Act, 1974 differs significantly.**

Water Prevention and Control of Pollution Cess Act, 1977: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 7.26 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that that awareness of Water Prevention and Control of Pollution Cess Act, 1977 differs significantly.**

Prevention and Control of Pollution Act, 1981: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 6.454 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Air Prevention and Control of Pollution Act, 1981 differs significantly.**

Air Prevention and Control of Pollution Rules, 1982: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 0.5 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Air Prevention and Control of Pollution Rules, 1982 differs significantly.**

Wildlife Protection Act, 1972: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 8.781 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Wildlife Protection Act, 1972 differs significantly.**

Forest Conservation Act, 1980: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 6.202 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded awareness of Forest Conservation Act, 1980 differs significantly.**

Environment Protection Act, 1986: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 8.362 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Environment Protection Act, 1986 differs significantly.**

Power of Central Government for environment protection and improvement: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was

calculated to be 1.589 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore accepted. It may be also concluded that awareness of Power of Central Government for environment protection and improvement does not differ significantly.**

National Environment Appellate Authority Act, 1997: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 0.777 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore accepted. It may be also concluded that awareness of National Environment Appellate Authority Act, 1997 does not differ significantly.**

Factories Act, 1948: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 14.95 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore accepted. It may be also concluded that awareness of Factories Act, 1948 differs significantly.**

Public Liability Insurance Act, 1991: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 0.777 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore accepted. It may be also concluded that awareness of Public Liability Insurance Act, 1991 does not differ significantly.**

National Environment Tribunal Act, 1995: Chi-square value (χ^2) for 1 degree of freedom at 5% level of significance was calculated to be 14.95 with 3.841 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of National Environment Tribunal Act 1995 differs significantly.**

Water Prevention and Control of Pollution Act, 1974: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 2.857 with 7.815 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore accepted. It may be also concluded that awareness of Water Prevention and Control of Pollution Act 1974 does not differ significantly.**

Water Prevention and Control of Pollution Cess Act, 1977: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 10.424 with 7.815 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Water Prevention and Control of Pollution Cess Act, 1977 differs significantly.**

Air Prevention and Control of Pollution Act, 1981: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 4.83 with 7.815 as the tabulated value of χ^2 . **As the chi-square value is greater than tabulated value, the null hypothesis is therefore accepted. It may be also concluded that awareness of Air Prevention and Control of Pollution Act 1981 does not differ significantly.**

Air Prevention and Control of Pollution Rules, 1982: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 19.14 with 7.815 as the tabulated value of χ^2 . **As the chi-square**

value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Air Prevention and Control of Pollution Rules 1982 differs significantly.

Wildlife Protection Act, 1972: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 18.16 with 7.815 as the tabulated value of χ^2 . *As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Wildlife Protection Act 1972 differs significantly.*

Forest Conservation Act, 1980: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 28.44 with 7.815 as the tabulated value of χ^2 . *As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Forest Conservation Act 1980 differs significantly.*

Environment Protection Act, 1986: Calculated value of χ^2 for 3 degrees of freedom at 5% level of significance is 37.96 and tabulated value of χ^2 is 7.815. Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 37.96 with 7.815 as the tabulated value of χ^2 . *As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Environment Protection Act 1986 differs significantly.*

Power of Central Government for environment protection and improvement: Calculated value of χ^2 for 3 degrees of freedom at 5% level of significance is 3.922 and tabulated value of χ^2 is 7.815. Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 3.922 with 7.815 as the tabulated value of χ^2 . *As the chi-square value is greater than tabulated value, the null hypothesis is therefore accepted. It may be also concluded that awareness of Power of Central Government for environment protection and improvement does not differ significantly.*

National Environment Appellate Authority Act, 1997: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 1.92 with 7.815 as the tabulated value of χ^2 . *As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of National Environment Appellate Authority Act, 1997 does not differ significantly.*

Factories Act, 1948: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 8.814 with 7.815 as the tabulated value of χ^2 . *As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Factories Act, 1948 differs significantly.*

Public Liability Insurance Act, 1991: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 1.92 with 7.815 as the tabulated value of χ^2 . *As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that awareness of Public Liability Insurance Act 1991 does not differ significantly.*

National Environment Tribunal Act, 1995: Chi-square value (χ^2) for 3 degree of freedom at 5% level of significance was calculated to be 11.975 with 7.815 as the tabulated value of χ^2 . *As the chi-square value is greater than tabulated value, the null hypothesis is therefore rejected. It may be also concluded that*

awareness of National Environment Tribunal Act 1995 differs significantly.

