

**Constitution of India and Environmental Governance Administrative and Adjudicatory  
Process**

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**Lecture 45**

**Law Relating to Management of Solid Waste in India**

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**9.D. SOLID WASTE MANAGEMENT LAW**

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We now move on to the last part of the module of a bit of a reflection on the Indian Waste Management Law. I single out soil waste management law for a work detail consideration. There are quite a bit of elaborate provisions made with regard to plastics management. There are regulations made in relation through constructions waste management. There are regulations made in relation to the use of fly ash in as construction material under that law.

But the focus now and with the time available at my command I will confine to a discussion on the most prominent of all the ways both in terms of volume. And in terms of the inconvenience that is caused solid waste management. What does the law say; how does it work; and what results it obtains is what is our enquiry here.

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## I. BACKGROUND AND THE SETTING



- PRIMARILY, THIS IS A STATE SUBJECT, MANAGED AND ADMINISTERED AT THE LOCAL LEVEL, THROUGH LOCAL SELF-GOVT. INSTITUTIONS, AS PART OF THEIR MANDATORY FUNCTIONS OF MANAGEMENT
- AS EARLY AS 1980, THE SC, IN *RATLAM MUNICIPAL CORPORATION v. VARDHICHAND*, REMINDED, THE MUNICIPALITY ABOUT THIS FUNCTION AS A NON-NEGOTIABLE FUNCTION OF IT, FOR WHICH BUDGETARY CONSTRAINTS CAN NOT BE AN EXCUSE TO ENABLE IT TO ESCAPE FROM FULFILLING THIS OBLIGATION
- MoEFCC, GOT INTO THE ACT OF LAW-MAKING, IN 2000 AND EFFECTING A NUMBER OF MODIFICATIONS AND AMENDMENTS TO IT, AS RECENTLY AS 2018- MAINLY, TO STRENGTHEN THE LOCAL BODIES TO PERFORM THIS FUNCTION, BY BRINGING IN THE SPCB IN TO THE SCHEME OF THINGS, TO INFUSE THE MANAGEMENT WITH SPECIALIZED KNOWLEDGE AND EXPERTISE, BESIDES ADDRESSING A HOST OF ENVIRONMENT-RELATED ISSUES (- LIKE, IMPACT ON HEALTH HYGIENE AND ENVIRONMENT ON ACCOUNT OF INCREASING VOLUMES OF ITS PRODUCTION, GETTING MIXED WITH A HOST OF OTHER VARIETIES OF WASTES, LEFT UNATTENDED TO, WITHOUT



ANYBODY MADE RESPONSIBLE FOR ITS DISPOSAL OR HELD ACCOUNTABLE FOR ITS GENERATION AND MIS-HANDLING, etc.,)

- THIS WAS INEVITABLE, ALSO, OWING TO INTERVENTIONS OF THE HIGHER JUDICIARY, IN A NUMBER OF CASES, WHERE BY IT BERATED THE STATE FOR POOR HANDLING AND MANAGEMENT OF THE ISSUE AND REQUIRED IT, TO HAVE GREATER FOCUSED ATTENTION TO THE PROBLEMS ARISING FROM ITS GENERATION, COLLECTION, TRANSPORTATION AND DISPOSAL AND TO INFUSE EXPERTISE IN ADDRESSING THE COMPLEXITIES OF COMPOSITION AND VARIED IMPACTS OF THE WASTE GENERATED BY THE CURRENT CONSUMERIST SOCIETY
- THE FOLLOWING CASES ILLUSTRATE THE POINTS MADE ABOVE:
  - *B.L.WADHERA, Uol* (1996, SC): ON A PETITION IN PUBLIC INTEREST, ABOUT THE PATHETIC STATE OF WASTE MANAGEMENT AND INSANITARY CONDITION OF DELHI, THE SC, REITERATED THE RULING OF THE RATLAM CASE, BY HOLDING THAT THE MUNICIPAL BODIES HAD STATUTORY OBLIGATION TO CLEAN AND SCAVENGE THE CITY AND TO ENSURE PROPER COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE



Solid waste management; phrased as you know is primarily a state subject, managed and administered at the local level through local self-government institution as part of the mandatory functions of management. You may recall while discussing about the role of the local bodies in environmental management were referred to one important case and let me recall the case of Ratlam Municipal Cooperation versus Vardhichand decided by the Supreme Court 1980. In this Vardhichand case the Supreme Court reminded recall that the municipality has the function of managing waste of taken care of the health, hygiene and well-being of the local communities, proper maintenance of drainage systems as a non-negotiable function of it.

