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A CRITICAL ANALYSIS OF CORPORATE ENVIRONMENTAL RESPONSIBILITY UNDER THE COMPANIES ACT 2013

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ABSTRACT

CSR (Corporate Social Responsibility) is a critical component of a business's strategic strategy nowadays. Each company's strategic business strategies that involve CSR are distinct due to factors such as size and industry; stakeholder demands; past CSR engagement; diversification; research and development; and labor market conditions. Businesses may obtain a competitive edge by proving their social responsibility through CSR efforts that benefit the business. India was identified as a country that has accepted CSR activities after the government revised its Companies Act 2013 in April 2014. The investigation of international literature and periodicals yield new thoughts, ideas, worries, and solutions about the Indian enterprise's corporate social responsibility to environmental sustainability. Increasing shareholder value for the benefit of a diverse variety of stakeholders is central to corporate objectives in India in the aftermath of economic liberalization and globalization. The purpose of this research is to ascertain how well-informed firms are regarding statutory CSR laws and to compare these organizations' environmental sustainability-related CSR actions before to and following the implementation of the Companies Act 2013, to assess the long-term environmental impact of these CSR actions and lastly, to ascertain the impact of CSR actions on a business's performance.

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SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

TABLE OF CONTENTS

I.	STATEMENT OF THE PROBLEM	3
II.	OBJECTIVES OF THE RESEARCH	4
III.	RESEARCH METHODOLOGY	4
V.	THE PRESENT-DAY ENVIRONMENTAL LEGISLATIONS.....	6
VI.	THE INTERNATIONAL CONNECTION OF ENVIRONMENTAL RESPONSIBILITY OF COMPANIES IN INDIA.....	6
VII.	CORPORATE LIABILITY UNDER INDIAN ENVIRONMENTAL LAWS.....	7
VIII.	PROVISIONS OF CSR UNDER NEW COMPANIES ACT	8
IX.	CORPORATIONS FACE ENVIRONMENTAL OBLIGATIONS UNDER INDIAN CORPORATE LAW (CORPORATE SOCIAL RESPONSIBILITY V. CORPORATE ENVIRONMENT LIABILITY).....	10
X.	INDIA NEEDS A NEW POLICY FOR ENVIRONMENTAL PROTECTION	11
XI.	THE SUPREME COURT'S DECISION REGARDING BUSINESS ACCOUNTABILITY FOR ENVIRONMENTAL DAMAGE CAUSED BY THEIR PRODUCTS	12
XII.	DAMAGE TO THE ENVIRONMENT CAUSED BY CORPORATE ACTIVITIES	15
XIII.	FINAL THOUGHTS ON GLOBAL CORPORATE ENVIRONMENTAL LIABILITY	16
XIV.	RECOMMENDATIONS	16
XV.	REFERENCES	18

I. STATEMENT OF THE PROBLEM

Due to their scale and worldwide reach, multinational corporations exert a significant effect on environmental preservation initiatives around the world, which includes dwarfing the GDP of individual countries. They have a detrimental impact on critical global resources by producing carbon dioxide as a result of human activity, reducing biodiversity as a result of overuse, and generating hazardous waste and hazardous materials. While corporate training has resulted in severe environmental harm, the degradation of ecological circumstances has a detrimental effect on business. It is probable that the multinational corporation's financial, administrative, and research and development resources will have a significant effect on the development and dissemination of environmentally friendly technologies and practices.





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

II. OBJECTIVES OF THE RESEARCH

- 1.The first and most critical objective of this research is to establish a clear corporate policy that requires management to adhere to all applicable environmental standards and sound hazardous materials business practices.
- 2.To evaluate how business could be held liable for their environmental Non-Compliance.
- 3.This study would draw some conclusions and make some recommendations about the state of environmental CSR in India.

III. RESEARCH METHODOLOGY

The methodology that will be used in this study will be doctrinal, analytical, and comparative in nature. Secondary sources of data were also consulted for this study including reputable national and international journals, periodicals, economic surveys, news publications and subject-related internet searches.

