Introduction
MULTINATIONAL CORPORATIONS (MNCs) AND THEIR IMPACT ON ENVIRONMENT - A CRITICAL STUDY

INTRODUCTION

The multinationalization of firm is essentially a phenomenon of the industrialized countries.¹ It has now become a household word². A multinational Corporation or multinational enterprise³ is an organization that owns or controls production of goods or services in one or more countries other than their home country. According to the United Nations, a multinational Corporation is "an enterprise which owns or controls production or service facilities outside the country in which it is based." Thus a multinational company carries on business in two or more countries. Its headquarters are located in one country (home country) but its activities are spread over in other countries (host countries). MNC's may engage in various activities like exporting and importing goods and services, manufacturing in different countries. It may also lend its patents, licences and managerial Services to firms in host countries. It can also be referred as an International Corporations, Transnational Corporation (TNCS) or a stateless Corporations, Global Corporations (or firms, companies or enterprises) etc., a major driving force of globalization, often occupies the central place in the international business dynamics⁴. It is a business organization that has its roots in one country and operations of various sorts in another⁵. The terms MNCs/TNCs are used interchangingly in the present study.

The universe of TNCs are large, diverse and expanding⁶. They are more powerful, organized, complex and have a powerful influence in local economies as well as the world economy and play an important role in international relations. The influences of the MNCs are both complex and comprehensive⁷. The ever

¹ Michel Ghertman and Margaret Allen An Introduction to the Multinationals 1984 at p.13.
³ Wikipedia, the free encyclopedia, en.wikipedia.org/wiki/.
⁷ Neil Hood and Stephen Young The Economies of multinational enterprise, 1979 at p.4.
The increasing worldwide influence of corporations on society has been accompanied by the diminishing influence of governments. But the fact of the matter is that many multinationals ("MNCs") are wealthier\(^8\) than many countries. Very large Multinationals have budgets that exceed some national GDPs. It is beyond dispute that TNCs are now the leading vehicles for economic globalization.

The growth in the number and size of Transnational Corporations (TNCs) since the 1950s has generated controversy because of their economic and political power and the mobility and complexity of their operations. Although some MNCs do exploit and damage the world, the MNC as an institution is beneficial to many peoples worldwide\(^9\); they take risk, they bring capital, they promote technology, they promote exports and, in general they help to make the local economy global, outward-oriented and modern\(^{10}\).

Colonialism of various types has been known to India. Multinational Corporations (MNCs) / Transnational Corporations (TNCs) represent the latest variety of colonialism, which has often been called neo-colonialism\(^{11}\). The Multinational Companies (MNCs) in India represent a diversified portfolio of companies from different countries. Though the American companies – the majority of the MNC in India, but the scenario has changed a lot off late. More enterprises from European Union like Britain, France, Netherlands, Italy, Germany, Belgium and Finland have come to India or have outsourced their works to this country. The later one is in fact one of the earliest entrants in the list of multinational companies in India, which is currently growing at a very enviable rate. They operate in India, through their branches and/or their Indian subsidiaries, that is, Indian Companies in which the foreign companies hold more than 50 per cent of the paid-up equity capital\(^{12}\).

Industrial activity is essential to generate goods for the development of the nation, to meet the needs of the people, and to generate employment. The public

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\(^{8}\) The wealth of the MNCs, does not reside in natural rights and derives only in small measure from property rights.


\(^{10}\) Biplab Dasgupta *Globalization; India's Adjustment Experience* 2005 at p.69.

\(^{11}\) V.B. Singh *Multinational Corporations and India*, 1979 at p.90.

image of Multinational Corporations (MNCs) is that of big supranational enterprises, sprawling far and wide in search of "super profits" and breaking down, in their resistless sweep, the traditional barriers to the free movement of labour, capital, technology and entrepreneurship, no matter whether these barriers are rooted in the exclusiveness of national economic policies or national prejudices, or ideological differences.

The presences of multinationals in many developing countries has acquired greater significance in relation to total foreign capital flows, domestic output and export trade of those countries. They have spread both beneficial and adverse effects on economic development of developing countries. At the same time, it must be accepted that industrial activities release pollutants that contaminate air, water bodies and land, and adversely affect the quality of human and other life. The developing countries are no seriously concerned with negative effects of MNCs particularly with regard to environmental pollution.

