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EVOLUTION OF PROBLEM

We live in a world which our ancestors would have never anticipated. Our contemporary world has been greatly shaped by advancement in science and technology and this process is likely to continue at a much faster pace than we can anticipate. Law has facilitated this process and performed the role of an enabler by permitting establishment of a corporation (initially through issue of Charters but later on through Companies Act). Entrepreneurs have strategically used the instrumentality of a corporation to pool in financial, intellectual and human resources on a massive scale with the singular objective of profit maximization. Pursuit of profit maximization (through securing access to supply of natural resources, access to foreign markets and enhancement of efficiency of their operations) has motivated entrepreneurs to undertake this pooling across the globe, giving birth in the process, to Transnational Corporations (TNCs).

TNCs are artificial yet ‘harsh reality’ of our modern society. They are ‘real’ because they render services to the society by providing goods and services without which our modern life is impossible. They deserve credit for simplifying our lives through their ever improving high quality products and services. At the same time, they are ‘harsh’ due to various reasons. Like any other corporation, the sole purpose of their existence is profit maximization which they achieve through constant advancement of technology and enhancement of efficiency of their operations. Their business operations have resulted in violation of human rights of the people inhabiting their area of operations (including their supply chains which span across the globe). There are many instances where their operations have violated the right to clean and healthy environment of such people e.g. Bhopal Gas Leak Disaster in India.

The journey from Stockholm Conference to Rio Conference has ensured the central focus on right to clean and healthy environment (recognized as a third generation human right) in the agenda of international community. Substitution of ‘Millennium Development Goals’ (MDGs) by Sustainable Development Goals (SDGs) show that the focus has not been lost even thereafter, largely due to the perseverance of United Nations (UN). TNCs have increasingly involved themselves as one of the vital stakeholder in this process while at the same time staying largely immune from any accountability for violations of right to clean and healthy environment. Non-
availability of enforcement mechanisms have compelled victims to resort to the extraterritorial jurisdiction under the Alien Tort Claims Act (ATCA). The proliferation of Bilateral Investment Treaties (BITs), particularly during 1990s, has emerged as a new instrument in the hands of TNCs to protect their cross-border investments.

With ever increasing dominance of TNCs in both international and even national affairs, the demand for their accountability in the form of Corporate Social Responsibility (CSR) has emerged on the international scene. Regulatory framework for CSR has been developed with involvement of UN, other international organizations, regional international organizations, industry, non-governmental organizations (NGOs) etc. Indonesia and India have pioneered with mandatory legislative endeavours for CSR while certain other nations have preferred enacting disclosure requirements as part of CSR. All these regulatory initiatives have contributed in the global evolution of CSR.

India is one of the most ancient civilizations of the world. At the same time, it is the largest and the most vibrant democracy of the world. Responding to international developments regarding right to clean and healthy environment, Indian Parliament amended constitution and enacted new environmental legislations. Unfortunate man-made Bhopal Gas Leak Disaster further triggered the process of environmental law making in India. The Balance of Payments (BoP) crisis of 1991 lead to the adoption of the New Economic Policy (NEP). In pursuance of this policy, foreign investment by TNCs was encouraged and Environmental Impact Assessment (EIA) mechanism was repeatedly amended to facilitate the same. Delays due to court litigation and protests by local people against projects involving foreign investments by TNCs have led to review of six environmental legislations to streamline and fast-track the process of environmental clearances.

Indian tradition and culture has always accorded pride of place to the act of donating money etc. for philanthropic causes by individuals. Nearly two decades after the Adoption of NEP, India developed ‘National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business’. Indian Parliament provided mandatory CSR framework in the Companies Act 2013 after prolonged but extensive deliberations. While debate continues regarding merits and demerits of such
framework, Indian government has amended it further in order to clarify the doubts and also to ensure that it fulfils its intended objective. Framework is uniformly applicable to all corporations including TNCs which meet the criteria stipulated for this purpose.

As a result of international arbitration dispute involving Enron Corporation and adverse international arbitration award involving White Industries as well as notices issued by other TNCs under various BITs, Indian government has started review and renegotiations of Indian BITs which is likely to have a bearing on the accountability of TNCs for their violation of right to clean and healthy environment vis-à-vis TNCs.