IV. INTRODUCTION

Environmental awareness of the environmental impact of businesses and their activities has grown quickly in recent years and is beginning to eclipse all other issues in this era of climate change. The purpose of this article is to determine the extent to which this emerging environmental consciousness affects investor behaviour. To this purpose, the hypothesis being tested here is that "the price of a company's shares is influenced by the disclosure of information on its environmental compliance/non-compliance." This entails an examination of market behaviour,





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

new trends, and ideas – both domestic and foreign – as well as the success of these movements. After conducting a critical analysis of the rationale and thought processes that underpin investment decisions in this setting, this article presents some recommendations to help accelerate the adoption of sustainable investing as the norm rather than the exception. As such, the current research article makes an attempt to analyse the polluter pays principle on both international as well national level. Taking into account the need for sustainable development, Corporate Social Responsibility (CSR) has become an extremely important subject not only for companies but also for communities and public policy. In a globalized economy, taking account the fierce competition, CSR is often considered a very important premise for businesses to gain and sustain competitive advantages. In its communication "Towards a global partnership for sustainable development", the Commission has stressed that globalization may result in negative effects if it goes uncontrolled.

CSR public policies may help shape globalization in a positive way by promoting good company practices that complement public efforts for sustainable growth. Corporate crime control techniques emphasize formal legal repercussions, particularly in criminal law but not exclusively. Cooperative crime control approaches rely heavily on regulatory persuasion. Internal controls and informal punishment threats are among the methods used to ensure compliance with these rules. Environmental law in the twenty-first century has shifted away from the goal of establishing an international framework to address environmental challenges and toward the goal of enforcing these frameworks. With this power shift, companies will assume a new role in environmental policy making:¹ What amendments to ecological law have been implemented to encourage this new primary player to comply? How has the business developed in response to these changes? Criminal sanctions for corporate pollution infractions were commonly enforced as industrialization progressed, relegating people to primary pollutants (and hence actors). If hazardous materials are





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

employed in the workplace, they put a firm at risk of contamination, resulting in environmental difficulties. These corporations may face civil and criminal sanctions.

V. THE PRESENT-DAY ENVIRONMENTAL LEGISLATIONS

Following the Water (Prevention and Control of Pollution) Act, the Indian Parliament made the Stockholm Conference Resolution of 1974 into the comprehensive national law. As a result of the initial incident of the Bhopal Gas Tragedy, which brought environmental issues to the government's notice, the Indian government adopted the Environment (Protection) Act, 1986, in 1976. People's perceptions of corporate ecological responsibility have shifted, with individuals filing lawsuits in the Supreme and High Courts and the National Green Tribunal against businesses that have been caught unaware of corporate environmental responsibility and the concept of "Corporate Social Responsibility".

VI. THE INTERNATIONAL CONNECTION OF ENVIRONMENTAL RESPONSIBILITY OF COMPANIES IN INDIA

Environmental, social, and human rights concerns are routinely addressed in corporate initiatives to promote ecologically friendly business practices. According to a 1987 World Commission on Environment and Development report, the notion of corporate social responsibility (CSR) has gained traction since that time. With the ultimate output of this initiative, the WTO, GATT, and UNCTAD have been building international standards for regulating trade and environmental practices and putting greater accountability on enterprises. In the Western Community, "development" is frequently used interchangeably with "charity." It is considered a significant obligation for a firm in the Indian setting, not just by its stakeholders but also by the Indian





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

government. In this framework, stakeholders view multinational corporations as capitalist islands that swoop in and seize underdeveloped countries. As a result of their position, they bear a unique obligation to the broader community. Multinational corporations frequently leave their Indian subsidiaries to establish their operations in this area and may even grant-specific financing. Almost all Indian firms are currently implementing CSR programmes in education, health, job creation, skill development, and, most importantly, the development of the country's most disadvantaged citizens. Corporations must consume resources efficiently and without regard for the environmental impact of their activities, as ecological law standards impose no limits on any commercial activity. Over time, this specialised knowledge of Social Environmental Responsibility has shown to be highly beneficial to corporations.