XVIII. CONCLUSION AND SUGGESTIONS

It is evident from the established facts that there is no shortage of legislation on environmental protection in our country, but its application is quite inadequate [25]. The constitutional mandate and additional environmental legislation must be successfully and efficiently fulfilled. The creative role of the judiciary was remarkable and admirable whereas from the above research findings stated that nine variables "Awareness of Water Prevention and Control of Pollution Act 1974", "Awareness of Water Prevention and Control of Pollution Cess Act 1977", "Awareness of Air Prevention and Control of Pollution Act 1981", "Awareness of Wildlife Protection Act 1972", "Awareness of Forest Conservation Act 1980", "Awareness of Environment Protection Act 1986", "Awareness of Power of Central Government to take measures to protect and improve environment", "Awareness of National Environment Appellate Authority Act 1997" & "Awareness of Public Liability Insurance Act 1991" & "Industry Type" are positively correlated with gender of the respondents. Whereas, the variables "Awareness of Air Prevention and Control of Pollution Rules 1982", "Awareness of Factories Act 1948" & "Awareness of National Environment Tribunal Act 1995" are negatively correlated with gender of the respondents. On the basis of Chi square results, it can be concluded that in spite of enough limitations, degradation is a continuous process due to lack of knowledge and awareness.

The five variables "Awareness of Water Prevention and Control of Pollution Act 1974", "Awareness of Air Prevention and Control of Pollution Act 1981", "Awareness of Air Prevention and Control of Pollution Rules 1982", "Awareness of Wildlife Protection Act 1972" & "Awareness of Forest Conservation Act 1980" are positively correlated with Occupation of the respondents.

Whereas, the seven variables, i.e., "Awareness of Water Prevention and Control of Pollution Cess Act 1977", "Awareness of Environment Protection Act 1986", "Awareness of Power of Central Government to take measures to protect and improve environment", "Awareness of National Environment Appellate Authority Act 1997", "Awareness of Factories Act 1948", "Awareness of Public Liability Insurance Act 1991" and "Awareness of National Environment Tribunal Act 1995" are negatively correlated with Occupation of the respondents. On the basis of Chi square results, it can be concluded that in spite of enough limitations, degradation is a continuous process due to lack of knowledge and awareness.

Environmental laws have little chance of achieving real goals unless they are accompanied by a series of promotional measures, ranging from direct financial subsidies to cost sharing, in an ETP installation by polluting industries [26]. However, the most important step will be to create environmental awareness among people in general about their duties and their rights with respect to the protection of the environment. More emphasis should be given on environmental education in both formal and non-formal education systems for protection and conservation of the environment [27-29]. Utilizing media, awareness campaigns, and the integration of environmental issues in general education, awareness and education in target groups and the promotion of public participation in environmental

matters can help in spreading the awareness to more amount to people [30, 31]. The educated mass can pose as a great weapon against such environmental destructions [32-35]. Thus, people must be aware about the need of the clean environment and the adverse effects of the environmental pollution. It is also essential to work with the international level organizations, UN Committee of Experts in formulation and establishment of international guidelines.

We have several National, International, regional instruments for the protection of environment such as The 1907 Hague Convention, The 1949 Geneva Convention IV, Additional Protocol I 1997, The Convention on the Prohibition of the Use of Environmental Modification Techniques (ENMOD) 1977, an international agreement like Kyoto Protocol 1997 etc. but still the eco centric educational learning and ethical approach towards our environment is the need of an hour [36, 37], the tyranny of the situation is that laws and regulations seems to be toothless until and unless it is largely sensitize amongst in each and every section of the society as well as all Nations have a common interest in building the capacities of their courts to serve sustainability, social order and environmental justice. The time has come for States to act to support and built the capacity of courts to provide environmental justice worldwide. The public domain must indulge themselves and understand the fact that if we degrade our environment, we are damaging ourselves. This is the duty of everyone to educate others about the negative effects of the environment. The followings suggestions may be the upcoming measures to eradicate every odds related to environment and its related issues:

1. The mandated structured curriculum related to Environment to be included in every sphere and level of educational system.
2. Private entities must be educated in matters pertinent to Environmental degradation.
3. Non-Governmental Organizations must come forward to sensitize this issues and for the assistance to the implementation of the Environmental regulations in a strict and rigid form.
4. Educational programs for children, young people, men and women should be conducted by the government.
5. Adequate funding mechanisms should be formulated with an intention of raising public awareness on environmental education.
6. Public awareness should be spread about the environmental education for the significant contributions of the government office employees.
7. Proper disposal methods as well as the respective treatment methods should be devised and implemented to prevent future chronic diseases.
8. In additional assistance to National Green Tribunal, an Environmental Management Commission on all levels such as District, State and National level can be formed to have a close watch in all the issues related to Environment and its degradation.

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