



# Environmental Laws and Constitutional Provisions In India

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**Abstract :** It is interesting to note that natural resources had been stored virtually untouched in the Earth for millions of years. But since the start of the industrial revolution vast amounts of these resources had been exploited within a period of just a couple of hundreds of years at unimaginable rates, with all the waste from this exploitation going straight in the environment (air, water, land) and seriously damaging its natural processes. Although pollution had been known to exist for a very long time (at least since people started using fire thousands of years ago), it had seen the growth of truly global proportions only since the onset of the industrial revolution during the 19th century.

Environmental degradation in India has been caused by a variety of social, economic, institutional and technological factors. Rapidly growing population, urbanization and industrial activities have all resulted in considerable deterioration in the quality and sustainability of the environment. Environmental ethics have also formed an inherent part of Indian religious precepts and philosophy.

The importance of Judiciary in a democratic setup for protection of life and personal rights can hardly be overestimated. India has a highly developed judicial system with the Supreme Court having plenary powers to make any order for doing complete justice in any cause or matter and a mandate in the Constitution, to all authorities, Civil and Judicial, in the territory of India to act in aid of the Supreme Court. The scope of Writ Jurisdiction of the High Courts is wider than traditionally understood and the judiciary is separate and independent of the executive to ensure impartiality in administration of justice.

**Index Terms :** Environmental degradation, urbanization, Constitutional Provisions

## I. HISTORICAL OVERVIEW :

The Environment Protection Act 1986 defines environment as “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 organism and property.” Besides the physical and biological aspect, the “environment” embraces the social, economic, cultural, religious, and several other aspects as well. The environment, thus, is an amalgamation of various factors surroundings an organism that interact not only with the organism but also among themselves. It means the aggregation of all the external conditions and influences affecting life and development of organs of human beings, animals and plants.

### **Policy and Laws in Ancient India:**

In the ancient India, protection and cleaning up of environment was the essence of the Vedic culture. The conservation of the environment formed an ardent article of faith, reflected in the daily lives of the people and also enshrined in myth folklore, art, culture and religion. In Hindu theology forests, trees and wildlife protection held a place of special reference.

### Policy and Laws in British India

BY AROUND 1860, Britain had emerged as the world leader in deforestation, devastation its own woods and the forest of Ireland, South Africa and north eastern United States to draw timber for shipbuilding, iron-smelting and farming. In the early nineteenth century, the Raj carried out a fierce onslaught on the sub continent's forests. The revenue orientation of the colonial land policy also worked towards the denunciation of forests.

The imperial forest department was formed in 1864, with the help of experts from Germany, the country which was at the time the leading European nation in forest management. The first inspector-general of forests, Dietrich Brandish, had been a botanist and recognise awesome task of checking the deforestation, forging legal mechanism to assert and safeguard states control over the forests. it was his dual sense that the railway constituted the crucial watershed with respect to the water management in India- the need was felt to start an appropriate department, and for its effective functioning legislation was required to curtail the previously untouched access enjoyed by the rural communities.

### Policy and Laws post-independence of India:

The Indian Constitution, as adopted in 1950, did not deal with that the subject of environment or prevention and control of pollution as such (until 1976 Amendment). The original text of the constitution under Article 372(1) has incorporated the earlier existing laws into the present legal system and provides that notwithstanding the repeal by this constitution of enactment referred to in article 397, but subjected to the other provisions of the constitution, all laws in force immediately before the commencement of the constitution shall remained in force until altered, repealed or amended by a competent legislature or other competent authority. As a result, even after five decade of independence. The plethora of such laws is still in operation without any significant changes in them.

## II. THE PRINCIPLES ON ENVIRONMENT

With a view to protecting and improving the environment, different legislations have been made and different regulations, rules have been issued. The Government of India, through its Ministry of Environment and Forests is administering has enacted nationwide comprehensive laws.

1972 Stockholm Declaration affirms that "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations..." This shows that it has been internationally recognized that man's fundamental rights embraces the need to live in an uncontaminated environment but it also puts forth man's obligation to protect the environment for posterity.

The Supreme Court has laid down that the "Precautionary principle" and the "Polluter Pays Principle" are essential features of "sustainable development". These concepts are part of Environment Law of the country.