The problem of Environmental Pollution is not a new one but Industrial Pollution is certainly a new problem which is closely interlinked with the industrial development. There are at least 18 industries which have been identified as causing pollution. They are, among others, pesticides, fertilizers, paper, refineries, paints, dyes, leather tanning, sodium potassium, cyanide, basic drugs foundries, batteries, acid and alkalis etc. The pesticide industry is a big health hazard. According to one study, someone in the Third world is poisoned by pesticides every minute and that 'someone' could possibly be an Indian every other minute, considering the enormous population of India. In recent year industries (particularly MNCs) is also cause of the industrial disasters, which resulted damage of the environment quality and human life in the developing countries.

17 Ibid at P.6.
The Organization for Economic Cooperation and Development (OECD) study pointed out, as early as 1993: ‘Environmentally-dirty industries, particularly resource-based sectors, have migrated over the last two decades to lower income countries with weaker environmental standards, the result is a geographical shift in production capacity within sectors with a consequent acceleration of industrial pollution intensity in developing countries.’ The study adds that liberalized trade and investment rules among countries with unequal levels of environmental protection may create incentives for companies to relocate to jurisdictions with lower levels of environmental regulation and lower compliance costs19.

Human rights groups and local communities have done much to highlight instances of pollution or illegal resource depletion, and often allege that these activities are linked to MNC collaboration in violating human rights. While it is certainly true that MNCs often employ environmental technologies and management practices that are superior to those used by smaller local companies, the sheer size of many MNC operations and their relative lack of accountability means that many of the most egregious instances of large-scale environmental damage result from MNC activities. For example, the great Bhopal tragedy would not have taken place had there been an appropriate environmental legislation and has its implementation procedure been in place20. This is not just an incident of industrial disaster and human suffering by Multinational Corporation (MNC) from the last century. It is very much an issue of the present century of corporate accountability, peoples' rights and government responsibility. The lack of mandatory laws and norms governing multinationals, legal complexities, and government failures are serious obstacles in ensuring justice for the people of Bhopal, and for the victims of corporate complicity in crimes against environment, peoples' lives and safety.

Over the years, the Government of India has promulgated a number of Acts, Rules and Notifications for the preservation and protection of the environment21. However, the rise of Multinational Companies (MNCs), a

20 Supra Note 10 at p.98.
21 Supra Note 14 at p.299.
relatively recent occurrence, has resulted in a great deal of legal ambiguity because they can operate in so many jurisdictions.

1.1 MNCs AND ENVIRONMENTAL ISSUES

Transnational Corporations wield great deal of power especially in developing countries where their investments are desperately needed. The significance of engaging these corporations cannot be underestimated. States are more likely to comply with the demands of corporations because corporations are necessary components to the economic development of the states. Similarly, MNCs can also make environmentally friendly processes mandatory in their overseas production lines, thereby creating a beneficial global effect on environmental issues.

Sadly, the reverse is also true of the environmental activities of the Multinational Corporations. In the last five decades, the overwhelming desire of industries to squeeze out profits from their limited and precious resources and their consequent commercialization has led to the loss of all vested interests in preserving the equilibrium. Presently, the trend seems to be one of indiscriminate over exploitation of these resources resulting in mass natural destruction and depletion of many resources which created new environmental problems. Furthermore, if developing countries are dependent on MNCs for their economic development, the states are likely to be reluctant to apply pressure on the corporations to improve their practices. There are widespread allegations of bad environmental practices of Transnational Corporations leading to environmental harm.

In May 2002, the United Nations Environment Program (UNEP) released an extensive report saying that, "there was a growing gap between the efforts to reduce the impact of business and industry on nature and the worsening state of the planet" and that "this gap is due, to the fact that only a small number of

22 A. B. Srivastava *Protect Global Environment*, 1994, at p.20
companies in each industry are actively integrating social and environmental factors into business decisions."

Hence, if extrinsic factors were to influence these MNCs to incorporate sustainable development into their practices, this could have a great effect than merely applying state-to-state pressure. Furthermore, engagement of the MNCs with the project of environmental protection could provide a possible solution to the problem that some developing countries face many developing countries are unable to comply with some treaty requirements, not because of a lack of political will but because of the shortages of financial and technological resources.

TNCs / MNCs are violating human rights by their activities. They have been accused of violating human rights to life, including the right to enjoy life, freedom from deprivation of or injury to health, enjoyment of a clean and healthy environment, air pollution, water pollution, environmental damping. Although in some cases developed countries are protecting TNCs violation of human rights, however, in practice, still the situation is not sufficient, and moreover, in the case of developing countries the situation is different.