VII. CORPORATE LIABILITY UNDER INDIAN ENVIRONMENTAL LAWS

Environmental regulatory enforcement is not just about implementing laws but also about enforcing rules and procedures, such as calculating permissible pollution levels and determining pollution quality. Numerous enactments of environmental legislation address the topic of corporate responsibility, including the following: The 1974 Water (Prevention and Control of Pollution) Act, as amended through Water Pollution Prevention and Control Regulations Amendments to the 1981 Air Pollution Control Act and the 1987 Air Pollution Control Act of 1927 on preventing and managing air pollution; The Indian Forest Act Regulations were enacted in 1986 following the 1980 Forest (Conservation) Act, the Environmental Protection Act Regulations for the Protection of the Environment, 1986 Hazardous Wastes (Management and Handling) Rules, 1989, and the 1972 Indian Wildlife (Protection) Act. A collection of rules that control the production, storage, and importing of hazardous substances and wastes. Act of 1991





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

Indemnifying Public Officials Against Liability Damages Title II of the Environmental Protection Agency Act of 1995, according to the 1991 regulations governing public liability insurance Act of 1997 Establishing the National Environment Appellate Authority This is not an exhaustive list of environmental laws under which businesses can be held liable for ecological misbehaviour; several other statutes address environmental problems specifically. Companies found guilty of environmental pollution may face both civil and criminal penalties under these regulations. Environmental laws in the United States broadly define corporate ecological stewardship. Businesses can be held accountable for environmental harm under the various environmental protection laws and regulations described above. The rules listed above control a corporation's activities, and the consequences for violating the standards are defined in the legislation.

VIII. PROVISIONS OF CSR UNDER NEW COMPANIES ACT

The Ministry of Corporate Affairs has stated that Section 135 and Schedule VII of the Companies Act 2013 and the Companies (Corporate Social Responsibility Policy) Rules, 2014 would take effect on April 1, 2014. As of April 1, 2014, all firms – private limited or public — will be expected to spend 2% of their average net profit over the last three fiscal years on CSR projects. This obligation applies to businesses of all sizes, whether private or public limited¹. According to Section 198 of the 2013 Act, the company's net worth, turnover, and net profits must be computed following the profit and loss account produced following Section 381 (1) (a) of the 2013 Act. Companies can fulfil their CSR obligations by:

¹ Chapple, W., & Moon, J. (2005). Corporate social responsibility (CSR) in Asia: A seven-country study of CSR web site reporting. *Business & society*, 44(4), 415-441.





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

- eradicating hunger, poverty, and malnutrition,
- promoting preventive health care and sanitation, ensuring safe drinking water availability, and
- promoting education, including special education and job-enhancing vocational skills, particularly among minorities. To maintain environmental sustainability, ecological balance, animal welfare, agroforestry, natural resource conservation, and the quality of soil, air, and water, as well as agroforestry;
- Restoring and preserving ancient sites and pieces of art; establishing public libraries; promoting and developing handicrafts and traditional trades;
- Support measures for troops, war widows, and those who rely on them
 - Contribution to the Prime Minister's National Relief Fund or any other fund created by the Central Government for the socioeconomic development, relief, and welfare of Scheduled Castes and Tribes, other backward classes, minorities, and women;
 - Government-approved financing for academic institutions' technology incubators.

This category includes rural development projects. Swachh Bharat Abhiyan and the Clean Ganga Mission were included as CSR activities in Schedule VII of the Companies Act, 2013, on October 24, 2014.

The activities above show that the Ministry of Corporate Affairs values sustainability and environmental preservation. Environmental protection requires a strategy that entails separate programmes enforcing more vital rules on enterprises rather than simply making them socially





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

accountable. When a question regarding how businesses approach environmental preservation and sustainability arises, the firm's response is typically focused on their CSR policies since they must spend a certain proportion of their earnings on one of the schemes mentioned above or charity missions. However, because most firms spend their money on product promotion campaigns, environmental problems receive the least attention.