The "Precautionary Principle" establishes that a lack of information does not justify the absence of management measures. On the contrary, management measures should be established in order to maintain the conservation of the resources. The assumptions and methods used for the determination of the scientific basis of the management should be presented.

The essential ingredients of the precautionary principle are:

- i. Environmental measures- by the state government and the statutory authorities- must anticipate, prevent and attack the causes of environment degradation.
- ii. When there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measure to prevent environmental degradation.
- iii. The "Onus of Proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.
- iv. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by concern or risk potential.

In **M.C. Mehta v Union of India** (CNG Vehicle Case) (AIR 2002 SC 1696) The supreme court observed that any 'auto-policy' framed by the Government must, therefore, of necessity conform to the constitutional principles well as overriding statutory duties cast upon the government under the EPA. The auto policy must adopt a 'precautionary principles' and make informed recommendations which balance the needs of transportation with the need to protect the environment.

The "polluter pays" principle came about in the 1970's when the importance of the environment and its protection was taken in world over. It was subsequently promoted by the Organization for Economic Cooperation and development (OECD). The 'polluter pays' principle as interpreted by the Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation.

In other words, Polluter should bear the cost of pollution as the polluter is responsible for pollution'. The principle demands that financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which It may be noted that the polluter pays principle evolved out of the rule of 'absolute liability' as laid down by the apex court in Sriram Gas Leak Case.

### **Sustainable Development**

Sustainable Development means an integration of development and environment imperative it means development in harmony with environmental consideration. To be sustainable, development must possess both economic and ecological sustainability. It is a development process where exploitation of resources, direction of investment, orientation of technology development and institutional changes are all in harmony. Sustainable development also implies local control over the resource use, and is the only path for conserving and promoting socio-economic wellbeing in a democratic form.

'eco-development' is a related concept. It is a process of ecologically sound development, of positive management of environment for human benefits. For example banning tree felling in reserve forests and permitting harvesting of minor forest products by rural poor and tribal; development of community or common lands for rural subsistence needs of industries, towns and villages. These are the components of the "new development strategies". The component of eco-developmental so includes alternative development strategies; biogas, substitute for natural resources, social forestry, micro irrigation and recycling of waste to prevent pollution.

### **Vellore Citizens Case :**

In a landmark judgment where the principle of sustainable development has been adopted by the Supreme Court as a balancing concept, while rejecting the old notion that development and environmental protection cannot go together, the apex court held the view that sustainable development has now come to be accepted as "a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting eco system." Thus, pollution created as a consequence of development must be commensurate with the carrying capacity of our ecosystem.

**FACTS** - In this case, certain tanneries in the State of Tamil Nadu were discharging untreated effluent into agricultural fields, roadsides, waterways as open lands. The untreated effluent finally discharges in the river which has the main source of water supply to the residence of Vellore. The Supreme Court issued comprehensive directions for maintaining the standards stipulated by the Pollution Control Board.

### **Observations**

The Supreme Court Observe that the "precautionary principle" and the "polluter pays principle" are part of the Environment law of the country. These principles are essential features of "Sustainable Development." The "precautionary principle" in the context of the municipal law means: (i) Environmental measures by the State Government and the statutory authorities – must anticipate , prevent and attack the cause of the environmental degradation(ii) Where there are threats of serious irreversible damages, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation .(iii) The "onus of proof" in on the actor /industrialist to show that his action is environmentally benign.

**DECISION:** - The Supreme Court directed the Central government to constitute an authority under sec. 3 of the Environment Act, 1986 and confer on the said authority all the powers necessary to deal with the situation created by the powers necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The authority (headed by retired judge of the High Court) shall implement the precautionary and polluter pays principles. The authority should compute the compensation under two heads, namely, for reserving the ecology and for the payment to individuals.

### III. THE CONSTITUTIONAL AND LEGISLATIVE MEASURES – THE CONSTITUTION OF INDIA AND ENVIRONMENT

To protect and improve the environment is a constitutional mandate. It is the commitment for a country wedded to the ideas of a welfare State. The Indian constitution contains specific provisions for environmental protection under the chapters of Directive Principles of the State Policy and Fundamental Duties. The absence of any specific provision in the Constitution recognising the fundamental right to (clean and wholesome) environment has been set off by judicial activism in the recent times.