STATEMENT OF PROBLEM

Mother Earth is not getting any relief from continuous onslaught on her environment by TNCs. While old environmental problems seem to aggravate, newer and more serious ones seems to emerge with time. Accountability of TNCs for their violation of the right to clean and healthy environment has proved to be a regulatory nightmare and hence not very effective under international law. Same holds true for extraterritorial remedies under ATCA. However, at the same time, disastrous consequences of such violations are acutely felt by people at the national level. Their governments (which owe primary responsibility to provide redressal within their domestic jurisdiction) are under a legal as well as moral duty to engage in the task of developing law and policy to strengthen accountability of TNCs generally and particularly in the context of right to clean and healthy environment. The development model adopted by them is capital and technology intensive in nature, of which TNCs are the dominant source. It creates their dependence on TNCs for both. In order to have ever increasing foreign investment by TNCs, they are required to put in place a suitable legal regime at times at the cost of right to clean and healthy environment (through consequential dilution of environmental standards). This leads to ‘race to the bottom’ as nations compete amongst themselves for becoming the most attractive foreign investment friendly regime.

India is not exception to this paradox. Environmental protection and conservation constitute the very core of Indian culture and tradition. The same has found reflection in the law making particularly after independence. Stockholm Conference triggered
this process further in the form of new legislations. However, the attempts to ensure accountability of Union Carbide Corporation (UCC, a US based TNC) for violation of right to clean and healthy environment in Bhopal Gas Leak Disaster showed glaring loopholes not only in environmental legislations but in the Indian legal system as a whole. Victimization still continues after 33 years of the disaster.

In the meanwhile, India responded to BoP crisis in 1991 by adopting NEP envisaging liberalization, privatisation and globalisation. It has caused a paradigm shift in law and policy making in India with singular focus on facilitation of foreign investment by TNCs. To improve its ranking in the ‘ease of doing business’, Indian government has substituted various business laws with newer ones at the domestic level and entered into many BITs with other nations at the international level. Environmental laws are seen as obstacles in the goal of facilitation of foreign investment by TNCs and government is contemplating comprehensive overhaul of regulatory framework for right to clean and healthy environment. In this manner, the goal of environmental protection and conservation becomes subservient to the goal of facilitation of foreign investment by TNCs.

In pursuance of NEP, State has withdrawn (in a phased manner) from many sectors hitherto reserved for it. Vacuum created thereby has been filled by corporations including TNCs bringing the issue of their governance and social responsibility into the limelight. Companies Act 2013 has preferred a narrow yet mandatory approach towards CSR. This is likely to lead to a situation in which a TNC continue to comply with regulatory framework for CSR (may be going beyond its minimal requirement), while at the same time being alleged to be involved in violation of right to clean and healthy environment. The problem may be further aggravated when such TNC is protected under a BIT between its home State and host State (i.e. India). Such protection results in restriction of legislative and executive space for taking measures for protection of right to clean and healthy environment.

**HYPOTHESIS**

The existing legal regime for the accountability of Transnational Corporations for their violations of the right to clean and healthy environment in India is weak and therefore requires changes. Regulatory framework for Corporate Social Responsibility
adopted under the Companies Act 2013 and the model Indian Bilateral Investment Treaty together will strengthen it.

**RESEARCH FOCUS AND AIM**

The research aims at strengthening accountability of TNCs for their violation of right to clean and healthy environment in India. For this purpose, research focuses on three approaches namely – Rights based approach, CSR based approach and BIT’s based approach. Developments at the international level are also looked into, in order to appreciate the legal regime in India with regard to the three approaches.

The research studies in detail the Indian approach as reflected in regulatory framework for CSR being developed in India. It looks into the contribution of judicial approach in developing the regulatory framework for the right to clean and healthy environment vis-à-vis corporations generally and TNCs particularly. It also focuses on potency of BITs in strengthening right to clean and healthy environment vis-à-vis TNCs.

**OBJECTIVES**

The objectives of the present study are as follows:

1. To understand the nature of TNCs and causative factors behind their emergence on the international scene.

2. To study the regulatory framework for the right to clean and healthy environment, CSR and BITs and their inter-relationship at the international level in the context of TNCs.