In India the Bhopal disaster revealed several inadequacies in our safety and environmental legislation, particularly in its capacity to prevent and deal with the consequence of catastrophic accidents involving hazardous chemicals. The aftermath of the Bhopal Gas Tragedy has brought to the fore many issues relating to industrial licensing and regulation of hazardous industries, technological self-reliance, policy and regulatory frameworks for import of technologies, role of MNCs, legislation and enforcement of legal and regulatory frameworks of liability for environmental pollution and industrial accidents, industrial silting and urban development, policies on agriculture especially use of agro-chemicals etc.

Issues of Jurisdiction were central to the legal battle that followed the Bhopal tragedy by Multinational Corporation. These centered around the relationship of the parent Union Carbide Corporation to its Indian subsidiary and the appropriateness of the place where litigation is being conducted. Union Carbide Corporation was accused of violating human rights by their activities resulting in severe environmental damages and industrial accidents.

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23 The actual quote is from a U.N. News Centre Article 15 May 2002 that introduces the report.
Carbide Corporation maintain that its subsidiary is separate from the parent company and so it only should be liable instead of the whole corporation. The Indian government's petition argues that insofar as Union Carbide designed, constructed, owned and operated the plant from which the chemical escaped, the company should be held absolutely liable for all the resulting damage. Second, the company, in undertaking an activity that it knew was ultra-hazardous to the public at large, is strictly liable for the harm that was the material consequence of such activity, regardless of whether the harm that resulted was through fault of another or its own negligence. Third, the company was negligent in designing, constructing, operating and maintaining its plant and thus, failed to exercise its duty of care to protect the public from the dangers inherent in its plant and processes.

Although forum non conveniens is not the only method declining jurisdiction in private international law, it has attracted the most criticism. One line of criticism is that the doctrine is simply not adequate to the claims that arise in modern transnational patterns of business.

1.2 IMPACT OF MNCs ON ENVIRONMENT AND ECONOMIC DEVELOPMENT

Economic development and sound environmental management are complementary aspects of the same agenda. Without adequate environmental protection, development will be undermined; without development, environmental protection will fail. Indeed, industries are vital for development and it is equally important to be aware of the impacts of industries on environment. There is a necessity to minimize these aspects. As such a balance is to be maintained between the necessity to preserve the environment and the need of the society for the socio-economic development. The guiding principle for the present study is the observations of the Calcutta High Court in Peoples of United for Better Living in Calcutta v. State of West Bengal where the court observed:

26 AIR 1993 cal. 215.
"In a developing country there shall have to be developments, but that development shall have to be in closest possible harmony with the environment as otherwise there would be development but no environment, which would result in total devastation, though, however, may not be felt in present but at some future point of time, but then it would be too late in the day, however, to control and improve the environment, there should be a proper balance between the protection of environment and the development process. The society shall have to prosper but out at the cost of environment and in the similar view, the environment shall have to be protected but not at the cost of the development of the society and as such a balance has to be found out and administrative actions ought to proceed accordingly".

At present TNC and other private entities are playing an important role in world economy. They have certainly introduced changes in the global economy. Developing countries, such as India, are particularly vulnerable as they lack the infrastructure (e.g. communication, training, education etc.) required to maintain technology but are nevertheless, eager to set up and maintain industrial plants. As a result, they compete globally to attract Multinational Companies (MNCs) for their investment and capital, and in this process, often tend to ignore the safety and health violations that many MNCs engage in. Developing countries confer upon MNCs a competitive advantage because... Lax environmental and safety regulation, inadequate capital investment in safety equipment, and poor communications between companies and governments compound the problem.

The tendency among the multinationals, to transfer the polluting industries to those territories where environmental legislation is non-existent or not properly implemented, cannot be effectively countered without those measures and their strict monitoring. Most developing countries do not see the MNCs generally as threats to their sovereignty, but rather as vital components to their development. If developing countries were not cooperating with other states on the basis of economic development, they would be more likely to cooperate with corporations because corporations are the ones who will boost their economic development.

