
UNIT 23 ENVIRONMENTAL LEGISLATION

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23.1 INTRODUCTION

In the earlier units of this course you have learnt that ever since human society has progressed from hunting-gathering stage, man has started altering the natural environment in the pursuit of creating an economic, social and cultural environment of his choice. This has resulted in the depletion of natural resources, degradation of land and pollution of water and air. Urbanisation has also led to noise pollution. Hazardous technology in chemical and nuclear power plants, storage and transportation of toxic radioactive materials and nuclear wastes have brought havoc and mass casualties in several parts of the world. In order to protect ourselves, the animal and plant life and the environment from destruction, numerous laws have been enacted at the national and international levels. In this unit, we will discuss these laws relating to environment. The coverage includes common law rules applicable to environmental issues, legislation on water and air pollution and the comprehensive Environment (Protection) Act of 1986. Some sections of this unit are devoted to an analysis of the institutional structures and the problems of law enforcement. The legal aspects of Bhopal gas tragedy have also been discussed.

Objectives

After reading this unit, you will be able to:

- explain the need for the environmental legislation
- discuss various Acts enacted for the protection of environment
- explain the difficulties in the enforcement of the environmental legislation
- discuss in detail the legal aspects of the Bhopal gas tragedy.

23.2 NEED FOR LEGISLATION

You have learnt in the previous units that depletion of the ozone layer, the increasing rate of species extinction, disposal of toxic and nuclear wastes in the vulnerable areas of the planet, the loss of forests and of arable soil at an alarming rate are a few of the many global environmental changes that will affect the survival of the present and future generations. As it has been said, we do not inherit the environment from our forefathers, we borrow it from future generations. Each individual's life today depends on the performance of many other individuals. For example, carelessness in welding or in maintenance in a nuclear reactor or chemical plant could kill thousands and hundreds of thousands of people not only in the plant and its vicinity but even at a considerable distance away from it. Similarly, a truck driver or a rail road engineer

could cause mass deaths and environmental destruction through carelessness while transporting dangerous wastes from chemical plants or a nuclear reactor. The chance of serious accidents that could wipe out human, animal and plant life and destroy the environment have steadily increased. An urgent need for collaborative action on a global level has long been felt.

In 1972, representatives of 113 world governments assembled in Stockholm to participate in the United Nations Conference on Human Environment. The Stockholm conference proclaimed that:

“The protection and improvement of human environment is a major issue which affects the well-being of people and economic development throughout the world and it is the duty of all governments and people to exert common effort for the preservation and improvement of human environment, for the benefit of all people and their posterity.”

Many countries have therefore introduced control mechanisms to deter and punish the enterprises violating the environment. They have enacted special criminal laws or amended their penal codes by creating new criminal laws in order to prosecute the most flagrant offenders through the criminal prosecution system. The Japanese law for the punishment of crimes relating to environmental pollution was the first such step. Penal codes of the Federal Republic of Germany, German Democratic Republic (as it then was), Hungary, Portugal, Spain and Brazil, soon followed. Countries that do not legally distinguish between regulatory offences and crimes, such as Canada and the United States, have created new regulations related to crimes dealing with flagrant violations and provided stiff punishment with fines and prison sentences to violators.

India was the first country to impose a constitutional obligation on the State and citizens to protect and improve the environment as one of the primary duties. Article 48A of the Indian Constitution provides:

“The state shall endeavour to protect and improve the environment and to safeguard forests and wildlife of the country.”

Article 51A provides:

“It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.”

So you see, the Constitution of India has provisions to make environmental legislations. The central, state and the concurrent lists of subjects on which Parliament and State Legislatures are empowered to legislate span: noise control, land improvement, irrigation, town planning, slum clearance, housing schemes, pest control, smoke control, water pollution, forests, wildlife, recreation etc. Consequently, laws have been enacted on some of the subjects, such as:

- The Factories Act, 1948
- The Insecticides Act, 1968
- The Water (Prevention and Control of Pollution) Act, 1974
- The Air (Prevention and Control of Pollution) Act, 1981
- The Forest (Conservation) Act, 1980
- The Wildlife (Protection) Act, 1972, and
- The Environment (Protection) Act, 1986.