3. To study the legislative approach vis-à-vis right to clean and healthy environment in India.

4. To examine the regulatory framework for CSR in India and its relationship with right to clean and healthy environment vis-à-vis TNCs.

5. To examine the emerging role of Indian BITs regarding right to clean and healthy environment vis-à-vis TNCs.
6. To analyse the judicial approach towards right to clean and healthy environment in India vis-à-vis TNCs.

7. To suggest measures to strengthen the accountability of TNCs for violations of right to clean and healthy environment in India.

**RESEARCH QUESTIONS**

The research questions for the present study are as follows:

1. What is the meaning and nature of TNCs and how have they evolved at the international level?

2. How has the right to clean and healthy environment evolved vis-à-vis TNCs at the international level?

3. Whether judicial approach under ATCA has enabled victims to redress their grievances for violation of right to clean and healthy environment by TNCs at the international level?

4. How has the regulatory framework for CSR evolved at the international level and what is its nature vis-à-vis TNCs?

5. What is the approach of international investment arbitral tribunals regarding disputes involving violations of right to clean and healthy environment by TNCs?

6. What legislative measures have been taken in India regarding protection of the right to clean and healthy environment and its relationship with TNCs?

7. How has the Indian judiciary strengthened the accountability of TNCs regarding their violations of right to clean and healthy environment?
8. Whether and in what manner the regulatory framework for CSR under Companies Act 2013 strengthens the accountability of TNCs regarding their violations of right to clean and healthy environment?

9. Whether and in what manner the Model Indian BIT strengthens the accountability of TNCs regarding their violations of right to clean and healthy environment?

RESEARCH METHODOLOGY

The study is doctrinal. It is analytical by nature. It has relied on both primary and secondary sources. Primary sources include various relevant international Conventions, Declarations, Guidelines, Indian Constitution, Statutes, Judgments etc. The study has also relied on secondary sources such as committee reports, books, journals (including online journals), research papers, research articles, newspaper articles, etc. A uniform style of citation is followed throughout the study.

LITERATURE REVIEW

The topic of research has been a matter of debate particularly since the latter half of the last century. Many scholars have contributed to this debate over time leading to generation of rich literature in the field at the international level. This research involves use of various international instruments, treaties, declarations, statutes, case-laws, books, journal articles, news reports, periodical articles, committee reports and other documentary materials. While they are appropriately discussed at relevant places in the chapters and referred to in the bibliography at the end, a brief survey of few important literatures (books and articles) is as follows:

Books

Elisa Morgera in her book titled *Corporate Accountability in International Environmental Law* (Oxford University Press 2009) points out the lacunae in the traditional legal approach towards corporate accountability. She analyses the international standards of corporate environmental accountability developed by UN, OECD, Human Rights Monitoring Bodies, International Financial Institutions and under IEL. She discusses the tools developed for compliance with these standards.
She argues for integration of international standards for corporate environmental accountability in international investment law as well as in future multilateral investment agreement. She also advocates for self-regulation by the private sector in order to comply with the international standards.

Surya Deva in his book titled *Regulating Corporate Human Rights Violations: Humanising Business* (Routledge 2012) focuses on MNCs and the regulatory challenges associated with them. He takes Bhopal Gas Leak Disaster as a case study for this purpose. He interestingly views the challenge in humanising business in the form of Why, What and How (WWH). He meticulously analyses the inadequacy of exiting regulatory initiatives for fixing liability for corporate human rights violations at the international level. He points out the lacunae in the theory of responsive regulation. He suggests an integrative theory of regulation in an attempt to make companies accountable for human rights violations. He argues for integration of regulatory techniques in a cumulative and coordinated manner instead of progressive manner. He places reliance on informal and non-state institutions along with state-centric institutions.