For which budgetary constraints cannot be an excuse to enable to escape from fulfilling the obligation. Even today the primary obligation on local bodies even with all the changes that has come in the law remains intact. Let me reemphasize here the local bodies role as constitutionally ordained and has been reverberated through this judicial prospect of 1980 remains the same even now with all the changes.

What you have in the changes that has come in the law; or the additions that have come in the law are essentially to act as probes and reinforcement of the local body to perform this function to the fullest in the most effective way. It is very interesting to note that although this is the state subject and it is invariably been part of the local laws of the states the Ministry of Environment, Forest and Climate Change caught into this Act of law making in the year 2000.

And effecting a number of modifications and amendments to that law as recently as 2018 and 2019 and why did it get into for the following reason. Number 1; to strengthen the local bodies to perform this function by bringing in the state pollution control board into the scheme of things, it was not there earlier, this role was not there for the state pollution control board. Now this is a major act in law.

To infuse the management of this waste which specialize knowledge and expertise which was lacking in the municipalities and other local bodies. Second; to address a host of environmental related issues since this is environmental implications, if there are left unattended to or allot to pile up impact on health, hygiene and environment on account of increasing volumes of their production they are getting mixed with hosts of other varieties of waste.

Littered, left unattended to without anybody made responsible for its disposal or held accountable for its generation and its health. But it is not something which the Ministry did it by itself actually the entry of environment ministry become inevitable mainly because of once again interventions of the higher judiciary in a number of cases, the higher judiciary as we would have guessed berated the state for poor handling and management of the issue.

And required it to have a greater focused attention to the problems arising from its generation, collection, transportation and disposal and to infuse expertise in addressing the complexities of composition and varied impacts to the waste generated by the current consumer society. Each one is important for you to note that in a few lines encapsulates the evolution of the law and its working.

To make it a little bit clearer I refer to the 2-3 major cases which actually illustrate the point made so far. Once again I get back to the case of B.L. Wadhwa versus Union of India 1996 Supreme Court judgment, a petition on public interest about the pathetic state of management and insanitary conditions of Delhi, the Supreme Court redressed the ruling of Ratlam case by holding a demo simple bodies has statutory obligations to clean and scavenge the city and to ensure proper collection, transportation and disposal of solid waste.

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- IT ALSO ISSUED A SET OF DIRECTIONS FOR PROPER MANAGEMENT OF WASTE – HARDLY ADHERED TO BY THE MUNICIPAL ADMINISTRATION
- CLOSE ON THE HEELS OF THIS CASE, IN ANOTHER WRIT PETITION, THE SC, WENT A STEP AHEAD AND, IN THE SPACE OF ABOUT 2 YEARS TIME ISSUED A SERIES OF ORDERST HAT CONSTITUTED THE CORE ASPECT OF THE WASTE MANAGEMENT LAW, SUBSEQUENTLY MADE BY THE CENTRAL GOVT[- SEE, ALMITRA H. PATEL v. UoI, 1998,SC]- AN EXPERT COMMITTEE CONSTITUTED BY THE COURT, WENT INTO DIFFERENT ASPECTS OF MUNICIPAL SOLID WASTE MANAGEMENT AND SUBMITTED A DETAILED REPORT TO IT- THE HIGHEST COURT THEN GAVE 10 ADDITIONAL DIRECTIONS, IN ADDITION TO THOSE THAT WERE ISSUED IN THE WADHERA CASE[- THESE INCLUDED, STRICT PROHIBITION OF WASTE DUMPING IN STREETS AND PUBLIC PLACES AND ITS ENFORCEMENT BY IMPOSING FINES AND CHARGES FOR COLLECTION AND SAFE DISPOSAL OF SUCH WASTE BY THE AUTHORITIES AND TO ADJUDICATE UPON VIOLATIONS, TO APPOINT MAGISTRATES;REGULAR AND PERIODIC WASHING AND CLEANING OF STREETS;



It just did not state that and leave at that, the Supreme Court took pain, of course very much well supported and assisted by an expert committee constituted for the purpose and picking the major recommendations from it, it fashioned down a set of directions for proper management of waste and as it always happens, as it always happened in India Supreme Court orders, when the orders are given people fold their hands and submit before the court that they will comply with that.

