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# **CASE COMMENTARY ON THE CASE “VELLORE CITIZEN WELFARE FORUM AND CONSUMER EDUCATION AND RESEARCH SOCIETY V. UNION OF INDIA AND OTHERS”**

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## **Introduction:**

Amidst the rapidly evolving tapestry of environmental jurisprudence in India, the landmark case of Vellore Citizen Welfare Forum vs. Union of India stands as a testament to the nation's commitment to preserving its ecological sanctity, even in the face of daunting industrial expansion<sup>1</sup>. Emanating from the scenic terrains of Tamil Nadu's Vellore district, the case underscored a pressing dilemma — the tug-of-war between accelerating industrial growth and maintaining the delicate balance of the environment.

The Palar River, which had once flourished and nurtured the communities around it, became the unwitting victim of the unchecked growth of leather tanneries<sup>2</sup>. These tanneries, while bringing economic prosperity to the region, left the river and its environs grappling with the devastating aftermath of untreated effluents. The hazardous discharge not only jeopardized the river's ecosystem but also threatened the health, livelihood, and very fabric of the local communities.

But this case was not merely a domestic affair. It echoed sentiments from the international stage, resonating with principles set forth in the seminal Rio Declaration on Environment and Development of 1992<sup>3</sup>. The Rio Declaration, adopted at the Earth Summit, laid down pivotal principles that sought to harmonize environmental protection with development<sup>4</sup>. Two of its core

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<sup>1</sup> Vellore Citizens' Welfare Forum v. Union of India, AIR 1996 SCC 647.

<sup>2</sup> Suki Roy, Lubbnaz Nagarchi, Ishita Das, Jayasri Mangalam Achuthananthan, Suthindhiran Krishnamurthy, "Cytotoxicity, Genotoxicity, and Phytotoxicity of Tannery Effluent Discharged into Palar River Basin, Tamil Nadu, India", *Journal of Toxicology*, vol. 2015, Article ID 504360, 9 pages, 2015. <https://doi.org/10.1155/2015/504360>

<sup>3</sup> Ageyo, J., Ageyo, J., & Muchunku, I. (2020). Beyond the Right of Access: A Critique of the Legalist Approach to Dissemination of Climate Change Information in Kenya. *Sustainability*, 12(6), 2530.

<sup>4</sup> Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/26 (vol. I), 31 I.L.M. 874 (1992).

tenets, the "Precautionary Principle" and the "Polluter Pays" principle, became central to the Vellore case's discourse.

The convergence of domestic concerns and global principles in this case is indicative of the complexities inherent in modern environmental law. This analysis seeks to delve deep into the intricate lattice of legal, ethical, and policy dimensions that the Vellore case represents, exploring its broader implications for India's environmental trajectory and its resonance with international environmental ethos.

### **Facts of the Case: Vellore Citizen Welfare Forum vs. Union of India**

- **Geographical Context:** The Vellore district of Tamil Nadu, particularly its Ranipet and Ambur areas, witnessed a significant proliferation of leather industries. The district had around 900 tanneries<sup>5</sup>.
- **Environmental Degradation:** The primary concern was the discharge of untreated effluents by these leather tanning industries into the agricultural fields, waterways, and open lands. This discharge, laden with toxic chemicals like hexavalent chromium and other harmful pollutants, had detrimental effects on the environment.
- **Palar River Contamination:** One of the most severely affected entities was the Palar River, which became heavily polluted due to the continuous dumping of toxic wastes. This not only affected the aquatic life but also rendered the river water unfit for consumption and agricultural use<sup>6</sup>.
- **Health Concerns:** The local populace started experiencing a range of health issues attributed to the polluted water. Skin disorders, respiratory problems, and other health complications became prevalent among those who used the river water for drinking or other purposes<sup>7</sup>.
- **Agricultural Impact:** The agricultural lands irrigated by the Palar River and its tributaries suffered. The toxic effluents degraded soil quality, resulting in reduced agricultural yields and affecting the livelihoods of the farming community.