In the following section we will study some of these environmental laws and also a number of numerous judgements made by the High Courts and the Supreme Court of India in relation to the environmental protection.

SAQ 1

I) Fill in the blanks:

- i) The Stockholm Conference was held in the year to discuss the measures to be taken for the preservation and improvement of the
- ii) was the first country to impose a constitutional obligation on the State and citizens to protect and improve the environment as one the primary duties.

II) List ten subjects related to environment on which the Parliament and State legislatures are empowered to legislate.

- i)
- ii)
- iii)
- iv)
- v)
- vi)
- vii)
- viii)
- ix)
- x)

23.3 EXISTING LEGISLATION

The first casualties and human sufferings as a direct result of environmental pollution were reported from the industrial areas of Japan in the late 1950s when scores of people died of mercury and cadmium poisoning and hundreds contracted the painful **mina mata** and **itai itai** disease. Until then there was no real concern over water and air pollution. **Mina mata** and **itai itai** diseases galvanised Japan and the Western world to immediate legislative action resulting in the introduction of environmental protection laws and establishment of environment ministries in government administration. Environmental laws deal with the problems of pollution by a set of rules under tort law as nuisance, negligence and liability. If you are affected by poisonous fumes coming from a neighbouring industrial unit, or if you are constantly bothered by unbearable noise in the neighbourhood, or if your neighbour interferes with your leisure activities, or makes your life miserable, for instance, by keeping things or animals in his courtyard which give out offensive odour, you could go to a court of law and get your errant neighbour pay for his offensive conduct under the tort law of nuisance. The court, of course, will do a bit of balancing of interests; consider the legality or otherwise of the action and the reasonable and unreasonable impact on the victim, before issuing an injunction followed by the award of damages.

The law governing liability for breach of duty to neighbours in the use of land, for instance, was laid down in the famous **Rylands vs. Fletcher** case in England way back in 1968. The case concerned the use of one's property which adversely affected the neighbour's enjoyment of his property. The court held that an exercise of property rights which resulted in the curtailment of another's similar rights was actionable and gave rise to strict liability. The uses of the law laid down in this case in the context of environmental issues are obvious.

Under the Indian Penal Code (IPC) which codifies the common law concept of negligence, if someone comits an act or omission which causes injury to another, the first person is considered guilty of an unlawful and negligent act. Polluting of water of a public spring or a reservoir so as to render it unfit for human consumption is made a criminal offence under Section 277 of the IPC. Negligent conduct with respect to poisonous substances endangering human life or likely to cause injury is a criminal offence under Section 284. The Union Carbide of India could have been held guilty under this section for causing the Bhopal gas tragedy. These and other sections under the IPC and the Criminal Procedure Code contain a number of provisions that could be used to combat pollution of land, water and air.

The Constitution of India contains several environmental prescriptions. Before discussing them, however, it is necessary to point out that the power to tackle environmental problems is considerably affected by the federal structure of the Indian polity. The division of legislative and administrative power between the Union and the States is spelt out in three lists, the Union list, the States list and the Concurrent list.

The Union is supreme over the subjects mentioned in the first list: the States similarly enjoy complete competence to legislate on any matter mentioned in the second list; and both the Union and States have concurrent jurisdiction on matters contained in the third list. The Union enjoys a certain primacy over states in that, according to Article 246, its legislation in the Union and the concurrent list prevails over state legislation in the event of a clash. Also, under Article 248, the Parliament has residuary powers to legislate on any matter not covered in the three lists.

Most of the constituents of the environment, like land, water, forests, etc. are under the purview of the states. For a variety of reasons, principally financial, the states are not usually in a position to take effective action against pollution, or in promoting environmentally sound management strategies for conservation and development of these resources. It has thus become necessary for the Union Government to intervene when the said resources are threatened with serious depletion. As shown in the preceding units, the state of water pollution and forest resource depletion and pollution of the air in India is such that the Union Government had to initiate a series of measures to arrest the damage done to these resources. Two provisions in the Constitution came handy to the Union for this purpose. The first provision is Article 242 under which the Union is empowered to pass legislation on matters mentioned in the state list, if so requested by two or more states. The Union government utilised this provision to pass various Acts in order to protect the population, present as well as the future generations, and the environment from what appears to be an inexorable move towards self-destruction. In the following sections we discuss the various Acts passed by the Government of India.