#### 3.1 Article 48A and 51 (A)(g)

A global adaption consciousness for the protection of the environment in the seventies prompted the Indian Government to enact the 42nd Amendment (1976) to the Constitution. The said amendment added Art. 48A to the Directive Principles of State Policy. It Declares:-

“the State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country”.

A similar responsibility imposed upon on every citizen in the form of Fundamental Duty –

#### 3.2 Art. 51(A) (g)

“to protect and improve the natural environment including forest, lakes, rivers and wildlife, and to have compassion for living creatures”.

The amendments also introduced certain changes in the Seventh Schedule of the Constitution. ‘Forest’ and ‘Wildlife’ were transferred from the State list to the Concurrent List. This shows the concern of Indian parliamentarian to give priority to environment protection by bringing it out the national agenda. Although unenforceable by a court, the Directive Principles are increasingly being cited by judges as complementary to the fundamental rights. In several environmental cases, the courts have guided by the language of Art. 48A. and interpret it as imposing “an obligation” on the government, including courts, to protect the environment.

In **L.K Kollwal V State of Rajasthan**, a simple writ petition by citizens of Jaipur compelled the municipal authorities to provide adequate sanitation. The court observes that when every citizen owes a constitutional duty to protect the environment (Art.51A), the citizen must be also entitled to enlist the court’s aid in enforcing that duty against recalcitrant State agencies. The Court gave the administration six month to clean up the entire city, and dismissed the plea of lack of funds and staff.

The Public Trust Doctrine, evolved in **M.C. Mehta v. Kamal Nath**, states that certain common properties such as rivers, forests, seashores and the air were held by Government in Trusteeship for the free and unimpeded use of the general public. Granting lease to a motel located at the bank of the River Beas would interfere with the natural flow of the water and that the State Government had breached the public trust doctrine.

A matter regarding the vehicular pollution in Delhi city, in the context of Art 47 and 48 of the Constitution came up for consideration in **M.C. Mehta vs. Union of India (Vehicular Pollution Case)**. It was held to be the duty of the Government to see that the air did not become contaminated due to vehicular pollution. The Apex court again confirming the right to healthy environment as a basic human right stated that the right to clean air also stemmed from Art 21 which referred to right to life. This case has served to be a major landmark because of which lead-free petrol supply was introduced in Delhi. There was a complete phasing out old commercial vehicles more than 5 years old as directed by the courts. Delhi owes its present climatic conditions to the attempt made to maintain clean air.

#### **The Ganga Water Pollution case: M C Mehta V. Union of India, AIR 1988, SC 1037**

The owners of some tanneries near Kanpur were discharging their effluents from their factories in Ganga without setting up primary treatment plants. The Supreme Court held that the financial capacity of the tanneries should be considered as irrelevant while requiring them to establish primary treatment plants. The Court directed to stop the running of these tanneries and also not to let out trade effluents from the tanneries either directly or indirectly into the river Ganga without subjecting the trade effluents to a permanent process by setting up primary treatment

In the very recent case of **T.N. Godavarman Thirumulpad v. Union of India**, a case concerning conservation of forests, Justice Y.K. Sabharwal, held: Considering the compulsions of the States and the depletion of forest, legislative measures have shifted the responsibility from States to the Centre. Moreover any threat to the ecology can lead to violation of the right of enjoyment of healthy life guaranteed under Art 21, which is required to be protected. The Constitution enjoins upon this Court a duty to protect the environment.



### 3.3 Article 246

Art.246 of the Constitution divides the subject areas of legislation between the Union and the States. The Union List (List I) includes defence, foreign affairs, atomic energy, interstate transportation, shipping, air trafficking, oilfields, mines and inter-state rivers. The State List (List II) includes public health and sanitation, agriculture, water supplies, irrigation and drainage, fisheries. The Concurrent list (List III) (under which both State and the Union can legislate) includes forests, protection of wildlife, mines and minerals and development not covered in the Union List, population control and factories. From an environmental standpoint, the allocation of legislative authority is an important one – some environmental problem such as sanitation and waste disposal, are best tackled at the local level; others, like water pollution and wildlife protection, are better regulated uniform national laws.