Donald K Anton and Dinah L Shelton in their book titled *Environmental Protection and Human Rights* (Cambridge University Press 2011) present a comprehensive treatise on relationship between human rights and environment. They discuss various approaches aimed at environmental protection – private, public, market mechanism and rights based. However, they focus on environment as a human rights issue. In order to appreciate human rights, they discuss origin, theoretical framework of human rights along with their international protection and procedure. They explain the relationship between substantive and procedural human rights with the environment. They look at environment as a human right in varied contexts – indigenous people, armed conflicts, and international finance. They rely on extracts from international judicial decisions from various national and international courts and tribunals and scholarly articles and treats the subject matter with thought provoking questions as integral part of each segment. They dedicate an exclusive chapter on corporate accountability for environment in the context of human rights which focuses on MNCs, their rights, international regulation, self-regulation, domestic regulation.
Jennifer A Zerk in her book titled *Multinationals and Corporate Social Responsibility: Limitations and Opportunities in International Law* (Cambridge University Press 2006) traces the growth of CSR movement and discusses its relationship with human rights. She contextualizes multinationals under international law and analyses difficulties faced under national law regarding jurisdiction. She discusses in detail the home state regulation of multinationals particularly extraterritorial regulation. She argues in favour of international CSR standards for multinationals. She visualizes many possibilities like emergence of new international institutions to promote and enforce CSR standards of MNCs, extension of mandate of existing human rights supervisory bodies, new treaty based regimes for enhancing the capacity of the home states to regulate MNCs and to effective compensation for damages to victims.

Olufemi Amao in his book titled *Corporate Social Responsibility, Human Rights and the Law: Multinational Corporations in Developing Countries* (Routledge 2011) explores the relationship between CSR and law. He discusses various attempts made at the international level to control MNCs. He focuses on the approach of African regional system in this regard. He argues in favour of an innovative framework for their regulation in which international companies will have their international corporate personality recognized with consequential responsibility and liability. He sees UN as best placed to develop such model framework.

Linda Hajjar Leib in her book titled *Human Rights and the Environment: Philosophical, Theoretical and Legal Perspectives* (Martinus Nijhoff Publishers 2011) explains the causes of environmental crisis. She discusses in detail the philosophical roots of environmentalism and its role in developing environmental law at the international level. She also analyses theoretical framework of human rights and their implementation. She argues that eco-centrism is not different from anthropocentrism. Thereafter she links the two by discussing theoretical basis of different human rights approaches to environmental issues and analyses the movement from procedural and derivative rights to substantive environmental rights. She examines role of sustainable development in furthering or hindering development of right to environment. She argues for adoption of generalist-specialist approach instead of generational approach and consequential reconfiguration of human rights system.
M Sornarajah in his book titled *The International Law on Foreign Investment* (3rd edn, Cambridge University Press 2010) discusses various aspects of international law relating to foreign investment in a very detailed manner. He analyses definition of foreign investment, factors that have shaped the law in the field and its theoretical basis. He focuses on liability of MNCs through measures adopted by their home states. He gives detailed analysis of Bilateral Investment Treaties along with other multilateral and regional instruments on foreign investments. He discusses investment arbitration in its various aspects – contract based, treaty based, taking of foreign property and compensation.

Peter T Muchlinski in his book titled *Multinational Enterprises and the Law* (2nd edn, Oxford University Press 2007) discusses MNEs and their interface with law. He very comprehensively treats the subject matter (covering all aspects) and presents very detailed analysis. He discusses the definitional problems of MNEs, their phased evolution on the international scene. He analyses various methods employed by the home and the host countries to regulate them particularly corporate governance and disclosure mechanism, group liabilities and directors duties. He analyses environmental issues related to MNEs separately as well as labour relations and human rights. He also analyses in detail various ways of protecting interests of foreign investors through international regulation and settlement of international investment disputes.

P Leelakrishnan in his book titled *Environmental Law in India* (2nd edn, LexisNexis Butterworths 2005) discusses the various dimensions of environmental law in India. He has analyses the judicial decisions and contextualized them leading the rich perspectives. EIA and public participation in environmental decision making are separately focused upon. Further, mass tort action, forest protection, and pollution control are also emphasised upon along with constitutional safeguards and Public interest litigation.

**Articles**

Afra Afsharipour and Shruti Rana in their article titled ‘The Emergence of New Corporate Social Responsibility Regimes in China and India’ (14 U.C. Davis Bus. L.J. 175, 2013) compare the emerging CSR regimes in India (prescribed under
Companies Act 2013) with that of China. They point out that while both are inspired and influenced from the western and international CSR standards, yet both are developed as alternatives to western CSR models having their unique respective characteristics rooted in their respective culture. Thus, they reject CSR as being a solely western conception. They discuss shortcomings of Indian CSR model. However, they argue that India is faster in comparison to China in implementation of CSR regime.