But once the judgment is over, once the court attention is taken out on this particular case its business as usual. These instructions were hardly adhered to. Close to the heels of this case and there were quite a good voluntary organizations and individuals of very great unimpeachable quality and character and that is one thing great with our judicial process with regard to environmental management I must say.

Such people have been the real triggers for reforms, both in the law and in the working and this is amply manifest in matters concerning this management. Another re-petition before the Supreme Court and what did the Supreme Court do? The Supreme Court went a step ahead and considering this case it is just now one case, a series of cases and orders it is almost like bombarding the government and authorities for their inaction.

Through a a series of writ petitions and series of orders issued by the higher judiciary. In just about 2 years' time issued a series of orders that constituted the very core aspect of waste management law subsequently made by the central government. What I am referring to is a very important case Almitra Patel versus Union of India; a free looking lady an engineer by profession who had nothing to do with court or court craft took upon herself with missionaries yield of alerting the local administration of making the state governments understand their problems of managing waste.

And then through the courts of law really engaged them in an exercise of cleaning the streets and improving the quality of our lives through waste management law and its working. In the series of orders issued by the Supreme Court in a host of cases of Almitra Patel one of them the Supreme Court constituted an expert committee and this committee went in to the different aspects of municipal solid waste management, a very detailed report was submitted.

The high court, the highest court was very happy and picked ten major recommendations in addition to whatever recommendations and instructions that were issued in B.N. Wadhwa's case, ten additional directions it issued and to give a little bit of idea to them these included strict prohibition of waste dumping in streets and public places.

And its enforcement by imposing fines and charges from collection and safe disposal of such waste by the authorities when they the adjudicate upon violations requiring the local bodies to appoint magistrates, regular and periodic washing and cleaning of streets.

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OBSERVANCE OF SUGGESTIONS OF THE EXPERT COMMITTEE FOR THE SAFE DISPOSAL OF WASTE; REVENUE AUTHORITIES TO IDENTIFY AND MAKE AVAILABLE SITES, WITH DUE CONSIDERATION OF ENVIRONMENTAL IMPLICATIONS, FOR SAFE WASTE DISPOSAL AND FOR SETTING UP OF COMPOST PLANTS; MEASURES TO BE TAKEN FOR PREVENTION OF ENCROACHMENT OF PUBLIC SPACES AND CREATION OF SLUMS AND TO PUT INTO EFFECT ALL THE DIRECTIONS OF THE COURT IN A TIME-BOUND MANNER, etc.

- COURT, FOR THE FIRST TIME, BRINGS IN THE EXPERT AND PROFESSIONAL IN THE SPCB, IN TO THE SCHEME OF WASTE MANAGEMENT, BY REQUIRING THE LOCAL BODIES TO REPORT ACTIONS AND COMPLIANCES TO AND SEEK GUIDANCE FROM THE SPCB IN WASTE MANAGEMENT.

- LED TO THE CRAFTING OF THE MUNICIPAL SOLID WASTE MANAGEMENT RULES, 2000, BY THE ENVIRONMENT MINISTRY AT THE CENTRE- RECAST AND



THOROUGHLY AMENDED TO SOLID WASTE MANAGEMENT AND HANDLING RULES, 2016

- A CLEAR SHIFTING OF GEARS, IN THE APPROACH TO AND THE MANAGEMENT OF "MUNICIPAL WASTE", CAN BE DISCERNED, AS IT BECOMES A MORE ORGANISED, PROFESSIONALISED, ELABORATE AND WELL-PLANNED VENTURE – MUNICIPAL SOLID WASTE MANAGEMENT (MSWM), HENCEFORTH, BECOMES A BEE-HIVE, COVERING A HOST OF ACTIVITIES FROM THE "CRADLE TO GRAVE" OF THE WASTE AND EVEN THERE AFTER!- IT INCLUDES, GENERATION, STORAGE, COLLECTION, SEGREGATION, TRANSFER, TRANSPORT, PROCESSING AND DISPOSAL OF SOLID WASTE IN AN ENVIRONMENTALLY COMPATIBLE MANNER, ADOPTING THE PRINCIPLES OF ECONOMY, AESTHETICS, ENERGY GENERATION AND CONSERVATION WHILE OBSERVING THE GROUND RULES OF SAFETY AND SECURITY – MSWM VALUE CHAIN INCLUDES,