27 Supra Note 9 at p.294
28 Cassels, Jamie The Uncertain Promise of Law: Lessons from Bhopal 1993 at p.279
29 Supra Note 10 at p.98
through foreign direct investment. Developing countries are therefore dependent on these MNCs and are generally more receptive to their proposals. MNCs could thus provide pivotal environmental advice and, more importantly, impose their own environmental standards on their subcontractors. All of this could also gradually diffuse into the local industries which have grown up around the foreign direct investment brought in by the MNCs and whose environmental standards have traditionally been much lower than those of most MNCs.

While pressure from developed states has been met with resistance from developing countries, who are suspicious of hidden protectionist agendas, MNCs are largely seen as neutral or even positive influences by many developing countries, as evidenced by the number of bilateral investment treaties many of these developing countries have signed, as well as the efforts many of them have made to woo these MNCs. Such 'impeccable' economic logic ignores the fact that market pricing theories have yet to find a quantifiable economic cost for environmental harm. This ignorance is compounded by the fact that long term costs of environmental damage are uncalculated and largely borne by the host state whereas benefits of the movement of hazardous technology to developing nations are discrete and quantifiable, in the form of increased money for investors, and higher rates of economic growth, GDP, income or productivity for the home state.

TNCs are violating individual's human rights in many ways. Although in some cases developed countries are trying to control TNC's activities by making domestic law, but in practice, still it is not sufficient. Because of veil of incorporation (Salomon v. Salomon) the home country of TNC can avoid its liability, and, it is very difficult to bring any breach of human rights allegation against subsidiary company under tort law. Moreover, in the case of developing countries, the situation is worst; because developing countries social, economic and judicial conditions. Further, TNCs use their economic power to gain the most favorable conditions for their activities. If a state introduces environmental laws, TNCs have the capacity to seek new sites for production where regulation is less strength.
Global environmental problems have been growing in magnitude. With global problems, we have come to believe that the global solutions must come. Indeed, the development of modern environmental law has been linked to the economic development of society. As the amount of economic activity increases, there is a greater propensity to degrade the environment. The environment may be regarded as a reservoir of natural resources, some renewable but many non-renewable. Because the environment is the primary resource for most industrial activity, the increase in economic activities often results in greater natural resources consumption, environmental stress and pollution.

1.3 MNCs AND INDUSTRIAL DISASTERS

Developing countries are particularly vulnerable to industrial crises. However, industrial accidents such as Bhopal are not just an Indian or even a Third World problem but are industrial disasters waiting to happen, whether they are in the form of 'mini-Bhopals", smaller industrial accidents that occur with disturbing frequency in chemical plants in both developed and developing countries, and "slow-motion Bhopals", unseen chronic pain, suffering, and death. There are the key issues we face in a world where toxins are used and developed without fully knowing the harm that can come from their use of abuse.

This gas leak caused the worst industrial disaster in history. There was a massive loss of human life-numbering in thousands. Thousands others were rendered sick and have been facing chronic health problems such as Psychological & Neurological disabilities, Blindness etc., Skin, Vision and Breathing disorders also are common. The rate of birth defects, in children whose parents or even grandparents (i.e., second generation) were exposed is still very high. The soil and groundwater, near the factory site has been polluted due to toxic contaminants still leaking from the factory. The Indian Government however, maintains that

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31 Weir, David *The Bhopal Syndrome; pesticides, Environment, and Health* 1987 at pp xi-xii.
32 Altaf Qadri (Dec. 03, 2009) *Victims of Bhopal Mark Anniversary*, http://www.time.com/time/world/article/0,8599,1945229,00, html".
33 Bhopal marks 25 years since gas leak devastation, available at http://news.bbc.co.uk/2/hi/southasia/8392206.stm"
no such pollution has taken place or that any such toxins are even present at the site.

The disaster shocked the world and raised fundamental questions about government and corporate responsibilities for industrial accidents that devastate human life and local environments. Besides, this incident raises the issues of the MNCs liability to pay the compensation to the victims. In *M.C. Metha v. Union of India*\(^\text{34}\) the court pointed out that the measure of compensation must be correlated to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. The larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it. For the harm caused on account of an accident in carrying on the hazardous or inherently dangerous activity by it\(^\text{35}\). The enterprises were liable for compensation for the harm caused by its action as part of the social cost.