### 3.4 Article 253

Art.253 of the Constitution empowers Parliament to make laws implementing India's international obligations as well as any decision made at an international conference, association or other body. Art.253 states: Notwithstanding anything in the foregoing provisions of this chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body. The Tiwari Committee in 1980 recommended that a new entry on "environmental Protection" be introduced in the concurrent list to enable the centre to legislate on environmental subjects, as there was no direct entry in the 7th seventh enables Parliament to enact comprehensive environment laws. The recommendation, however, did not consider parliament's power under Art.253

### 3.5 Article 14 and Article 19 (1) (g)

ART. 14 states: "The states shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." The right to equality may also be infringed by government decisions that have an impact on the environment. An arbitrary action must necessarily involve a negation of equality, thus urban environmental groups often resort to Art.14 to quash arbitrary municipal permission for construction that are contrary to development regulations.

### 3.6 Article 21

(Right to Wholesome Environment)

"No person shall be deprived of his life or personal liberty except according procedure established by law."

In **Maneka Gandhi v Union of India**, the Supreme Court while elucidating on the importance of the 'right to life' under Art. 21 held that the right to life is not confined to mere animal existence, but extends to the right to live with the basic human dignity (Bhagwati J.)

Similarly while interpreting Art.21 in Ganga Pollution Case as discussed before, Justice Singh justified the closure of polluting tanneries observed: "we are conscious that closure of tanneries may bring unemployment, loss of revenue, but life. Health and ecology have greater importance to the people."

## IV. ENVIRONMENTAL LAWS IN INDIA

THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT 1974

The Act prohibits discharge of pollutants into water bodies beyond a given standard and lays down penalties for non-compliance with its provisions.

It set up the Central Pollution Control Board (CPCB) which lays down standard for the prevention and control of water pollution. At the state level, the State Pollution Control Board (SPCB) functions under the direction of CPCB.

The functions of CPCB have been laid down in section 16 whereas the functions of SPCB has been laid down in section 17.

The sampling of effluents for test has been laid down in section 21.

In **Delhi Bottling Co. Pvt. Ltd. V. CPCB**, AIR 1986 Del 152, it was found that the representatives of board got the samples analysed from a non-recognized laboratory by the state. The court held that since section 21 was not complied upon, the test results were inadmissible as evidence.

### The Air (Prevention And Control Of Pollution Act, 1981)

To implement the decision taken in the Stockholm Conference, the Parliament enacted the Air Act under Article 253.

It controls mainly air pollution and its abatement. Also establishes air quality standards. The Central and State Boards set up under section 16 and 17 independently notify emission standards. Every industrial operator within a declared air pollution area, must obtain a permit from the State Board (Sec-21(1) and (2)).

Within four months from the date of application for the permit, the board must complete the formalities – either grant or refuse consent.

## V. OTHER IMPORTANT LAWS

1986 - The Environment (Protection) Act authorizes the central government to protect and improve environmental quality, control and reduce pollution from all sources, and prohibit or restrict the setting and /or operation of any industrial facility on environmental grounds.

1989 - The objective of Hazardous Waste (Management and Handling) Rules is to control the generation, collection, treatment, import, storage, and handling of hazardous waste.

1991 - The Public Liability Insurance Act and Rules and Amendment, 1992 was drawn up to provide for public liability insurance for the purpose of providing immediate relief to the persons affected by accident while handling any hazardous substance.

2000 - The Municipal Solid Wastes (Management and Handling) Rules, apply to every municipal authority responsible for the collection, segregation, storage, transportation, processing, and disposal of municipal solid wastes.

2002 - The Noise Pollution (Regulation and Control) (Amendment) Rules lay down such terms and conditions as are necessary to reduce noise pollution, permit use of loud speakers or public address systems during night hours (between 10:00 p.m. to 12:00 midnight) on or during any cultural or religious festive occasion.

1927 - The Indian Forest Act and Amendment, 1984, is one of the many surviving colonial statutes. It was enacted to ‘consolidate the law related to forest, the transit of forest produce, and the duty leviable on timber and other forest produce’.

1948 – The Factories Act and Amendment in 1987 was the first to express concern for the working environment of the workers. The amendment of 1987 has sharpened its environmental focus and expanded its application to hazardous processes.

