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Q1

"The most significant achievement of modern law in India is the constitutionalization of environmental problems by the Supreme Court." Discuss this statement with the help of relevant case laws.

UPSC Civil Services Mains 2022 · GS II · 10 marks · Executive and Judiciary

Structure, organization and functioning of the Executive and the Judiciary - Ministries and Departments of the Government; pressure groups and formal/informal associations and their role in the Polity.

Core demand of the question

- Discuss the claim that the most significant achievement of modern law in India is the constitutionalization of environmental problems by the Supreme Court
- Use relevant case law on **Articles 21, 48A and 51A(g)**, absolute liability, and the precautionary and polluter-pays principles

Revision summary

Environmental harm in India was brought under **Articles 21, 48A and 51A(g)** by the Supreme Court, not only under pollution statutes.

M.C. Mehta (Oleum gas) imposed absolute liability on hazardous industry and a capacity-based measure of damages.

Vellore Citizens' Welfare Forum (1996) adopted the precautionary principle, polluter pays, and sustainable development as Indian environmental law.

PIL under **Article 32** made those holdings usable against public authorities and factories.

The achievement is doctrinal and remedial; boards and municipalities still decide whether the right is real on the ground.

Introduction

Modern Indian environmental law did not grow mainly from a single Environment Code; it grew from the Supreme Court's reading of Part III and Part IV into pollution, forests, and hazardous industry. That judicial constitutionalization is a real achievement, even though statutes such as the Water Act, 1974, the Air Act, 1981, and the **Environment (Protection) Act, 1986**, remain the ordinary tools of administration.

Body**What constitutionalization means**

- Constitutionalization here means that environmental harm is treated as a rights and duties question under the Constitution, not only as a municipal nuisance or a licensing dispute.
- **Article 21**'s right to life has been read to include a right to a wholesome environment; without that reading, pollution stayed a statutory and tort problem that the poor could rarely litigate.

- **Article 48A**, inserted by the Forty-second Amendment, directs the State to protect and improve the environment and to safeguard forests and wildlife; **Article 51A(g)** makes it a fundamental duty of every citizen to protect and improve the natural environment.
- Public interest litigation under **Article 32** let the Court convert those texts into continuing mandamus against municipalities, boards, and factories.

M.C. Mehta and the hazardous-industry line

- In **M.C. Mehta v. Union of India** (Oleum gas leak, 1986-87), the Court held that an enterprise engaged in a hazardous or inherently dangerous activity is absolutely liable for harm, and that the measure of compensation must match the capacity of the enterprise; **Rylands v. Fletcher's** exceptions were rejected for this class of harm.
- The same petitioner's Ganga-pollution, vehicular-pollution, and Taj Trapezium matters showed the Court using **Article 21** to close polluting units, shift industries, and order cleaner fuel, which is constitutionalization of urban air and water.
- Those holdings made the polluter, not the victim, the primary bearer of cost, which later benches named the polluter-pays principle.

Vellore Citizens and the principles of environmental law

- **Vellore Citizens' Welfare Forum v. Union of India (1996)** treated sustainable development, the precautionary principle, and the polluter-pays principle as part of the environmental law of the land, drawing them into **Article 21** read with **Articles 47, 48A and 51A(g)**.
- Precaution, as stated there, means that lack of scientific certainty is not a reason to postpone measures where there are threats of serious or irreversible damage, and that the onus can shift to the developer to show harmlessness.
- Polluter pays, as stated there, means that the polluter bears the cost of prevention, remediation, and compensation, not that a fine is a licence to pollute.
- Rural Litigation and Entitlement Kendra (Dehradun quarrying) and **Subhash Kumar v. State of Bihar** had already linked life to unpolluted water and to ecological balance; Vellore organised those strands into named principles.

Limits of the achievement

- Constitutionalization by the Court is not a substitute for capacity in State Pollution Control Boards, for environmental impact assessment, or for parliamentary standard-setting.
- Absolute liability and continuing mandamus can close a factory; they cannot by themselves build sewage plants or a just transition for workers.
- A fair discussion therefore accepts the statement as true of legal doctrine and access to the Court, while recording that implementation is still an executive and municipal failure as much as a judicial success.

Flow diagram

Arts 21 48A 51A g -> PIL under Art 32

PIL under Art 32 -> MC Mehta Oleum absolute liability

PIL under Art 32 -> Vellore precaution and polluter pays

MC Mehta Oleum absolute liability -> Environment as constitutional right

Vellore precaution and polluter pays -> Environment as constitutional right

Conclusion

The Supreme Court constitutionalized environmental harm by reading **Articles 21, 48A and 51A(g)** together, by imposing absolute liability in *Oleum gas*, and by adopting precaution and polluter pays in *Vellore Citizens*. That is a central achievement of modern Indian public law; it remains incomplete until regulators and cities match the doctrine with enforcement.

Facts & figures

Article 48A

Directive Principle, inserted by the 42nd Amendment, requiring the State to protect and improve the environment and to safeguard forests and wildlife.

Article 51A(g)

Fundamental duty to protect and improve the natural environment, including forests, lakes, rivers and wildlife, and to have compassion for living creatures.

M.C. Mehta v. Union of India (Oleum gas, 1986-87)

Held hazardous enterprises absolutely liable for harm, without the exceptions of *Rylands v. Fletcher*.

Vellore Citizens' Welfare Forum v. Union of India (1996)

Recognised precautionary principle, polluter-pays principle and sustainable development as part of Indian environmental law under **Article 21**.

Environment (Protection) Act, 1986

Umbrella statute under which many of the Court's later directions to governments and boards are implemented.

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