Interestingly, Bhopal incident created a new expression called 'hazardous multinational' which has to be separated from other ordinary MNCs. For the application of the principle of Absolute Liability and Multinational Enterprise Liability, certain characteristics are to be there for classifying an enterprise as "Hazardous Multinational". It brought a new awareness among the environmentalists, social workers, the general public, Government institutions and the judiciary to start thinking about new ways and the means of preventing similar tragedies in future\(^\text{36}\). The Bhopal gas leak and the disaster that ensued raises a series of questions regarding industrial safety, risk, compensation and relief for victims of industrial disasters, multinational enterprises and liability, regulation of the transfer and use of hazardous technology and so on. The leak prompted a range of responses- statutory policy and the judicial- both in India and the USA which have now played out over two decades. The horrendous tragedy of Bhopal had demanded the need for careful designed system for control and management.

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34 AIR 1987 S.C.1099.
35 Ibid at p. 1100.
36 Madhumita Dhar Sarkar *Contribution of Indian Judiciary Towards the Development of Environmental Jurisprudence* AIR 2005 p. 299
of accidents while handling these substances. In addition, a number of industries and processes generate hazardous chemicals which need proper disposal.

1.4 LEGAL REGULATION

Each nation has its own set of laws to protect the environment and the health of its citizens. However, when a MNC exploits a host country's natural resources and harmed its land, developing countries often fail to enforce these laws. In recent years, host governments faced with a continuing decline in the quality of the environment by industries (MNCs also); to combat the resulting pollution and other environmental damage, various laws and codes of conduct have been developed, and by expanding and reorganizing administrative agencies in order to better enforce such laws. A complex range of regulations and institutional mechanisms have evolved, aimed at controlling the adverse environmental effects of industrial development. The main instruments of regulation are command and control regulations and community regulation.

In its real sense, a substantial disparity exists between Western Countries and developing countries in the legal protection of the environment. Many reasons account for the lack of environmental concern developing countries exhibit. These include undemocratic governments, a cavalier attitude toward justice, substandard environmental legislation, an underdeveloped tort law, absence of class action remedies, and garden-variety corruption. However, may LDCs feel that MNCs should be subject solely to national laws and regulations in this case, whereas developed countries argue that settlement should be in accordance with international law and conventions.

In India, the Bhopal disaster raised many complex, legal, moral and ethical questions about liability of parent companies for their subsidiaries or transnational companies engaged in hazardous activities and of governments. The great Bhopal

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tragedy would not have taken place had there been an appropriate environmental legislation and had its effective implementation procedure been in place. This is not just an accident of industrial disaster and human suffering by Multinational Corporation (MNC) in the last century. It is very much an issue of the present century of corporate accountability, peoples' rights and government responsibility.

The lack of mandatory laws and norms governing multinationals, legal complexities, and government failures are serious obstacles in ensuring justice for the people of Bhopal and for the victims of corporate complicity in crimes against environment, peoples' lives and safety.

In Shriram Case\textsuperscript{40} the Supreme Court of India observed "where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such hazardous or inherently dangerous activity resulting, for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-à-vis the tortuous principle of strict liability under the rule in \textit{Ryland v. Fletcher}.\textsuperscript{41} These observations quite remarkable and lay down a rule which can be applied by the international community concerning MNCs legal accountability are engaged with hazardous technology.

Although in some cases developed countries are trying to regulate MNCs activities through domestic laws, but in practice they are not effective. Because of the veil of incorporation\textsuperscript{42} the home country of MNC can avoid liability, and it is very difficult to bring any breach of human rights allegations against subsidiary company under tort law. Moreover, in the case of developing countries, the situation is worst; because of social economic and judicial conditions. In some cases, the MNCs are economically more powerful than may states, and the developing countries don't like to deter investors by making strict law. The various provisions of different legislations in India are also inadequate to regulate the mighty MNCs.

\textsuperscript{40} (1986) 2 SCC 176; 1986 SCC (Cri) 122; AIR 1986 Sc 1086.
\textsuperscript{41} 1868 19 C.T.220.
\textsuperscript{42} \textit{Salmon v. Salmon & company ltd}, (1897) AC 22.
International law has also not been successful in controlling the environmental practices of Multinational Corporations (MNCs). The efforts in the late 1970s and early 1980s to establish a Draft Code of Conduct ultimately failed. In 1990, there was another attempt by G-77 and the United Nations Centre on Transnational Corporations (UNCTC) to revive these efforts, but this was not fruitful because of opposition from the Organization of Economic Cooperation and Development (OECD) countries and the United States. In 1992, the UNCTC was wound up and its activities integrated into the office of the United Nations Conference on Trade and Development (UNCTAD). In addition to these, international community and especially industrialized countries have made little attempt to apply domestic restrictions to the environmental practice of their own corporations operating in other lands.