IX. CORPORATIONS FACE ENVIRONMENTAL OBLIGATIONS UNDER INDIAN CORPORATE LAW (CORPORATE SOCIAL RESPONSIBILITY V. CORPORATE ENVIRONMENT LIABILITY)

Environmental conservation is defined in Article 48 A of the Indian constitution as a directive idea of state policy and Article 51a(g) as a civic duty. The government legislates corporate social responsibility (CSR), which also holds businesses accountable for environmental preservation. Waste and emissions must be eliminated throughout the company's operations, production, and facilities to maximize the efficiency and productivity of its resources and practices that jeopardize the sustainability of the country's resources must be minimized to ensure their preservation for future generations. The Indian government's enactment of the Companies Act 2013 was one of the world's most significant attempts to make corporate social responsibility (CSR) a statutory mandate for businesses engaged in social welfare activities. As a result, India is unique in having codified and regulated CSR for certain types of companies registered under the Companies Act, 2013. This CSR initiative will assist the government in achieving its sustainable development goals and foster public-private partnership for India's transformation. By categorizing the environment





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

under one of these headings, legislators have wholly disregarded their primary job to protect our environment rather than allowing companies to choose and spend their money on any of these activities. Rather than focusing on their social responsibility to protect the environment, most businesses spend their money on initiatives primarily focused on branding and selling their products.

Companies must review their CSR eligibility, execute, and report on their CSR policies under Section 135 of the Firms Act, 2013 and the Rules promulgated. With the most comprehensive CSR framework and implementation strategy globally, India has begun establishing a benchmark for attaining sustainable and stakeholder-driven nation-building goals. CSR's reach is increasing, and it will become a unique source of information for analysing and achieving sustainability goals in the following years since India is one of the nations that has required CSR through legal action

X. INDIA NEEDS A NEW POLICY FOR ENVIRONMENTAL PROTECTION

India has implemented a lot of environmental protection initiatives. However, detecting ecological harm caused by businesses or industries has long been frustrating for courts and government officials. Legislators have placed some binding obligations on the world's top firms to promote sustainable growth and environmental protection through CSR-required legislation. Mandates for corporate social responsibility (CSR) encourage firms to be more socially responsible by mandating them to invest in ecological stewardship. Since the introduction and implementation of the new Companies Act six years ago, only a few of the country's top firms have spent their share of CSR on or for environmental protection.





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

XI. THE SUPREME COURT'S DECISION REGARDING BUSINESS ACCOUNTABILITY FOR ENVIRONMENTAL DAMAGE CAUSED BY THEIR PRODUCTS.

The Supreme Court has issued some directives to polluters, directing them to carry out their constitutional obligations to protect and improve the environment, including determining compensation for affected people, initiating *Suo moto* action against the polluter, hearing petitions on behalf of affected parties and inanimate objects, expanding the scope of litigation, and introducing environmental protection principles. Without the Supreme Court of India, India's ecological jurisprudence would not be what it is today. It has heard many valid class-action lawsuits filed according to Article 32 of the Constitution. The Supreme Court issued multiple directives on environmental issues while using its writ jurisdiction, resulting in the establishment of a considerable corpus of environmental legislation. Article 21 of the Indian Constitution includes a "right to a healthy environment," which broadens the definition of the term "life." The Supreme Court's strong position on environmental preservation, forest conservation, and water conservation, among other issues, has increased public awareness and acceptance of these words. These expressions are now widely used to educate people about the hazards of ecocide and the critical nature of environmental protection for their benefit.

The 1984 Bhopal tragedy marked the first time in Indian legal history that the Apex court held a business accountable for environmental damages and ordered it to compensate victims. Thousands of people were killed, and hundreds of thousands more had their lives devastated. Union Carbide Company began compensating sufferers when the Supreme Court ordered them to do so, and the \$470 million settlement paid to the Indian government in February 1989 was released to victims. However, the whole amount was not received immediately. As a result of these





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

tragedies, the Madhya Pradesh government reported that 40 people were identified as having permanent total disabilities and 2,680 as having permanent partial disabilities, in addition to 1,313 people who were identified as being temporarily disabled as a result of their permanent injury and 7,172 people who were identified as being temporarily disabled as a result of their temporary injury (Union Carbide Bhopal Website up to 2004).