Significant, set suggestions, something which the local bodies ought to have done. Something which the state government should have taken root of and acted upon. But since that was not done it became according to the Supreme Court it is own duty to remind them their duties and also giving them instructions to perform them.

It also said there are number of suggestions made by this expert committee for safe disposal of waste observe them. Revenue authorities should have to, henceforth identify, make available sites, no excuses and no extra caste to these authorities with the due consideration of environmental implications for safe disposal and for setting up of composed plans space for that.

Measures to be taken for prevention of encroachment of public spaces and creation of slums and to put into effect all the directions of the court in a time bound manner. The court for the first time brings in the expert and professional state pollution control board, actually this is court intervention. Till the court came into this Act of insisting on the engagement of an expert body or a professional body called as the state pollution control board, the government never thought about that.

I am referring to the situation in 1998, till then the Environment Ministry did not bother about that, it was local bodies work and now the court says all these local bodies need have to report and then get ideas from advice and guidance from the state pollution control board on schemes of waste management by reporting actions and compliance and get their advice from time to time. This actually led to the crafting of the municipal solid waste management rules of 2000.

By the environment ministry at the centre, this was recast and thoroughly amended to look at the title, solid waste management and handling rules. Municipal waste to solid waste management and handling rules in 2016, there is a clear shifting of gears in the approach to and the management of municipal waste you can desire. Now it becomes a more organized, professionalized, elaborate and well-planned venture.

The Municipal Solid Waste Management Rules, MSWM rules becomes a beehive covering a host of activities from the cradle to grave the waste and even thereafter, what does it include? Generation, storage, collection, segregation, transfer, processing and disposal of solid waste in an environmentally compatible manner by adopting the principles of economy, aesthetics, energy generation and conservation and observed the ground rules of safety and security.

So, this in gist would give you an idea of the law that was very rudimentary, left only to the municipal bodies to handle it in an amateurish way something highly professionalized. Look at the municipal solid waste management value chain.



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*PRIMARY COLLECTION AND TRANSPORTATION (- Door to door collection)-  
SECONDARY COLLECTION AND TRANSPORTATION(-Transport to bins from  
where waste is lifted and transported to either Transfer station or processing  
facility) – TRANSFER STATION AND PROCESSING SITE- DISPOSAL SITE- CLEAR  
ROLES AND RESPONSIBILITIES ARE ASSIGNED TO DIFFERENT AGENCIES OF  
STATE TO CARRY INTO EFFECT, DIFFERENT ASPECTS AND STAGES OF WASTE  
MANAGEMENT FROM THE LOCAL BODY TO THE REVENUE  
ADMINISTRATION AND THE SPCB- CLEAR STIPULATION OF DUTIES,  
RESPONSIBILITIES AND OBLIGATIONS ARE PRESCRIBED FOR THE WASTE  
GENERATOR AND MANAGER OF VARIOUS LEVELS IN THE VALUE CHAIN-  
PENAL SANCTIONS AND ACTIONS FOR VIOLATIONS, ADD TEETH TO THE  
REGULATIONS- MSWIM , TRANSFORMS INTO A MODERN, TECHNOLOGY-  
DRIVEN VENTURE- IN 2016, WITH THE LAUNCH OF A WEB-BASED  
APPLICATION, INTEGRATED WASTE MANAGEMENT SYSTEM (- that collects  
information and assists in coordinating waste generators, recyclers,  
operators of disposal facilities and state agencies- ) IN 2016, MOEFCC*



It includes primary collection and transportation, door to door collection. Secondary collection and transportation, transport to bins from where waste lifted and transported to either transfer stations or processing facilities. Then transfer station and processing site and then ultimately to the disposal site, clear roads and responsibilities are assigned to different agencies or state to carry into effect different aspects and stages of waste management from the local body to revenue administration and then to the state pollution control board that are clear, stipulation of duties, responsibilities and obligations prescribed for waste generator, manager at various levels of the value chain.