In addition to these failed efforts internationally, industrialized countries have made little attempt to apply domestic restrictions to the environmental practices of their own corporations operating in other lands. Where there have been some major advances in this area has been with regard to the transportation of hazardous and radioactive materials. Publicity over scandals concerning disposal of toxic chemical wastes in Africa brought this problem to the United Nations' agenda. Law occupied the forefront of all debates because the lack of international law enabled the evasion of strict national laws by moving the problem, together with the toxic waste, the developing countries that had no protective legislation.

The international attempt was made to protect the environment from the activities of the global corporations in different conferences. The adoption of a code of conduct to regulate and control the activities of transnational corporations (TNCs) is one of the key elements in the establishment of a New International Economic Order. The Stockholm Conference in 1972 explained the imperative goal for mankind as to defend and improve the human environment for present and future generations. The Johannesburg Summit in 2002 also recognized that globalization and its effects have increased the scale and diversity of

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43 United Nations General Assembly resolution 3202 (S-VI)
environmental issues (TNCs and environmental issues also) and that environmental law would need to take note of these changes in order to remain effective.

There remains the more difficult question of whether the MNC should be subject to a uniform regulatory structure or whether it should be subject to different laws covering its various activities in many countries. It may be argued that where the MNC has a private administrative structure capable of integrated command and control, it should be subject to a single regulatory scheme, applying a uniform and consistent set of incentives and disincentives. On the other hand, this type of uniform regulation, even if it could be achieved, would be accused of hindering investment and infringing the sovereignty of host states. Uneven regulation seems inevitable. In the area of tort law, this lack of uniformity is manifest in the rules governing applicable law.

Thus, the environmental issues have already become the international issues in these days. MNCs and their activities brought very complex legal problems to the fore. The principles of tortuous liability, human rights jurisprudence, environmental law and International relations are interwined and with rights of the nations and persons as victims. There is a need for some authority, more powerful than MNCs to regulate the environmental activities and enforce environmental obligations of MNCs especially in developing countries. Voluntary regulations have problems of enforcement and lack of uniform standards. Most host developing countries are not able to enforce environmental standards due to inadequate personnel and the need to attract investors. This necessitated an international co-operation on these matters. As the environmental problems are great concern to all, it is necessary to evolve an equitable principle of making MNCs liable for its environmental hazards to developing countries if that resulted in damage to human life or environment, without leaving any scope for escape after passing the liability to the subsidiary or agent in different mask. With this background, an attempt has been made in the present study to examine the legal perspectives of MNCs in relation to environmental hazards.
1.5 STATEMENT OF THE PROBLEM

The problem chosen for research by the researcher is "The legal framework of national and international level with regard to environmental hazards of Multinational Corporations (MNCs)."

1.6 REVIEW OF LITERATURE

1. Michael H. Huesemann “Can pollution problems be effectively solved by environmental science and technology? An analysis of critical limitations” USA Received 7 December 1999; received in revised form 18 September 2000; accepted 27 November 2000. It is currently believed that science and technology can provide effective solutions to most, if not all, environmental problems facing western industrial societies. The validity of this optimistic assumption is highly questionable for at least three reasons: First, current mechanistic, reductionist science is inherently incapable of providing the complete and accurate information which is required to successfully address environmental problems. Second, both the conservation of mass principle and the second law of thermodynamics dictate that most remediation technologies — while successful in solving specific pollution problems — cause unavoidable negative environmental impacts elsewhere or in the future. Third, it is intrinsically impossible to design industrial processes that have no negative environmental impacts. This follows not only from the entropy law but also from the fact that any generation of energy is impossible without negative environmental consequences. It can therefore be concluded that science and technology have only very limited potential in solving current and future environmental problems. Consequently, it will be necessary to address the root cause of environmental deterioration, namely, the prevailing materialistic values that are the main driving force for both overpopulation and overconsumption. The long-term protection of the environment is, therefore, not primarily a technical problem but rather a social and moral problem that can only be solved by drastically reducing the strong influence of materialistic values. 2001 Elsevier Science B.V. All rights reserved.
2. The impact of globalization on human rights in the developing world

“Transnational corporations and human rights – the masterpieces of globalization in the era of democratized violence” The main idea of the paper is that in the era of globalization and democratized violence the main threat to the enjoyment of human rights comes not from the state, as before, but from Transnational Corporations (TNCs). Particularly vulnerable to this threat are developing countries, since for the circumstances peculiar to them existing system of ensuring accountability for human rights violations by non-state actors, inter alia TNCs, is inherently dead-born; While the paper suggests a new avenue to seek justice against TNCs, it underlines the necessity of constructive dialogue between business and human rights that should be based on mutual respect for both interests.

