# Waste Management challenges and Role of Judiciary

**Mains Syllabus: GS III - Environmental pollution and degradation;**

## Why in the News?

According to a new study published in Nature, India is the biggest plastic polluter in the world, releasing 9.3 million tonnes (Mt) annually.

## What are the challenges in pollution control in India?

- **Inadequate sanitary landfills** - Dumpsites (uncontrolled land disposal) outnumber sanitary landfills by 10:1.
- **Exclusion of various sources** – Although national collection coverage is reported at 95%, official statistics fail to account for waste in rural areas, uncollected waste subjected to open burning, or materials recycled by the informal sector.
- **Lack of methodology on data collection** - Waste generation data regarding the total solid waste and plastic waste in the country is based on data supplied by State Pollution Control Boards (SPCB) or Pollution Control Committees (PCC).
- In turn, these are based on data supplied by the municipal bodies in the respective States/Union Territories.
- There is nothing in any of the reports regarding the methodology adopted by SPCBs or PCCs or municipal bodies or any waste audit which explains how the figures have been arrived at.
- **Incorrect statistics on waste generation and collection** – Due to missed out sources, India's official plastic waste generation rate (approximately 0.12 kilograms per capita per day (kg cap−1 day−1) is probably underestimated and waste collection may be overestimated.
- **Regulatory non-compliance** – Supreme Court has recently noted in a judgement that violations occur while various Supreme Court directives and environmental norms are flouted.
- The schemes or plans framed by the Government remain on paper, failing to achieve any meaningful results.
- **Determining compensation** - The process of determining an equitable compensation amount is fraught with challenges, as it must account for both the tangible and intangible damage inflicted on the environment and the affected communities.

## How judiciary contributed to environmental protection?

- **Safeguarding fundamental rights** - The Supreme Court of India has observed that environmental protection is not only a regulatory obligation but also a constitutional

imperative aimed at safeguarding the fundamental rights of individuals and preserving ecological balance.

- The Supreme Court has broadened the interpretation of the right to life to include the right to a clean and healthy environment in the M.C. Mehta v. Union of India (Ganga Pollution Case) case.
- **Enforcement of environmental laws** - Courts enforce existing environmental regulations and ensure that violators—whether government bodies or private entities—are held accountable.
- **Judicial scrutiny** – Supreme Court and high courts constitute committees to report on the compliance of the order.
- **Punishing the polluters** - Courts have reiterated the polluter pays principle to cast absolute liability on the polluter for the harm caused to the environment .
- It also extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation.
- **Holding government accountable** - Court applied the Government Pay Principle to make the government pay compensation to the affected individuals/families and recover the same from the polluters, until the damage caused to the ecology is fully reversed.
- **Public Interest Litigation (PIL)** - The judiciary, has actively entertained PILs on environmental issues, providing a platform for citizens and environmental groups to seek legal remedies against environmental degradation.

| Environmental Principles Developed by Judiciary | | |
|---|---|---|
| **Principle** | **Case** | **About** |
| Precautionary Principle | Vellore Citizens Welfare Forum v. Union of India | It states that lack of scientific certainty should not be used as a reason to postpone measures to prevent environmental degradation where there are threats of serious or irreversible damage. |
| Absolute Liability | M.C. Mehta v. Union of India - Oleum Gas Leak Case | The entity undertaking hazardous or inherently dangerous activities is liable for any damage caused, irrespective of whether they took reasonable care |
| Polluter Pays Principle | Indian Council for Enviro-Legal Action v. Union of India | It holds that the financial cost of preventing or remedying environmental damage should lie with the entity causing the pollution |
| Public Trust Doctrine | M.C. Mehta v. Kamal Nath | It asserts that the State is a trustee of natural resources like air, water, and forests, and these resources should be available for public use and not be subject to private ownership or exploitation |

## What lies ahead?

- There is an urgent need that we have cogent, reliable data about waste generation and its composition in the country.
- It is important that the methodology employed by whatever agency that is gathering the data is put out in the public domain and faces third party scrutiny.

- We also need to have data regarding the infrastructure that the country has built over the years to deal with the management and processing of this waste.
- This infrastructure could be geotagged to help in tracking.
- Every local government, whether in an urban or in rural area could be linked with a material recovery facility (MRF), recyclers of various waste streams, extended producer responsibility (EPR) kiosks and sanitary landfills.
- To operationalise EPR, all producers, importers, and brand owners (PIBOs) that have a legal obligation collectively can form kiosks across the country to gather waste from all local bodies.
- These kiosks could be set up depending on the quantum of waste expected, the geography of the area, and ease of access to these kiosks and other relevant factors.
- Time bound implementation of judicial order on environmental matters.

**References**

[The Hindu | A powerful judicial remedy for waste management]

SHANKAR IAS PARLIAMENT
Information is Empowering