23.3.1 The Insecticide Act

You know that pesticides are basically toxic chemicals and their use is inherently accompanied by hazards and ecological consequences. Being aware of the prime responsibility of protecting the health of citizens and the environment, the Government of India enacted the Insecticide Act in 1968. This was enforced from 1971 to regulate import, manufacture, sale, transport, distribution and the use of insecticides with a view to preventing risk to human beings and animals. Several agencies, such as the Central Insecticide Board, the Pesticide Registration Committee, the Pesticide Environment Pollution Advisory Committee, the Central Insecticide Laboratory, the Committee to Ban/Restrict the use of Pesticides, were created for effective enforcement of this Act.

23.3.2 The Wildlife (Protection) Act

In Units 7 and 20, we have mentioned that the most serious threat to wildlife is posed by habitat destruction. Expanding agriculture, industry and urbanisation etc. are the causes of this destruction. Realising the importance of the wildlife resource and in order to prevent the gene erosion, our country has taken up steps by setting up an Indian Board of Wildlife (1952), creation of Wildlife Parks and Sanctuaries, enactment of an All India Wildlife Protection Act (1972), becoming a party to the Convention of International Trade in Endangered Species of Fauna and Flora (CITES, 1976), launching a national component of the UNESCO's Man and the Biosphere Programme (1971) and by starting conservation projects for individual endangered species like Hungal (1970), Lion (1972), Tiger (1973), Crocodiles (1974), and Brown-antlered Deer (1981).

The Wildlife (Protection) Act governs wildlife conservation and protection of endangered species. The Act prohibits trade in rare and endangered species. The wildlife Act is adopted by all states except Jammu and Kashmir, which has its own Act. The Centre provides financial assistance to states for: (i) strengthening management and protection of infrastructure of national parks and sanctuaries; (ii) protection of wildlife and control of poaching and illegal trade in wildlife products; (iii) captive breeding programmes for endangered species of wildlife; (iv) wildlife education and interpretation; and (v) development of selected zoos.

23.3.3 The Water (Prevention and Control of Pollution) Act

The Water Act defines water pollution, prescribes penalties and establishes an administrative machinery, called the Water Pollution Boards, at the Central and State level in order to control and prevent pollution of water. The coverage of the Act, is quite comprehensive in that it includes streams, rivers water courses, inland waters, subterranean waters, and sea and tidal waters under state jurisdiction. The State and Central Boards are widely represented and are given comprehensive powers to advise, coordinate and provide technical assistance in the prevention and control or abatement of water pollution. More importantly, these Boards are entrusted with the task of monitoring the state of water pollution in the country and laying down standards of permissible and impermissible levels of pollution.

The Water Act prohibits dumping of poisonous, noxious or polluting matter into streams and wells, as well as any activity which impedes the proper flow of the water of a stream causing aggravation of pollution due to other causes. The Act subjects the discharge of sewage or trade effluents into streams and wells to the prior consent of the Boards. The Boards are authorised to take action against polluters by imposing conditions aimed at discouraging pollution and can prosecute the polluter. In practice, however, the Boards have not been as effective as was expected because of budgetary constraints, paucity of expertise, and inability to take punitive action against the big industrial polluters. Also, the already over-burdened judiciary has not been of great help to the Boards in combating polluters and pollution. According to the Sixty First Report of the Estimates Committee (April, 1988), out of a total number of 1602 prosecutions launched under the Act in 21 states, only 288 have been decided and 1314 are still pending. The story is slightly different in the case of the Air Act which we will discuss next. The total number of cases filed against the violators under the Air Act is 202, of which 97 have been decided by the courts and the rest are pending. The difference in figures is obviously attributable to the vintage of the Acts (Water Act 1974, Air Act 1981) than to the vigour of the bureaucracy, because it is the same for both the Acts.