## VI. WRITS AND PILS FOR SAFEGUARDING THE ENVIRONMENT

A writ petition can be filed to the Supreme Court under Art.32 and the High Court under Art.226, in the case of a violation of a fundamental right. Since the right to a wholesome environment has been recognised as an implied fundamental rights, the writ petitions are often resorted to in environment cases. Generally, the writs of Mandamus, Certiorari and Prohibition are used in environmental matters. For instance, a Mandamus (a writ to command action by a public authority when an authority is vested with power and wrongfully refuses to exercise it ) would lie against a municipality that fails to construct sewers and drains, clean street and clear garbage (**Rampal v State of Rajasthan**) likewise, a state pollution control board may be compelled to take action against an industry discharging pollutants beyond the permissible level.

The writs of certiorari and prohibition are issued when an authority acts in excess of jurisdiction, acts in violation of the rules of natural justice, acts under a law which is unconstitutional, commits an error apparent on the face of the record, etc. For instance, a writ of certiorari will lie against a municipal authority that consider a builder’s applications and permits construction contrary to development rules e.g. wrongfully sanctions an office building in an area reserved for a garden. Similarly, against water pollution control board that wrongly permits an industry to discharge effluents beyond prescribe levels. A writ of Certiorari will lie against a municipal authority that permits construction contrary to development rules or acts in excess of jurisdiction or in violation of rules of natural justice for instance wrongly sanctioning an office building in an area reserved for garden.

When a fundamental right, which includes right to wholesome environment is violated Art. 32 and 226 provide appropriate remedy.

In **E.Sampath Kumar v. Government of Tamil Nadu**, 1998, AIHC 4498, The party an individual was troubled by the excessive noise pollution and vibrations caused by electrical motors, diesel engines, and generator used by a Hotel. The high court held that an affected person can maintain a writ petition while rejecting the hotel owner’s plea that a civil suit would be proper remedy.

Public interest litigation describes legal actions brought to protect or enforce rights enjoyed by members of the public or large parts of it.

In a public interest case, the subject matter of litigation is typically a grievance against the violation of basic human rights of the poor and helpless or about or about the content or conduct of government

policy this litigation is not strictly adversarial (in a adversarial procedure, each party produces his own evidence tested by cross-examination by other side) and in it a judge play a large role in organising and shaping the litigation and in supervising the implementation of relief.

Since the 1980s public interest litigation (PIL) has altered both the litigation landscape and the role of the higher judiciary in India. Supreme Court and High Court judges were asked to deal with public grievances over flagrant human rights violations by the state or to vindicate the public policies embodied in statutes or constitutional provisions. This new type of judicial business is collectively called public interest litigation.

In **Ramdas Shenoy v The Chief Officer, Town Municipal Council**, Udipi a rate tax payer's right to challenge an illegal sanction to convert a building into a cinema was upheld by Supreme Court.

In **Mahesh R Desai V. Union of India**, a journalist complained to the Supreme Court that the national coastline was being sullied by unplanned development that violated a Central Government directive. The Supreme Court registered the letter as a petition, requested the court's legal aid committee to appoint a lawyer for the petition and issued notice to the Union Government and the government of the all States.

### **Taj Mahal Case :**

In Taj Mahal's case (M C Mehta V. Union of India, AIR 1997, SC 734), the Supreme Court issued directions that coal and coke based industries in Taj Trapezium (TTZ) which were damaging Taj should either change over to natural gas or to be relocated outside TTZ. Again the Supreme Court directed to protect the plants planted around Taj by the Forest Department as under:

The Divisional Forest Officer, Agra is directed to take immediate steps for seeing that water is supplied to the plants... The Union Government is directed to release the funds immediately without waiting for receipt of the proposal from the U.P. Government on the basis of the copy of the report. Funding may be subsequently settled with the U.P. Government, but in any set of circumstances for want of funds the officer is directed to see that plants do not wither away.

The Court held that 292 industries located and operating in Agra must changeover within fixed time schedule to natural gas as industrial fuel or stop functioning with coke /coal and get relocated. The industries not applying for gas or relocated are to stop functioning with coke/coal from 30-04-97. The Shifting industries shall be given incentives in terms of the provisions of Agra Master Plan and also the incentive normally extended to the new industrial units.