Penal sanctions and actions of violations add teeth to the regulation, so the municipal solid waste management regime has transformed over a period of time into a modern technology driven venture and in 2016 with a launch of the web based application integrated waste management system that collects information and assist in coordinating waste generators, recyclers, operators of disposal facilities and state agencies it has become tax savvy as well.

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USHERED IN INFORMATION TECHNOLOGY INTO MWSM SCHEME OF THINGS-  
PUBLIC-PRIVATE PARTNERSHIP", WITHIN MSWM, THAT HAS LED TO THE  
ENGAGEMENT OF INDEPENDENT AND PROFESSIONALLY EQUIPPED  
CONTRACTORS TO OPERATE AT DIFFERENT STAGES, THE VENTURE HAS NOW  
BECOME AN INDUSTRIAL ACTIVITY, GENERATING EMPLOYMENT AND  
EXPANDING THE SCOPE FOR THE GAINFUL ENGAGEMENT OF PROFESSIONAL  
CONSULTANTS !

-FROM 2016, THE MANAGEMENT FOCUS HAS EXPANDED TO "SOLID WASTE"  
AND NOT JUST "MUNICIPAL SOLID WASTE". WITH THE OBJECTIVE OF CLOSING  
EVERY POSSIBLE ESCAPE ROUTE FOR ANY ONE FROM LIABILITY UNDER THE  
NOMENCLATURE OF THE WASTE GENERATED OR "DUMPED" BY ONE IS NOT "  
MUNICIPAL WASTE"!-- UNDER THIS THE LAW APPEARS TO HAVE TIGHTENED ITS  
GRIP!

- IT NOW MANDATES, WASTE SEGREGATION AT SOURCE (- to channelise the  
waste to wealth by recovery, reuse and recycle); COLLECTION AND DISPOSAL OF  
SANITARY WASTE IN A MORE RESPONSIBLE WAY BY THEIR MANUFACTURERS,



In 2016 with this measure the ministry assured information technology into the municipal solid waste management scheme of things. The other shift is of bringing in public private partnership and through this whether this particular management regime engagement of independent and professionally equipped contractors to operate at different stages the venture has now become an industrial activity.

Generating employment and expanding the scope for gainful engagement of professional consultants also. And from 2016 the management focus has expanded to solid waste and not just municipal solid waste. Look at the nomenclature, the changes essentially with object closing very possible avenues of escape route, for anyone from liability under the nomenclature are the ways generated or dumped by one is not municipal waste.

Many a time you not able to characterize something as a municipal waste as the restrictive definition gave back then by heaps and heaps of solid waste remain with nobody accounting for it or made accountable for it. And so, we have expanded definition of solid waste whether it is a municipal area or in the rural area, in the city urban or rural it does not matter. Solid waste is solid waste wherever found now.

Under this law the grip of the law enforcer is tightened over the wrongdoer. It now mandates waste segregation of source, the idea is scientific also. To channelize the waste to wealth by recovery, reuse and recycle because it is segregated the source itself subsequent segregation which requires the lot of manpower and lot of effort and energy is reduced and so when you segregated source and making it mandatory, we are actually achieving two things. It is both economic, scientific, beneficial. Collection and disposal of sanitary waste in a more responsible way by the manufacturer, brand owners and generators.