23.3.4 The Air (Prevention and Control of Pollution) Act

The Air Act was passed in 1981 to mainly regulate and control emissions from automobiles and industrial plants. The Central Boards for the Prevention and Control of Water Pollution is authorised to implement and enforce the Act also. This body lays down standards for the quality of air. Under Section 19, the Central Board is given powers mainly to coordinate the activities of the state Boards. After consultation with the state Board, the state government may declare any area within the state as "air pollution control area", and prohibit the use of any fuel other than approved fuel in the area causing air pollution. Further, no person shall, without the previous consent of the state Board operate any industrial plant involving industries specified in the schedule in air pollution control area.

23.3.5 The Environment (Protection) Act

The Environment (Protection) Act was passed by the Parliament on 23 May 1986. The Act refers to the Stockholm Conference of 1972 and is based on Article 253 of the Constitution. By virtue of this Act, the Union Government has armed itself with considerable powers deemed necessary for the prevention, control and abatement of environmental pollution. The powers include, coordination of action by states, planning and execution of nationwide programmes, laying down environmental quality standards, specially those governing emission or discharge of environmental pollutants, placing restrictions on the location of industries and so on. The powers claimed are indeed comprehensive; the coverage includes handling of hazardous substances, prevention of environmental accidents, research, inspection of polluting units, establishment of laboratories, dissemination of information, etc. A whole set of administrative procedures and structures are envisaged under the Act. If implemented in letter and spirit, the Act will convert the Ministry of Environment and Forests into a super ministry, controlling the entire gamut of industrial and other developmental activities. A timorous attitude in the enforcement of this Act could lead only to environmental window-dressing of Acts passed by the government.

SAQ 2

I) Explain briefly in the space given below the function of Wildlife (Protection) Act (1974).

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23.4 DRAWBACKS IN ENVIRONMENTAL LEGISLATION AND DIFFICULTIES IN ITS ENFORCEMENT

In the earlier sections of this unit you have learnt about various Environment Acts. In this section we will study about the drawbacks of the environmental legislation and difficulties in its enforcement.

23.4.1 Drawbacks in Environmental Legislation

Legislation is often not perfect. There are various drawbacks in the Acts enacted in relation to environment. We will not like to go into a lengthy legal discussion, but illustrate the points by giving some examples.

Forests constitute a vital resource of the nation. It is a scientifically established fact that the forest cover should be at least 1/3 of the land area for a healthy state of environment. Vegetation generates oxygen. Trees hold the soil together, and in India the forests provide livelihood to millions of tribals and villagers living in and around forests. Experts and the mass media have brought to the attention of the decision makers and the public at large, the fact that the forest cover of the country has been rapidly shrinking. Some estimates put the present coverage at not more than 12% of the land area. Fuelstarved villagers, greedy forest contractors and corrupt officials are the proven culprits.

Some time back, the Government came up with a well-meaning but potentially draconian Forest Bill. There was virtually an uproar against the Bill-principally on two grounds. One, that the Bill would make criminals of all tribals living in and off the forests, because it prohibited the taking of all the produce, including leaves and fruits from the forests. Two, the proposed Bill converted forest officers into judges and executioners at the same time. The bill failed to attract public support because it adopted an oppressive colonial model of law.

The aborted Forest Bill and the raging controversies over the present and proposed conservation zones, which strike at the root of the right of the villagers to graze their cattle, demonstrate that the central concern of all law-making should be man. Laws aimed at protecting the trees, animals and birds cannot in the process treat people as marginal. The new National Forest Policy resolution adopted by the Parliament on 7 December, 1988 strives to make amends; it is too early to judge its impact and effectiveness.

It may be mentioned here that the Directive Principles of State Policy obligate the state to its people certain basic social and economic rights which were described by Justice Krishna Iyer as follows:

“The developmental directives of our Constitution are geared to social and economic justice.”