Environmental laws and environmental crimes have hitherto gotten less attention. Individuals become increasingly aware of environmental rules and the need for environmental protection due to judicial activism. In many cases, India's Supreme Court serves as an environmental watchdog, preventing pollution before it begins and holding polluters accountable for their actions. Numerous state supreme courts play a critical role in this area, even though many environmental statutes have businesses responsible for ecological wrongs. Section 226 of the Indian Constitution vests this right in all people. Due to the implicit recognition of the right to a hygienic environment as a fundamental right, this writ jurisdiction is regularly utilized in environmental cases. The high courts have assumed this function since, in general, the courts of primary jurisdiction cannot give effective remedy for ecological or industrial harm caused by businesses owing to legal delays induced by particular cases, increased litigation expenses, and complex legal procedures. By concentrating their efforts on safeguarding the long-term sustainability of the environment and natural resources, the country's higher judiciary contributes significantly to economic prosperity. Numerous high court judgements have penalized environmental destruction, as there is an urgent need to safeguard the environment from such activities (which cause harm to the background). As judicial activism gathers pace, courts are being compelled to close down enterprises based on evidence submitted to them, and they must do so with restraint consistent with the rule of law. In the Silent Valley case (1980), the Kerala High Court refused to second-guess the state government's position on the environmental consequences of a hydroelectric project, providing an example of "judicial restraint." According to the judgement, the initiative supports the entire Kerala state





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

legislature, making judicial involvement unnecessary. Following public protest, the proposal's viability was re-evaluated, resulting in a change of heart. Sections 51 A(g) and 48 A of the Andhra Pradesh constitution obligated the state to maintain the environment and restrict the corporation by prohibiting open land conversion into a residential complex. The High Court of Andhra Pradesh upheld these constitutional provisions.

Modi Distillery v. UP Pollution Control Board and others Industrial alcohol was being manufactured at the Modi distillery of M/s Modi Industries Ltd. It was dumped into the river via an on-site drain, generating extremely poisonous and filthy trade effluents. As a result, the Pollution Control Board designated the industrial unit Modi distillery as a respondent and the Chairman, Vice Chairman, and Managing Director of M/s. Modi Industries Ltd. The Single Judge of the High Court held in the proceedings that there was no vicarious responsibility for Board members under Section 47 of the Water (Prevention and Control of Pollution) Act 1974 until the Company was charged. However, the Supreme Court held that Section 47 of the Water (Prevention and Control of Pollution) Act, 1974 clearly states that officials of the Company, which owns the respondent industrial unit, are liable for prosecution because they are in charge and accountable to the Company for the unit's operations². They may be presumed guilty because they were charged with the offence.

In Vijay Singh Punia v State of Rajasthan, the Rajasthan High Court imposed a 15% punishment on dyeing and printing enterprises for damaging the state's water supply. Due to the industrial units' untreated wastewater emissions, residents are denied access to unpolluted groundwater, critical for survival. Not only has the way industrial units operate affected groundwater, but also the quality of vegetables and commodities grown nearby. Article 21 of the Constitution empowers

² Rosencranz Armin. and Sahu Geetanjay. 2014. Assessing the National Green Tribunal after, Four Years, Vol. 5 Journal of Indian Law and Society 191.





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

courts with exceptional authority to impose penalties on polluters to restore ecological balance and to compensate victims of pollution and environmental harm.

The Patna High Court decided in Rajiv Ranjan Singh v. the State of Bihar that the distillery's effluents and smells were poisonous and caused substantial harm to the area's population, violating their rights under Articles 14 and 21 of the Indian Constitution. Additionally, the Court ordered that if someone falls ill due to exposure to the distillery's effluent, the business must pay for all of their medical expenditures, and the victim's compensation may also be addressed.

On 23 October 2009, the Delhi High Court ruled in Jaipur Golden Gas Victims vs UOI & Ors. that polluting industries are "absolutely liable to compensate for the harm they have caused to villagers in the affected area, to the soil, and underground water," and that they must take all necessary measures to remove sludge and other pollutants from affected areas. According to a court interpretation of the "Polluter Pays Principle," the absolute liability for environmental harm extends beyond paying pollution victims. To accomplish "Sustainable Development," it is essential to restore the damaged environment, and the polluter is liable for both the expenses borne by impacted persons and the related costs. As a result, we conclude that MCD breached the precautionary principle in this situation and is also liable to compensate fire and gas victims

XII. DAMAGE TO THE ENVIRONMENT CAUSED BY CORPORATE ACTIVITIES

Industrialization and firm expansion are critical for national economic progress, but they can also have detrimental environmental implications. The corporate ecological impact cannot be assessed just in financial terms; it must also be understood and controlled. Numerous factors contribute to India's environmental degradation, including social, economic, institutional, and technical factors.