3. “Shabina Arfat Faculty of Law, University of Kashmir, Srinagar, Kashmir, J&K, India Globalisation and Human Rights” An Overview of its Impact The development of human rights law in response to globalization is not new, and there is nothing inherent in the international system that would prevent further protective measures. A number of U.N. specialized agencies have also addressed the question of globalization. This global development is sometimes viewed as being responsible for exploitation, and other forms of human rights abuses. On the other hand, improvements in human rights are sometimes attributed to the spread of liberal ideas and movements, which is one of the key dimensions of globalization. Critics say human rights have been adversely affected by globalization for instance right to equality and other socio economic rights. The commitment of the United Nations to the indivisibility of human rights is reflected in the Universal Declaration of Human Rights. Human rights are the first responsibility of governments. While globalization offers great opportunities, the fact that its benefits are very unevenly shared and its costs unevenly distributed represents an aspect of the process that affects the full enjoyment of all human rights, in particular in developing countries. Inequality has risen during this present globalization period. In this paper an attempt has been made to highlight the impact of globalization on human rights regime.
4. P. Mohanraj Environmental Issues and its Impacts (a study on textile processing units in Tiruppur, Tamilnadu) There are about 5000 knitting, dyeing / bleaching, processing, manufacturing units in Tiruppur that provide employment for more than 2 lakh people. The dyeing /bleaching units were extremely polluting until the Govt. of Tamil Nadu issued an order for commissioning effluent treatment plants. This case study has captured all available data and understood that while a lot has been done to reduce pollution load in water bodies, more work needs to be done both in terms of policy and implementation.

5. Vidyaranya Chakravarthy Namballa “Global Environmental Liability: Multinational Corporations under Scrutiny”. The purpose of this article is to analyse the extent of international rules that apply to multinational corporations (MNCs) regarding their environmentally degrading activities and quality control qua environmental impact. The first part of the article describes the ambiguous legal status of MNCs and examines the rules that international instruments and host state agreements impose on the activities of MNCs. The second part focuses on jurisdiction and choice of law issues of cross-border litigation and brings out its major shortcoming. Finally, the conclusion comments on the efficiency of international law in imposing environmental liability on MNCs.

6. R M Kamble, M “Impact of Globalization on Human Rights and Environmental Protection” Economic globalization impacts the environment and sustainable development in a wide variety of ways and through a multitude of channels. The aim of the paper is to interrogate a variety of arguments about human rights and environmental sustainability in order to assess their coherence and consistency, and to evaluate competing perspectives. The purpose of this paper is (a) to identify the key links between globalization and environment; environment and human rights An integrative section on the effects of globalization and environmental policy and performance leads to domestic and international priority policy issues and recommendations. Globalization is the process by which all peoples and communities come to experience an increasingly common economic, social and cultural environment. By definition, the process affects everybody throughout the world. In short, the more integrated
environmental and trade policies are, the more sustainable economic growth will be and the more globalization can be harnessed for the benefit of the environment. The paper tries to analyze the effects of globalization and its impact on various sectors.

1.7 HYPOTHESES

The present study begins with an hypothesis that the present national and international legal system is insufficient and ineffective with regard to control and regulate the environmental hazards of Multinational Corporations (MNCs), and its environmental liability and as such require an extensive and effective legal system capable of bearing and resolving all problems arising out of environment pollution caused by MNCs. To highlight the hypothesis, the researcher has enumerated under the following heads:

- MNCs activities proved to be environmental hazards for the people working in and living around;
- MNCs are violating human rights by their activities;
- The provisions of different legislations relating to environmental pollution caused by MNCs are not adequate in India;
- International law is also not been successful in controlling the environmental practices of MNCs;
- Issues of jurisdiction were central to the legal battle that followed the Industrial accidents by MNCs and;
- There are many loopholes to impose liability for environmental hazards caused by MNCs.