Again, the problems of individual-or-group inspired environmental litigation are different. The Water and Air Pollution Acts do not permit individuals and groups direct access to courts. The Central and State Boards are to act as conduits of public grievances. In other words, individuals have no *locus standi* under the said Acts. To a certain degree, this lamentable lacunae have been plugged by the latest Environment Protection Act. The number of suits admitted by the higher courts by way of the public interest litigation procedure has made the rigid position of the Acts, denying *locus standi* to individuals, untenable.

How successful has been this category of environmental litigation? Some, like the Silent Valley, the Doon Valley, the Delhi gas leakage cases, etc. have attracted media and public attention. But the same cases have also thrown up intractable issues of standing, burden of proof, expert testimony and the very competence of the ordinary courts to handle environmental disputes. The rules of evidence courts to handle environmental disputes. The rules of evidence relating to burden of proof, particularly, have created an unconscionable situation. An individual or even a committed group of individuals cannot be expected to submit authoritative proof of objectionable radiation level, for instance. The inequality of the resources available to

the individual and the establishment make a mockery of the rules of evidence in environmental disputes.

23.4.2 Difficulties in Enforcement of Environmental Legislation

You must be aware that despite all this legislative activity the state of the environment in India continues to be gloomy. The rivers and the lakes continue to be choked with sewage and industrial waste. The air quality in some major cities has gained the dubious distinction of being worse than that of the American cities like Chicago and New York. Forests continue to disappear, and the consequent loss of soil has led to the scourge of floods with sickening regularity. What can the country do to reverse the process and restore a balanced state of the environment?

Although the legislative measures taken and the administrative set-up is sufficiently indicative of the Government's concern, the implementation does not reflect a sound appreciation of the issues involved in eco-management and development.

Environment is a resource—perhaps the most precious of all the Earth's resources. It should be treated as such. The measures adopted by the Government until now do not reveal an equal emphasis on the management and development aspects of this vital resource. Often these measures reflect a fire-brigade approach—rushing to the spot of fire, after it breaks out. The strategy should lay equal emphasis on attacking the cause of fires. An ounce of prevention in the field of environment is literally worth a gallon of cure.

Take for example the river pollution in India. It is well known that the major source of pollution of rivers is domestic sewage which municipalities nonchalantly dump in the nearest rivers. Ninety per cent of the pollution of Ganga stems from the 100-odd littoral municipal waste dumpings. The colossal cleaning-up operation, Ganga Action Plan, will be an exercise in futility if it is not accompanied by a massive effort to prevent the municipalities from dumping their wastes in the river. Every one knows that the technology for treating municipal wastes exists. But it costs money and most of the municipalities cannot afford it.

If the new Environment (Protection) Act is taken seriously, all the municipalities abutting the Ganga will have to be prosecuted. The Act, rightly, makes no distinction between private and public polluters. But that would be taking a very restrictive view of the law. The more modern view is that the law must guide and help people and establish a trend of acceptance. Environmental law has little chance of acquiring effectiveness unless accompanied by a whole set of promotional measures, ranging from direct financial subsidies to cost sharing, for example, in installing treatment plants.

Litigation is an expensive affair. Environmental litigation is more expensive than other types of disputes, since it involves expert testimony, technical evidence and so on. State Boards will have to be able to afford the expertise and the administrative backing. Most of the State Boards suffer from inadequate expertise and funds to pursue their objectives. There is, therefore, a tendency to seek to exercise gentle pressure on the polluting industry and pursue settlements outside the courts.

There is nothing fundamentally wrong with out-of-court settlement of environmental disputes. In fact, in some developed countries, like the United States, a preference is shown toward such a procedure. But in India, officially initiated and sanctioned out of court settlements may aggravate the perennial problem of corruption. Sharing the costs of anti-pollution measures taken by the industry seems to be a better strategy than state-sponsored expensive and lengthy prosecutions.

Admittedly, the state of environment of the country is not rosy; the imperatives of development have sometimes come into sharp conflict with those of the environment; the administrative machinery set up to solve the problems of environment has often failed in its task; the laws enacted to meet the challenge have been generally inept. But these are the failings of a nation wrestling with hundreds of problems on thousands of fronts. The war of survival which is what the sorry state of the nation's environment poses to the country requires first and foremost the will to survive. The Government and, more importantly, the people have demonstrated it in abundance. The rest is a matter of skill and experience, which we seem to be acquiring slowly but steadily.