Sandeep Gopalan and Akshaya Kamalnath in their article titled ‘Mandatory Corporate Social Responsibility as a Vehicle for Reducing Inequality: An Indian Solution for Piketty And the Millennials’ (10 Nw. J. L. & Soc. Pol'y 34, 2015) discuss in detail the evolution of the regulatory framework in India along with other stakeholders centric provisions of Companies Act 2013. They conduct an empirical study of CSR policies, activities, and reporting practices of top fifty companies listed on National Stock Exchange of India (NSE) while recognizing the limitation that it is too early to judge the full impact of CSR provision. Based on Indian CSR Model, they propose a 1% CSR spending by firms in US.

Caroline Van Zile in her article titled ‘India's Mandatory Corporate Social Responsibility Proposal: Creative Capitalism Meets Creative Regulation in the Global Market’ (13 APLPJ 269, 2012) discusses the theoretical framework of CSR. She analyses regulatory history of India regarding transplanting corporate law and the challenges faced in the form of Bhopal and Dabhol. She discusses the merits and demerits of mandatory CSR spending in India. She regards Indian CSR proposal as new development in the field of CSR.

Surya Deva in his article titled ‘Socially Responsible Business in India: Has the Elephant Finally Woken Up to the Tunes of International Trends?’ (41 Comm. L. World Rev. 299, 2012) analyses the ‘National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business’ developed in 2011 along with the CSR provision as contained in Companies Bill 2011. He points towards the trend all over the world to incorporate CSR into their corporate laws and discusses four approaches in this regard. He argues against anything distinctly Indian about CSR provisions except the stipulated limit.
Alison E. McArdle in article titled ‘A Stick in the Global Carrot Patch: The Business of Corporate Social Responsibility in India’s Companies Act 2013’ (38 Suffolk Transnat’l L. Rev. 467, 2015) highlights the ambiguities in the CSR mandate of Sec. 135 of Companies Act 2013. The author regards CSR legislative framework in India as a bold move and analyses its implications on various aspects like tax, disclosure, timing of implementation etc. The author argues for incentivising companies to undertake effective CSR programmes in order to avoid shift in their focus to less complex areas.

Prabhash Ranjan in his article titled ‘India and Bilateral Investment Treaties – A Changing Landscape’ (ICSID Review Vol. 29 (2) 419, 2014) examines origin and evolution of Indian Bilateral Investment Treaty programme. He discusses India’s shifting approach towards foreign investment and towards BITs. He analyses the Indian BIT programme in the context of all the important principles involved. He discusses problems faced by Indian government in its investment dispute with Enron Corporations and White Industries. He analyses the consequence of notices given by various companies to Indian government invoking protection under various Indian BITs. He argues for rebalancing of BITs as a result of review of its BITs.

**SCOPE AND LIMITATION**

Accountability of TNCs for their violations of right to clean and healthy environment in India constitutes the central focus of this research. Their accountability is studied in specific reference to the newly emerging regulatory framework for CSR in India. The Model Indian BIT is also analysed to the extent found relevant. The research has the following limitations:

a) It limits itself to three approaches (while it acknowledges the existence of other approaches) to strengthen accountability of TNCs, namely – Rights based approach (focusing on human rights), CSR based approach, and BITs based approach. The research is not exhaustive on either of these approaches but instead focuses on their inter-relationship aimed at strengthening the accountability of TNCs in India.
b) The focus of the rights based approach is exclusively on human rights approach to clean and healthy environment.

c) It focuses on those environmental statutes in India which has been invoked in the disputes involving TNCs.

d) It does not go into detailed analysis of international investment law in general or Indian BITs in particular. However, international investment arbitral awards are discussed to the extent relevant to the objectives of the study.

e) International developments are studied to the extent relevant to comprehensively understand the various dimensions of legal regime for accountability of TNCs vis-à-vis the right to clean and healthy environment in India.

f) It focuses on Indian legal regime and accordingly, it does not go into the detailed study of legal system of any other country. However, statutory provisions and judicial decisions from other countries are referred to the extent found relevant to appreciate the Indian position.

g) It excludes India based TNCs from its purview since they do not pose jurisdictional and BITs based challenges of the kind usually presented by foreign based TNCs.