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<sup>5</sup> *vellore Citizens' Welfare Forum v. Union of India*, AIR 1996 SCC 647

<sup>6</sup> Suki Roy, Lubbnaz Nagarchi, Ishita Das, Jayasri Mangalam Achuthanathan, Suthindhiran Krishnamurthy, "Cytotoxicity, Genotoxicity, and Phytotoxicity of Tannery Effluent Discharged into Palar River Basin, Tamil Nadu, India", *Journal of Toxicology*, vol. 2015, Article ID 504360, 9 pages, 2015. <https://doi.org/10.1155/2015/504360>

<sup>7</sup> *ibid*

- **Initial Efforts:** The State Pollution Control Board (SPCB) had initially directed the tanneries to establish effluent treatment plants. However, the compliance was either partial or wholly ignored by many tanneries.
- **Public Outcry:** The environmental degradation and its impacts led to public outrage. Local communities, witnessing the deteriorating quality of their lives and environment, sought redressal.
- **Legal Action Initiated:** Responding to the gravity of the situation, the Vellore Citizen Welfare Forum, a local environmental action group, filed a writ petition in the Supreme Court of India in 1991. The petition aimed to address the environmental harm caused by the tanneries and sought reparative actions<sup>8</sup>.

## **Parties Involved in the Case: Vellore Citizen Welfare Forum vs. Union of India**

### 1. **Petitioner:** Vellore Citizen Welfare Forum

**Nature:** The Vellore Citizen Welfare Forum (VCWF) was a non-governmental organization dedicated to addressing public interest and environmental issues.

**Role in the Case:** VCWF was the primary petitioner in the case, having taken cognizance of the severe environmental degradation caused by the leather tanning industries in the Vellore district. The organization sought the intervention of the Supreme Court to halt the pollution and demand remedial measures.

### 2. **Respondent 1:** Union of India

**Nature:** The Union of India represents the central government and its relevant ministries and departments.

**Role in the Case:** As the central governing body, the Union of India was made a respondent to address the broader implications of environmental regulation, its enforcement, and to ensure that necessary policy changes or guidelines would be implemented at a national level.

### 3. **Respondent 2:** State of Tamil Nadu

**Nature:** The State Government responsible for governance within the Tamil Nadu region.

**Role in the Case:** The state was included as it holds the responsibility for enforcing environmental regulations within its jurisdiction. The state's role in the oversight (or lack

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<sup>8</sup> ibid

thereof) of the tanneries and their effluent treatment was under scrutiny.

4. **Respondent 3:** Tamil Nadu Pollution Control Board (TNPCB)

**Nature:** TNPCB is a statutory body responsible for the control, prevention, and abatement of pollution in the state of Tamil Nadu.

**Role in the Case:** TNPCB was directly responsible for ensuring that industries, including tanneries, adhered to environmental standards. Their efficacy in regulating the tanneries, ensuring compliance, and taking corrective actions was a central aspect of the case.

5. **Respondent 4:** Leather Tanneries and Other Industrial Units

**Nature:** These were the commercial entities involved in leather processing in the Vellore district, which were discharging untreated effluents leading to environmental degradation.

**Role in the Case:** The tanneries were at the centre of the controversy, being directly responsible for the pollution. Their practices, compliance with environmental norms, and responsiveness to directives from regulatory bodies were under examination.

### **Issues Raised in the Case: Vellore Citizen Welfare Forum vs. Union of India**

1. Environmental Degradation and Health Hazards:

- The primary issue was the extensive environmental degradation caused by the leather tanning industries in the Vellore district, particularly their discharge of untreated effluents.
- The health risks posed by these effluents, both directly and through the contamination of water sources like the Palar River, were a major concern. The local populace was exposed to skin disorders, respiratory problems, and other health complications due to the polluted water.

2. Regulatory Oversight:

- Questions were raised about the efficacy of the regulatory framework and the enforcement of environmental standards.
- The role and effectiveness of the Tamil Nadu Pollution Control Board (TNPCB) in regulating the tanneries, ensuring compliance, and initiating corrective actions were under scrutiny.