SAQ 3

1) Explain briefly in the space given below, the drawbacks in environmental legislation, giving one example.

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23.5 BHOPAL CASE

In the earlier sections of this unit you have learnt about environmental legislation. In this section we will read about the Bhopal tragedy which is described as the worst in industrial history. Bhopal tragedy resulted as a consequence of the sudden vaporisation and discharge of Methyl Isocyanide (MIC) gas as well as phosgene gas from the pesticide plant of Union Carbide (India) Limited on December 2, 1984 and resulted in the death of about 5,000 and affected 2,00,000 persons, a quarter of the city's population. The after effects on the affected people have also been shown to be very serious.

There is strong evidence that the disaster was due to the faulty storage system of the MIC and the failure of the Union Carbide Corporation to install effective safety measures.

Union Carbide is a multi-national corporation based in the United States of America. It has some 138 subsidiaries in 127 countries. Union Carbide has been criticised by environmentalists in America for its chemical manufactures which are regarded as terribly hazardous to nature and man. They were not allowed to put up such a factory in USA.

It is said that the Canadian Government had in 1972 asked the Union Carbide to wind up its MIC plant on the grounds of pollution and danger to public life. The same plant was dismantled and installed in Bhopal in 1980, and one wonders why the centre and the state governments welcomed this death trap which was outlawed by Canada.

In May, 1982, the head office of Union Carbide in Danbury (West Virginia, USA) had sent three top officials to go into the existing security measures in the Bhopal unit of the company and report to the head office. After going through various aspects of safety measures, the experts reported that:

- (i) the filling of the MIC tank is done manually and there is no scientific instrument available for back-up in case of error.
- (ii) the pressure gauge on the phosgene tank is out of order and there is no instrument to indicate the pressure of the gas within the tank.

Further, it is known that MIC gas has to be stored below 8°C which means under refrigeration but the refrigeration plant was out of order for a very long time. The mechanism for flaring or burning of the gas in case of leakage was also not operational.

The Union Carbide did not give importance to the report of their experts and install the effective safety measures. This has resulted in the disaster of December 2, 1984, which Justice Krishna Iyer calls 'Bhoposhima', being a mini-Hiroshima.

Such criminal negligence of the multinationals in not adopting the necessary safety mechanisms shows that they consider the developing nations as "pollution havens", where they can obtain maximum profits at minimum costs, ignoring the lives and safety of the population in these countries.

Bhopal offenders, including even officials of Government and Municipal Corporations, and unquestionably the staff, high and low, under the Union Carbide

(India) may well be caught within the meshes of the penal provisions. Section 284 IPC is so widely worded and lends itself to such semantic liberty that those who rashly or negligently permit or start the manufacture of poisons which may endanger human life or even cause hurt or injury to any person are culpable. The Carbide culpables, the reckless officials who licenced the operations or renewed it, are within the punitive ring. The Government of India through an Ordinance assumed powers to file cases in the USA to claim damages for the victims of Bhopal tragedy. An attempt was in fact made to file a suit for compensation to the sufferers of this tragedy in the US courts. It was not admitted on the pretext that Union Carbide (India) is only a subsidiary of the Union Carbide, registered in India. Therefore, all its liabilities lie in India. Thus in spite of owning 50% shares, Union Carbide escaped the liability because the Indian concern is technically not a branch of the parent company based in USA.

Union Carbide also adopted another subterfuge by transferring most of their assets to another concern, which means that even if a case had been admitted in USA, and their liability proved, they would have hardly anything left in their coffers to pay.

In the mean time a case was filed in the Supreme Court of India. The Supreme Court in their judgement granted a sum of \$ 470 million to the families of the victims, which was readily agreed to by the Union Carbide. The apparent reason for the ready agreement by the Union Carbide for the said amount was simply because it was much below the amount they would have to pay if such an accident had taken place in any developed country let alone the USA. A number of cases were soon filed by individual victims to this effect, thus causing a further delay even in the distribution of the said amount. Justice delayed is justice denied is aptly applicable in this particular case.