**SIGNIFICANCE**

Right to clean and healthy environment has been a subject matter of polarised scholarly debate at the international level about its nature and content. Similarly, global evolution of CSR too has engaged scholars across the world, particularly since the latter half of the 20th century. Investment law generally and BITs particularly has also caught the global scholarly attention since 1990s.

Companies Act 2013 is a new piece of legislation in India. It has introduced many new provisions which have given it an entirely new orientation in comparison to its predecessor (i.e. Companies Act 1956). Regulatory framework of CSR is one such
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provision. This framework is in its nascent stage and all the stakeholders (including even the government) are in the learning phase. Its various dimensions along with its impact are yet to be explored fully. Therefore, there is acute dearth of systematic analytical studies from legal perspective. Further, inter-relationship of regulatory framework for CSR vis-à-vis violations of right to clean and healthy environment by TNCs has hardly been researched that too in peculiar Indian context. Besides, the role of BITs regarding accountability of TNCs in this regard is also not adequately analysed in the Indian context. The present research attempts to fill this vacuum by integrating the three approaches for strengthening accountability of TNCs in India.

CONTRIBUTIONS MADE

The issue of accountability of TNCs has attracted increasing scholarly attention at the international level. Their complicity in violations of right to clean and healthy environment also has generated rich literature at the international level. However, the same cannot be stated in equal measure in the Indian context. Further, the inter-relationship of human right to clean and healthy environment, CSR and BITs has not been explored in Indian context. The research will come out with suggestions for the consideration of law and policy makers as well as judiciary. The suggestions will also be useful for NGOs in their struggle for adequate redressal of grievances of the victims for violation of their right to clean and healthy environment against TNCs. The suggestions will also help investors of TNCs (as well as other corporations) in performing their role as envisaged in Companies Act 2013 regarding CSR obligations by their companies. It is hoped that suggestions proposed will help in strengthening the legal regime for accountability of TNCs for violations of right to clean and healthy environment. In the course of doing so, the research will also identify areas for further exploration. Therefore, the research will contribute in stimulating fresh scholarly thinking and further research in the field.

DEFINITION OF KEY CONCEPTS

**Transnational Corporation:** Transnational Corporation refers to an economic entity operating in more than one country or a cluster of economic entities operating in two
or more countries - whatever their legal form, whether in their home country or country of activity, and whether taken individually or collectively.\(^1\)

**Stakeholders:** Stakeholders refers to stockholders, other owners, workers and their representatives, as well as any other individual or group that is affected by the activities of transnational corporations or other business enterprises such as consumer groups, customers, Governments, neighbouring communities, indigenous peoples and communities, NGOs, public and private lending institutions, suppliers, trade associations, and others.\(^2\)

**Corporate Social Responsibility:** Corporate Social responsibility means not only fulfilling legal requirements, but also going beyond compliance.

**Environment:** Environment includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.\(^3\)

**Bilateral Investment Treaty:** Bilateral Investment Treaty is an agreement between two countries setting out the rules in accordance whereof investments made by the nationals (including companies) of the two state parties in each other’s territory are protected.

**Home State:** Home State means the State of which the investor is a national or in which the investor is organised, constituted or incorporated.

**Host State:** Host state means the State where the investment is located.

**CHAPTER SUMMARY**

With the aim to accomplish the objectives and aim, the research is structured into following seven chapters:

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\(^1\) Para 20, UN Norms on the Responsibilities of TNCs and Other Business Enterprises with regard to Human Rights 2003.

\(^2\) ibid paragraph 22.

\(^3\) Sec. 2 (a), The Environment (Protection) Act 1986.
Chapter 1: Transnational Corporations and Corporate Social Responsibility vis-à-vis Right to Clean and Healthy Environment: A Conceptual Analysis

First Chapter lays down the theoretical framework for the research. It deals with the challenges involved in defining the term ‘Transnational Corporation’ and ‘Environment’. It traces the evolution of TNCs at the international level. It discusses three approaches employed to strengthen their accountability for violation of right to clean and healthy environment. Firstly, under rights based approach, it focuses on Human rights and its relationship with the clean and healthy environment. It discusses the fundamental principles which constitute the integral part of right to clean and healthy environment. Secondly, it analyses the debate between shareholders’ interests and stakeholders’ interests. It discusses the theoretical foundations of CSR. Thirdly, under BITs based approach, the chapter gives brief overview of various principles involved and dispute redressal methods.