The integration of the international principles of environmental law into the Indian legal framework is an important consequence of the emergence of Public Interest Litigation in the realm of environmental law. (Razzaque, 2004) In fact, the application and re-interpretation of international legal principles in the Indian context reflect a greater concern with making hazardous industrial enterprises responsible towards environmental concerns. In M C Mehta v Union of India the Supreme Court extends the principle of strict liability drawing from the Rylands v Fletchers case in English law to formulate a principle of absolute liability whereby an enterprise carrying out a hazardous activity is "absolutely liable" to compensate for any harm arising from such activity. The principle of strict liability in English common law states that "a person will be strict liable when he brings or accumulates on his land something likely to cause harm if it escapes, and damage arises as a natural consequence of its escape."(Razzaque, 2004: 210) However, in formulating a principle of absolute liability, the Court contends that such liability is not subject to any of the exceptions "under the rule in Rylands v Fletcher."

### **The Bhopal Gas Leak Case**

The Bhopal disaster raised complex legal questions about the liability of parent companies for the acts of their subsidiaries, the responsibilities of multinational corporations engaged in hazardous activities, the transfer of hazardous technologies and the applicable principles of liability. Bhopal was inspirational factor for the judicial innovation in the area of evolving principles of corporate liability for use of hazardous technology.

On December 3, 1984, highly toxic methyl isocyanides (MIC), which had been manufactured and stored in Union Carbide's chemical plant in Bhopal, escaped into the atmosphere and killed over 3,500 people and seriously injured about 2 lakh people.

The Bhopal gas leak disaster (Processing of Claims) Act, 1985 was passed by parliament to ensure that the claims arising out of the Bhopal disaster were dealt with speedily, effectively, equitably and to the best advantage of the claimants.

### High Court Judgment:

Justice Seth used English Rules of procedure to create an entitlement to interim compensation (i.e. it is permissible for courts to grant relief of interim payment under the substantive law of torts). Under the English rules, interim relief granted in personal injury cases if a prima facie case is made out. He said that “more than prima facie case have been made out” against the Carbide.

He observed that the principle of absolute liability without exceptions laid down in M.C. Mehta case applied more vigorously to the Bhopal suit. He holds that Carbide is financially a viable corporation with \$ 6.5 billion unencumbered asset and \$200millions encumbered assets plus an insurance which could cover up to \$250millions worth of damages. Given carbide’s resources, it is eminently just that it meet a part of its liability by interim compensation (Rs.250cr.)

In **Union Carbide Corporation v Union of India** (AIR 1990 SC 273), the Supreme Court secured a compromise between the UCC and Government of India. Under the settlement, UCC agreed to pay US \$470 million in full and final settlement of all past, present and future claims arising from the Bhopal disaster. In addition to facilitate the settlement, the Supreme Court exercised its extraordinary jurisdiction and terminated all the civil, criminal and contempt of court proceedings that had arisen out of the Bhopal disaster. It was declared by the court that if the settlement fund is exhausted, the Union of India should make good the deficiency.

Review petition under Art.137 and writ petitions under Art.32 of the Constitution of India were filed questioning the constitutional and under the Bhopal Act (providing for the registration and processing of claims) and the resultant categorization of the victims was also upheld. It was laid down that there is no need to tie down the tortfeasor to future liability [UCC v UOI AIR 1992 SC 248].

### Criminal Liability of Carbide Officials:

In UCC v UOI (AIR 1992 SC 248), the supreme court reinstate criminal charges for homicide not amounting to murder’ (Sec. 304,Part II, IPC) against top executives at Union Carbide( viz. nine UCIL employees and three foreign accused, including Warren Anderson, the CEO) while uploading the rest of the settlement. The CBI in December 1993 finally prepared the documents necessary to extradite Warren Anderson.

## VII. CONCLUSION

The powers vested to the Pollution Control Boards are not enough to prevent pollution. The Boards do not have power to punish the violators but can launch prosecution against them in the Courts which ultimately defeat the purpose and object of the Environmental Laws due to long delays in deciding the cases. Thus, it is imperatively necessary to give more powers to the Boards.

What we need is social awareness from below, not laws from the above. No law works out smoothly unless the interaction is voluntary. In order to educate people about the environmental issues, there should be exhibition of slides in the regional languages at cinema houses and television free of cost. Further, as directed by the Supreme Court of India in M C Mehta Case (M C Mehta V Union of India 1992, SC 382) school and college levels in graded system so that there should be general growth of awareness.

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