### 3. Sustainable Development:

- The broader issue of sustainable development was brought to the forefront. The case underscored the need to balance economic and industrial development with environmental protection<sup>9</sup>.
- The court had to consider how to uphold the principles of sustainable development in light of the environmental harm being caused.

### 4. Polluter Pays Principle:

- The applicability of the "Polluter Pays" principle was a significant issue. The principle mandates that those responsible for pollution should bear the costs of managing it to prevent damage to human health or the environment.
- The court had to decide if, and to what extent, this principle could be enforced against the tanneries and other polluting entities.

### 5. Precautionary Principle:

- Another core issue was the application of the "Precautionary Principle". This principle suggests that if an action or policy has the potential to harm human health or the environment, in the absence of scientific consensus, the burden of proof falls on those advocating for the action or policy.
- The court had to interpret and determine the relevance of this principle in the context of the tanneries and their effluent discharge.

### 6. Compensation and Remedial Measures:

- Given the damages caused, a pertinent issue was whether the affected parties (including the local communities and farmers) were entitled to compensation.
- What remedial measures, both immediate and long-term, should be implemented to mitigate the environmental damage and prevent future harm?

## **Relevant International Convention: Rio Declaration on Environment and Development (1992)**

The Rio Declaration on Environment and Development, adopted in 1992 during the Earth Summit in Rio de Janeiro, is a defining instrument in global environmental governance. Comprising 27

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<sup>9</sup> Good era, CSR and sustainable development: Do Indian companies care about the environment? Forbes India, <https://www.forbesindia.com/blog/life/csr-and-sustainable-development-do-indian-companies-care-about-the-environment/>, (visited on 18th September 2023).

principles, this declaration underscores the world's commitment to sustainable development by integrating environmental protection into the fabric of socio-economic development. Two principles from the declaration, in particular, resonate with the case of Vellore Citizen Welfare Forum vs. Union of India: the "Precautionary Principle" (Principle 15) and the "Polluter Pays" principle. The "Precautionary Principle" asserts that when there's a threat of significant harm to the environment, a lack of scientific certainty shouldn't be used as a reason to postpone cost-effective measures to prevent degradation. Meanwhile, the "Polluter Pays" principle, although not explicitly named in the declaration, embodies the essence of Principle 16, which emphasizes the responsibility of the polluter to bear the cost of pollution. The Rio Declaration's ethos, which accentuates a proactive and responsible approach towards environmental management, had a profound influence on the Vellore case. The Indian Supreme Court's reliance on these international principles illustrates the increasing confluence of domestic environmental adjudications with global standards and norms.

### **Judgment: Vellore Citizen Welfare Forum vs. Union of India**

The Supreme Court, understanding the gravity of the environmental and health impacts caused by the tanneries in the Vellore district, delivered a judgment that was not only remedial but also introduced forward-looking principles to guide environmental governance in India<sup>10</sup>. Central to the judgment was the endorsement of the "Precautionary Principle" and the "Polluter Pays" principle. The Court asserted that once the activity was hazardous, the person carrying out such activity had an absolute and non-delegable duty to the community<sup>11</sup>. In the absence of complete scientific certainty, the court recognized that proactive steps must be taken to prevent potential environmental harm. The "Polluter Pays" principle was emphasized as a means to ensure that the financial costs of preventing or remedying damage resulting from pollution should lie with the undertakings causing the pollution. The Court also directed the closure of certain tanneries that had failed to set up primary effluent treatment plants. Furthermore, to address the damage done, the Court ordered the constitution of an authority under the Water (Prevention and Control of Pollution) Act, 1974. This authority was tasked with assessing the loss caused to the ecology in the affected area, examining restitution measures, and implementing the "Polluter Pays" principle to make defaulting tanneries bear the cost of reversing the environmental degradation. Through this judgment, the Supreme Court of India reinforced the idea that economic growth shouldn't

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<sup>10</sup> <https://thelawexpress.com/>(accessed on 17th september 2023).

<sup>11</sup> <https://thelegalassistance.in/2020/07/02/ellore-citizens-welfare-forum-vs-union-of-india-ors-case-summary/ednref2>. (accessed on 17th September 2023).

come at the expense of the environment, setting a precedent for future environmental cases in the country.