Chapter 2: Evolution of Right to Clean and Healthy Environment and Transnational Corporations: International Legal Framework

Second Chapter discusses the evolutionary course of the right to clean and healthy environment at the international level from its implicit to explicit recognition through various Conferences, Declarations etc. It analyses, in detail, the judicial approach in the extraterritorial litigation pursued by victims in US courts under ATCA against TNCs for their violation of right to clean and healthy environment and its consequences for the future. Further, it gives brief analyses of leading international investment arbitral awards involving TNCs as well as the violations of right to clean and healthy environment.

Chapter 3: Evolution of Regulatory Framework for Corporate Social Responsibility of Transnational Corporations relating to Right to Clean and Healthy Environment: International Scenario

Third Chapter discusses in detail the evolution of regulatory framework for CSR at the international level. It contextualises this evolution in relation to right to clean and healthy environment and TNCs. It analyses the contribution of various stakeholders in this evolutionary process. Further, it specifically discusses the legislative initiative
taken by Indonesia and certain other countries in the field of CSR. Chapter highlights the salient characteristics of the regulatory framework for CSR.

**Chapter 4: Right to Clean and Healthy Environment and Transnational Corporations: Legislative Endeavours in India**

Fourth Chapter discusses in detail the legislative endeavours taken in India for the protection of right to clean and healthy environment. It analyses the approach adopted in the Indian constitution and followed by various environmental legislations relevant to TNCs. It analyses the impact of Bhopal Gas Leak Disaster and the adoption of NEP on this process. It describes in detail the EIA process adopted in India for granting environmental clearances to projects involving foreign investment in India. It also analyses the establishment of National Green Tribunal (NGT) and its powers and functions. It looks into the process of review of select environmental statutes initiated by the Indian government aimed at expediting the environmental clearances process for foreign investment projects including those of TNCs. Further, it gives brief overview of the process of review of existing BITs undertaken by the Indian government on the basis of Model Indian BIT along with its implications for right to clean and healthy environment.

**Chapter 5: Corporate Social Responsibility and Transnational Corporations: Legislative Endeavours in India**

Fifth Chapter discusses in detail the initiatives of Indian government towards the development of regulatory framework for CSR. It analyses the emergence of corporate governance after the adoption of NEP in 1991. It specifically analyses in detail the voluntary CSR guidelines as well as contribution of Securities and Exchange Board of India (SEBI) in introducing mandatory CSR reporting by companies under its jurisdiction. It discusses in detail the essential characteristics of regulatory framework of CSR as enshrined under Companies Act 2013 with its merits and demerits. Further, it analyses the role of codification of directors’ duties under Companies Act 2013 and briefly refers to other provisions which focus on stakeholders’ interests. It also discusses the initiatives of Indian government to amend the regulatory framework for CSR to streamline it further.
Chapter 6: Right to Clean and Healthy Environment vis-à-vis Transnational Corporations: Judicial Approach in India

Sixth Chapter discusses the judicial approach in India towards right to clean and healthy environment vis-à-vis corporations including TNCs. It analyses the harmonization by Indian Supreme Court of Fundamental Rights and Directive Principles resulting in judicial craftsmanship of integrating right to clean and healthy environment under Art. 21 of the Indian Constitution. It also discusses the role of Supreme Court in establishment of NGT and latter’s contribution towards right to clean and healthy environment. Specifically, it analyses role of Indian judiciary in Bhopal Gas Leak Disaster as well as in select other cases involving TNCs. It also discusses international arbitral awards based on BITs involving foreign investments by TNCs.

Chapter 7: Conclusion and Suggestions

Seventh Chapter sums up the research and draws conclusion on that basis answering research questions and testing hypothesis. It provides suggestions aimed at strengthening the accountability of TNCs for their violations of right to clean and healthy environment in India. In this process, Chapter also identifies issues for further research.