1.8 AIMS AND OBJECTIVES OF THE STUDY

The general objective of the present study is to systematically understand and critically analyze the legal regime both at national and international level with
regard to control and regulate the environmental hazards of MNCs. To fulfill this, the following specific objectives are pursued:

- To understand the role and importance of MNCs in the globalize world;
- To examine the various environmental issues caused by MNCs;
- To critically examine legal regulations and controlling the environmental practices of MNCs both at national and international level;
- To analyze the legal consequences of industrial disaster caused by MNCs; and
- To trace out various principles of law with regard to environmental liability of MNCs.

1.9 SCOPE OF THE STUDY

The Scope of the present study highlights some of the aspects like: the role and importance of MNCs specifically for the environment and economic development in the neo-globalize world; the legal regime both at national and international level with regard to environment hazards caused by MNCs. Further, industrial accidents caused by MNCs e.g., Bhopal incident & its legal consequences, principles of environmental law and environmental liability of MNCs are examined. Thus, the present study examines the legal parameters of environmental protection and environmental liability of MNCs both at international and national level. The impact of dying industries on environment is examined and empirical data is presented.

1.10 LIMITATION OF THE STUDY

The study is confined to the law relating to environmental hazards with reference to MNCs. The present study undertakes systematic analysis of the applicable legal provisions of the different legislations in India and in international legal regime. The study also makes a reference to Indian judicial pronouncements with regard to environmental pollution caused by MNCs with
special reference to the Bhopal Accident. The present study is mainly doctrinal and partly empirical.

1.11 SOURCES OF THE DATA

The data for the study is collected both from primary, secondary and tertiary sources. Primary sources consist of Environment (Protection) Act 1986, National Environmental Tribunal Act 1995, The Bhopal Gas Leak Disaster Act 1985, Public Liability Insurance Act 1991, Civil Nuclear Liability Bill 2010, National Green Tribunal Act 2010, UN Documents & Reports on Environmental Programme etc. Secondary sources include Books, Journals, Magazines and Newspapers etc. The tertiary sources in the form of websites have been browsed to get relevant information and literature on the present topic.

1.12 SCHEME OF THE WORK

The work is structured into eight (8) chapters including the introduction and conclusion.

Chapter I: Introduction:

This chapter gives a brief description of MNCs and its impact on environment which the research work carried out by the researcher. In this chapter, significance of research problem undertaken, methodology adopted, limitation of the study etc., are dealt with.

Chapter II: Role and Importance of MNCs

This chapter deals with the role and importance of Multinational Corporations in the present globalize world.

Chapter III: MNCs and the Principle of Sustainable Development:

This chapter gives a brief account of the areas of MNCs and environmental issues particularly the Sustainable Development, Corporate Social Responsibility, Transfer of Technology and Environmental Development etc.
Chapter IV: MNCs and Environmental Hazards: Indian Context:

This chapter contains an overview of the legal regime of environmental hazards in India with reference to Multinational Corporations. The environmental Protection is analyzed in this chapter by evaluation of legislations concerned viz., Indian Tort Law, Law of Crimes, Constitution of India, Environmental Laws, The Right to Information Act 2005, Civil Nuclear Liability Bill 2010, National Green Tribunal Act 2010 etc. Further it examines the Bhopal accident caused by MNCs and its legal consequences and also a special references to Tirupur dying industries.

Chapter V: The Impact of Tirupur Dying Industries on Environment- A Case Study.

In this chapter The impact of Tirupur dying industries on environment- has been analysed by empirical method.

Chapter VI: MNCs and Environmental Hazards: International Perspective:

In this chapter efforts have been made to find out the basis for evolving an effective international environmental legal system on environmental hazards with reference to Multinational Corporations (MNCs) While doing so, the relevant areas of international law and their applicability in environmental hazards have been discussed with a view to find out the legal base to the subject matter.

Chapter VII: MNCs and Legal Liability for Environmental Hazards:

This chapter examines the various principles of law like Precautionary Principle of law, Polluter Pays Principle etc., and analyzes the liability of MNCs for environmental hazards such as Criminal Liability, Tortious Liability, State Liability, Civil Liability, Strict/Absolute Liability and Parent Company Liability etc.
Chapter VIII: Conclusion and Suggestions:

This chapter lists out some important findings of the study and projects general conclusions regarding the legal system to deal with environmental hazards from MNC activities. Having identified the problems associated with environmental hazards caused by MNCs and related law, a set of suggestions are given by the researcher which provide guidelines to policy makers to revise the law relating to environmental hazards against MNCs activities at national and international levels.