### **Significance of the Case: Vellore Citizen Welfare Forum vs. Union of India**

1. **Introduction of Sustainable Principles:** The Supreme Court, in this case, underscored the principles of "Precautionary Principle" and "Polluter Pays" as essential elements of sustainable development. By integrating these principles from the Rio Declaration into Indian jurisprudence, the court highlighted that environmental concerns couldn't be secondary to economic interests.
2. **Affirmation of Environmental Rights:** The judgment affirmed that the right to a wholesome environment is part of the fundamental right to life enshrined in Article 21 of the Indian Constitution. It strengthened the notion that environmental degradation is a violation of this right.
3. **Strengthening of Regulatory Mechanisms:** By directing the establishment of an authority to assess the extent of ecological damage and implement remedial measures, the judgment emphasized the need for strong regulatory and enforcement mechanisms in environmental matters.
4. **Setting a Legal Precedent:** The judgment set a precedent for future environmental cases in India. The acknowledgment that industries responsible for environmental degradation have an obligation to restore and compensate became a foundational principle in subsequent environmental litigation.
5. **Empowering Public Interest Litigations (PIL):** This case stands as a testament to the power of PILs in addressing environmental concerns. It showcased that grassroots organizations and citizen groups could effectively challenge powerful industrial entities and ensure environmental justice through judicial processes.
6. **Balancing Development and Environment:** The judgment accentuated the delicate balance between industrial development and environmental protection. By highlighting the necessity of sustainable practices, it directed industries and policymakers to consider long-term ecological impacts in their operations and decisions<sup>12</sup>.
7. **Highlighting Corporate Responsibility:** The judgment reemphasized the ethical and legal responsibilities of industries towards the environment. By enforcing the "Polluter Pays"

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<sup>12</sup>Vikrant Sopan Yadav, "Sustainable development and corporate social responsibilities in India: A critique", INTERNATIONAL JOURNAL FOR ADVANCE RESEARCH, 2020, p. 121-124.

principle, it signalled to businesses that they can't externalize the environmental costs of their operations onto society.

### **Role of Civic Activism:**

Civic activism played an indispensable role in drawing attention to the ecological degradation and public health issues stemming from the unchecked pollution by tanneries in the Vellore district. The Vellore Citizen Welfare Forum, as the name suggests, was a collective of concerned citizens who became the voice for the voiceless - the environment and the affected communities. This grassroots organization undertook extensive groundwork, gathering data on the deteriorating quality of water, soil degradation, and the alarming health implications for residents, particularly those living in proximity to the polluted waters. Their efforts underscored the gravity of the situation, bridging the gap between mere statistical data and the real-life implications of environmental degradation. But the Forum wasn't alone; they were bolstered by support from other local organizations, environmentalists, and activists who provided expertise, resources, and a shared platform to amplify their concerns. Together, they navigated the complex labyrinth of the legal system, initiating a Public Interest Litigation (PIL) that culminated in the landmark judgment. Their relentless endeavours highlighted the power of collective action and the crucial role of civic activism in holding industries and the government accountable. The Vellore case serves as a beacon, demonstrating that when local communities and activists unite, they can drive systemic change, even in the face of overwhelming odds.

### **Comparative Analysis:**

The Vellore Citizen Welfare Forum vs. Union of India stands out as a beacon in the annals of environmental jurisprudence in India, but it is not alone in its significance. Within India, the Bhopal Gas Tragedy case is another stark reminder of the impacts of unchecked industrial activities, though its focus was more on corporate negligence and the colossal human tragedy. Both cases showcase the judiciary's role in attempting to ensure justice, yet the Bhopal case also unveils the challenges of transnational corporate accountability and the limitations of compensatory mechanisms<sup>13</sup>.