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**BRAND OWNERS AND GENERATORS** (- besides creating awareness about use, to provide for pouches for safe disposal-); **APPLIES EXTENDED PRODUCERS' RESPONSIBILITY PRINCIPLE FOR THE DISPOSAL OF NON-BIODEGRADABLE PACKING MATERIAL** (- making provision for collection after use and its disposal-); **EMPOWERS LOCAL BODIES TO LEVY USER FEE ON BULK GENERATORS** (- payable to the waste collector, for collection, disposal and processing and a "Spot Fine" for littering and non-segregation, the quantum of which will be decided by the local bodies); **REQUIRES WASTE DISPOSAL, AS A GENERAL RULE, ON SITE** (- bio-degradable waste should be processed, treated and disposed of through composting or bio-methanation within the premises as far as possible and the residual waste shall be given to the waste collectors or agency as directed by the local authority)-**A CENTRAL MONITORING COMMITTEE CONSTITUTED UNDER THE CHAIRMANSHIP OF SECRETARY, MoEF&CC TO MONITOR THE OVERALL IMPLEMENTATION OF THE RULES**



What is the obligation? They have created awareness about use but they also need to provide for pouches for self-disposal. It applies extended producer responsibility principle for the disposal of non-biodegradable making material, very-very important.

Say while it makes provision for collection after use and its disposal by the brand owners and generators, empowers local bodies to levy user fee on bulk generators, this is very much required. Service charges - you can collect and so waste collector can collect the levying that has been imposed for collection, disposal and processing. Spot fines can be imposed for littering and non-segregation and the countable which will be decided by the local bodies.

So, waste disposal as the general rule, is made a primary obligation on site of generation, so generator primarily responsible to dispose of the waste generated by him on his site in an environment friendly way. And primarily biodegradable waste should be processed, treated and disposed of through composting or bio-methanation within the premises as far as possible. I do not need the residual waste shall be given to the waste collectors or agency as directed by the local authority this has to be noted careful.

This also provides for central monitoring committee constituted for this purpose under the chairmanship of the Secretary, Ministry of Environment Forest and Climate Change, what do they do? To monitor the overall implementation of the rules.

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- WITH A FEW MINOR CHANGES THAT INCLUDES, BRINGING INFORMAL WASTE PICKERS INTO THE MAINSTREAM OF WASTE MANAGEMENT CHAIN, THE LAW GOT FURTHER AMENDED IN 2019!
- THE DEVELOPMENTS , ON PAPER ARE, INDEED, QUITE IMPRESSIVE. BUT, THE SITUATION AT GROUND ZERO, APPEARS TO HAVE NEITHER TAKEN COGNIZANCE OF LEGAL EVOLUTION NOR COMPULSIONS OF THE TIME – BESIDES INADEQUACIES IN THE REQUIRED SKILLS IN EFFECTIVE MONITORING, REGULATION, IMPLEMENTATION AND EXECUTION BY THE CONCERNED AND POOR COORDINATION AND COOPERATION AMONG THE VARIOUS AGENCIES OF STATE, THE CONTINUED, IRRESPONSIBLE BUSINESS PRACTICES AND USER ATTITUDES, BESIDES CORRUPTION, HAVE EXACERBATED PROBLEM OF SWM. HIGHER JUDICIARY AND NGT, HAVE BEEN REMINDING , CAUTIONING AND REPRIMANDING THE CONCERNED, ALL THE WHILE. HIGH TIME , ACTIONS ARE TAKEN, AT ALL LEVELS, BY EVERYONE, IN A CONCERTED WAY , BEFORE IT REACHES A CUL-DE-SAC!



With a minor few changes to this law made in the year 2016, in 2019 even waste, informal waste pickers are brought into the main stream of waste management. The developments on paper as I have just mention with regard to other kinds of waste very-very laudatory, impressive.

Unfortunately, the situation on ground zero appears to have neither taken compliance of legal evolution nor compulsion of the type that is the saddest part. Besides inadequacies in their required skills and effective monitoring, regulation, implementation and execution by the concern in addition to poor coordination and cooperation amongst the various agencies of state,

the continued irresponsible business practices and user attitudes me and you besides corruption have exacerbated the problem of solid waste management.

Higher judiciary and the National Green Tribunal have been reminding, have been cautioning, have been reprimanding the concern all the way, high time. Actions are taken at all levels by everyone in a concrete concerted way, before it reaches a cul-de-sac, a point of no return. This concludes our 9th Module and from henceforth we move on to justice dispensation as to how it avoid as to how it contributed to environmental management and what is its current state as to need together all the enquiries and discussions that we had on different aspects of environmental law so far. As a culmination of a major exercise in learning about environmental law, both at the domestic and in the international level.