LA



SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

Environmental quality and sustainability have deteriorated significantly due to rapid population increase, urbanization, and industrial activity. There are standards to safeguard the environment in every manner possible; however, it is frequently revealed that huge organizations are abandoning their environmental responsibilities. Throughout history, it has been seen that whenever any form of the organization begins to focus on growth rather than profit in their sector, they also tend to overlook their environmental impact.

XIII. FINAL THOUGHTS ON GLOBAL CORPORATE ENVIRONMENTAL LIABILITY

When it comes to globalization's repercussions, economic advancement has resulted in many social and environmental challenges. They include but are not limited to the environmental impact of businesses on their land and resources. Corporate regulation and employee initiative drove these firms to embrace more socially and ecologically responsible company practices. Stakeholders in India and the Indian management of the government regard it as a significant duty for a firm. The stakeholder community perceives large firms as emerging countries' socialist islands. As a result of their position, they bear a special responsibility to the greater community. The right to a pollution-free environment can be realized only if all members of society understand their shared but distinct duties. Businesses should contribute significantly to this effort since they are best equipped to reduce pollution levels in the environment through proactive measures.

XIV. RECOMMENDATIONS

1. The Need for Separate Environment Courts in India, GNLU, it is necessary to have distinct "Environment Courts" staffed exclusively by individuals with judicial or legal experience and





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

assisted by individuals with scientific qualifications and experience in the field of environmental governance. Additionally, we require expedited justice in ecological trials. While a single individual may suffer injury due to a criminal delay, the rights of millions may be jeopardised. Additionally, it should be underlined that penalties for specific job infractions should be increased to the point where individuals harmed get adequate compensation. We must remember that we are not filling our racks with rules and activities; instead, we require elemental power and defer to the court's interpretation.

2. While India already has environmental policies in place, such as environmental impact assessments, environmental clearances, and environmental taxes, the protection of natural resources should be integrated into the policies of all state-owned corporations, and a mandatory environment tax should be implemented uniformly throughout the country.

3. All firms, regardless of whether they deal with hazardous products, should be required to do environmental impact studies and audits. Today, the Environment (Protection) Act, 1986 requires just 29 categories of development activities that need expenditure over specified thresholds. Before implementing a project, the government must complete an environmental impact assessment. Although all industrial projects may have significant ecological consequences, they should undergo comprehensive appraisal procedures. It will be up to the task and its location to determine if such regulations are implemented.

4. Government institutions, such as the Environmental Protection Agency or the Center/State Pollution Control Board, should operate so that they can categorise environmental techniques into three groups. Pre-installation is a government tactic that emphasises the potential benefits of a specific project or economic activity. The second way is called "environmental constraint," and it enables executive agencies and environmental specialists to establish rules based on the ecological feasibility of a project. The third technique is referred to as "periodic review," and it is utilised by





SENATUS SCRIPTORS

LAW JOURNAL

VOLUME 4: ISSUE 1

June, 2021~ May, 2022

(O)ISSN 2582 6638

environmental authorities to conduct periodic reviews of the environmental impact of specific operations.

5. This strategy enables the government to undertake periodic reviews before and during the implementation of projects and enforce rigorous responsibility if it discovers violations of environmental regulations or significant impacts on environmental sustainability. 5. To protect the environment from the harm caused by corporate business decisions, we require a robust, all-encompassing, and comprehensive regulatory framework.

6. Corporations that cause environmental harm should face the consequences for their activities. As we all know, corporate pollution of the environment is the primary cause of many ailments, medical problems, and long-term effects on people's livelihoods, to say nothing of the human toll. In addition to the Criminal Procedure Code (Cr.p.c.) or the Indian Penal Code, new legislation addressing corporate criminal liability for environmental harms should be enacted. Generally, the larger the polluting enterprise, the harsher the punishment should be.

7. The Board and authorised employees monitor emissions and the pollutant content of effluent. Pollution can be controlled if everyone makes an effort. Before issuing a manufacturing licence, licencing authorities should comply with all applicable environmental requirements, particularly the Public Liability Insurance Act of 1999.

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LA



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