Internationally, the case can be juxtaposed against the Chevron-Texaco oil pollution case in Ecuador. In this South American nation, local communities fought against Chevron for the alleged

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<sup>13</sup> 1990 AIR 273 1989 SCC

environmental damage caused by oil extraction activities. Much like the Vellore case, the Ecuadorian case underscored the "Polluter Pays" principle and the rights of local communities to a healthy environment. However, the Chevron case has been marred by protracted legal battles spanning different international jurisdictions, highlighting the complications of global corporate structures and accountability<sup>14</sup>.

Another relevant case is the Niger Delta oil spill cases in Nigeria, where local communities have been grappling with the environmental and health consequences of oil spills by multinational corporations<sup>15</sup>. The shared patterns among these cases are the grassroots movements challenging powerful entities, the emphasis on environmental justice, and the invocation of the "Precautionary" and "Polluter Pays" principles. However, differences emerge in the scale of the damage, the nature of the industries involved, the legal frameworks, and the outcomes of the judgments. Collectively, these cases underscore a global challenge: ensuring that rapid industrialization and economic growth don't come at the cost of the environment and the well-being of local communities.

### **Critique/Analysis of the Vellore Citizen Welfare Forum vs. Union of India Case:**

The judgment delivered in the Vellore Citizen Welfare Forum vs. Union of India is hailed for its progressive stance, seamlessly integrating international environmental principles into domestic jurisprudence. However, it's not without areas of critical reflection. While the court's endorsement of the "Precautionary Principle" and "Polluter Pays" principle is commendable, it raises questions about the practical implementation of these tenets in a country grappling with developmental challenges. How does one truly quantify the cost of environmental harm, and is it always feasible for industries, especially smaller ones, to bear these costs without stifling economic growth? Furthermore, while the court's direction to set up an authority for assessment and remediation is laudable, there's scepticism about the effectiveness and efficiency of such bureaucratic interventions. The judgment's emphasis on the right to a healthy environment as a fundamental right is undoubtedly groundbreaking, but the on-ground enforcement of this right remains a challenge, often mired in regulatory complexities and a lack of resources. Additionally, the long-

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<sup>14</sup> [https://waronwant.org/sites/default/files/ISDSFiles\\_Chevron\\_April2019.pdf](https://waronwant.org/sites/default/files/ISDSFiles_Chevron_April2019.pdf)(assessed on 30<sup>th</sup> September 2023).

<sup>15</sup> Akinola S. Akinwumiju, Adedeji A. Adelodun, Seyi E. Ogundeji, Geospatial assessment of oil spill pollution in the Niger Delta of Nigeria: An evidence-based evaluation of causes and potential remedies, *Environmental Pollution*, Volume 267, 2020, 115545, ISSN 0269-7491, <https://doi.org/10.1016/j.envpol.2020.115545>.(accessed on 30<sup>th</sup> November).

term ecological impact of industries, the true extent of harm, and the viability of restoration remain areas that need more comprehensive solutions. While the Vellore case is a beacon in India's environmental legal landscape, it also serves as a poignant reminder of the intricate balance between development and conservation and the continuing challenges in translating judicial directives into tangible on-ground impacts.

### **Conclusion:**

The Vellore Citizen Welfare Forum vs. Union of India case stands as a watershed moment in India's environmental jurisprudence<sup>16</sup>. By integrating globally recognized principles from the Rio Declaration, the judgment epitomized the convergence of international norms with domestic legal frameworks. It not only highlighted the sacrosanct nature of the right to a wholesome environment but also emphasized the responsibilities of industries in upholding this right. The affirmation of the "Precautionary Principle" and the "Polluter Pays" principle set the tone for future environmental litigations, signifying a judiciary that is cognizant of the intricate balance between development and conservation. Yet, as with many pioneering judgments, the real test lies in its application. The challenges of translating these principles into practical, on-ground measures and ensuring compliance, especially in a diverse and developing nation, remain substantial. Nonetheless, the Vellore case serves as a compelling testament to the proactive role the judiciary can play in environmental governance. It underscores the essence of sustainable development — ensuring that the quest for economic progress does not compromise the ecological sanctity and health of current and future generations.

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<sup>16</sup> <https://www.lawnn.com/vellore-citizens-welfare-forum-versus-union-india/>. (accessed on 19th September 2023).

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