SAQ 4

Give three reasons for the Bhopal Gas Tragedy.

- i)
- ii)
- iii)

23.6 SUMMARY

You have read in the unit that:

- Regulatory measures in the form of legislation are needed to check the degradation of the environment.
- Both at national and international levels laws were introduced to stop pollution.
- The Constitution of India has provisions to make environmental legislations. One of the primary duties of the states and citizens is the obligation to protect and improve the environment. The Union government utilised this provision to pass various Acts in order to protect the environment from destruction.
- Legislation is not perfect. It has some drawbacks which come in the way of its effective enforcement.
- Although the legislative measures are taken and the administrative set-up is satisfactory, it is difficult to enforce the legislation due to shortage of funds, lack of expertise and non-cooperation of the public.
- Bhopal gas tragedy took place due to negligence on the part of the authorities of the Union Carbide, which has resulted in the death of about 5,000 people and affected more than 2,00,000 people. The Supreme Court of India has sanctioned \$470 million towards compensation to the victims, which is actually peanuts.

23.7 TERMINAL QUESTIONS

- 1) Match the Acts given in Column A with that of their year of enactment given in Column B.

A		B	
i)	The Factories Act	a)	1968
ii)	The Insecticides Act	b)	1980
iii)	The Water (Prevention and Control of Pollution) Act	c)	1948
iv)	The Air (Prevention and Control of Pollution) Act	d)	1974
v)	The Forest (Conservation) Act	e)	1981
vi)	The Wildlife (Protection) Act	f)	1986
vii)	The Environment (Protection) Act	g)	1972

2) Explain briefly in the space given below the functions of:

i) Water (Prevention and Control of Pollution) Act.

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ii) Air (Prevention and Control of Pollution) Act.

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3) List various difficulties which arise in the enforcement of environmental legislation.

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4) What is the present status of the Bhopal Gas Case in the Court of Law? Answer by referring to the recent newspaper.

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23.8 ANSWERS

Self Assessment Questions

- 1) a) i) 1972, environment, ii) India
 b) i) Noise control, ii) Irrigation, iii) Town planning, iv) Pest control, v) Smoke control, vi) Water pollution, vii) Forests, viii) Wildlife, ix) Slum clearance, x) Recreation
- 2) Please see second para of Section 23.3.2
- 3) Please see Section 23.4.1

- 4) i) The filling of MIC tank was done manually and there was no scientific instrument available for back up in the case of error.
- ii) The pressure gauge on the phosgene tank was out of order and there was no instrument to indicate the pressure of the gas within the tank.
- iii) The refrigeration unit which is required for the storage of MIC gas was out of order for a very long time.

Terminal Questions

- 1) i) c)
ii) a)
iii) d)
iv) e)
v) b)
vi) g)
vii) f)
- 2) i) The Water Act prohibits dumping of poisonous, noxious or polluting matter into streams and wells, as well as any activity which impedes the proper flow of the water of a stream causing aggravation of pollution. The Water Pollution Control Boards take action against polluters.
ii) The Air Act mainly regulates and controls emissions from automobiles and industries. The Central Board for the Preservation and Control of Water implements and enforces the Air Act by laying down standards for the quality of the air.
- 3) In India, the enforcement of legislation on environment is difficult because of shortage of funds and lack of expertise required for adopting remedial measures. Even the public do not cooperate in the enforcement.
- 4) The Government of India through an Ordinance had assumed powers to file cases in the USA to claim damages for the victims of Bhopal Gas Tragedy. But the US courts of law did not admit the case under the pretense that Union Carbide (India) was an autonomous organisation and not a subsidiary of Union Carbide based in USA. Later, a case was filed in the Supreme Court of India, which granted a sum of \$ 470 millions to the families of the victims. The amount has not yet been distributed to victims because the authorities have not yet identified the victims of the tragedy. Further, a number of cases were soon filed against the Supreme Court judgement, thus causing a further delay in the distribution of the amount.