

CHAPTER- I

INTRODUCTION

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CHAPTER ONE
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CHAPTER ONE

INTRODUCTION

1.1 Introduction

Environmental ethics has always formed an inherent part of Indian religious precepts and philosophy. According to our religious scriptures water is the lifetime of vegetation, which in turn is the source of human life. The highest plenary existence mandates a balance of earth, water, vegetation and human life. The modern man has, however, in his pursuit of materialistic gains, completely forgotten the religious mandate and his lust for prosperity and comfort has brought unprecedented degradation in the environmental field.

Today, life means a life being enjoyed rather than being lived or led. The liability to live a life is passive submission to environment, the rule to lead a life is active adaptation with the environment, but the art to enjoy life is exerted by dominance of environment. Man, today has started interfering with nature. The sky scrapers, the palatial mansions, residential complexes, the office annexes, the five-star hotels and constructions for innumerable public and private purposes are all increasing magnitude of encroachment on earth. For all this the wood, sand, gravel etc. that is needed is brought from the nature by exploiting it.

Smt. Indira Gandhi has stated in her inaugural address at the Non-Aligned Conference (NAM) held at New Delhi as:

“Some people consider concern for the environment an expensive and perhaps unnecessary luxury. But the

preservation of the environment is an economic consideration since it is closely related to the depletion, restoration and increase of resources. In any policy decision and its implementation, we must balance present gains with likely damage in the not so distant future. Human ecology needs a more comprehensive approach.”

The major environmental concerns of today are air pollution, resulting from industrial development; water pollution from industrial and domestic effluent, soil erosion, deforestation, loss of wild life, ugly landscapes and city slums resulting from a growing population. The concern for preserving the quality of life and promoting the environment while undertaking the task of development is very necessary.

The basic issue posed by the environmental crisis is how man is to manage the world's first technological civilization in which he has to shape his own future- the power to create and the power to destroy. It is, therefore, an obligation of each generation to maintain the productive capacity of land, air, water and wild life in a manner, which leaves its successors some choice of creation of a healthy environment. The proper balance of the eco-system is the need of the hour. The only answer to this problem is sustainable development.

In order to achieve sustainable development environment protection constitutes an integral part of development process and it cannot be considered in isolation. Peace, development and environment are interdependent and indivisible. The Rio Declaration on environment and Development, 1992 has clearly declared that human beings are at center of concern for sustainable development.

They are entitled to a healthy and productive life in harmony with nature.

There is a close relationship, which exists between a healthy environment and economic condition of the community at large. Today, we are confronted with a perpetuation of disparities between and within nations, worsening poverty, hunger, ill health and the continuing deterioration of the ecosystem on which we depend for our well being.

Sadly, a simultaneous and systematic erosion of the basic means of their subsistence accompanies the impoverishment of the poor: the environment, with its life supporting natural resources- land, water, forests. Deforestation disturbs the balance of earth. It adversely affects mankind. Deforestation disturbs the balance of earth. The temperature on the earth increases even then the earth does not get sufficient rains. Nature is being destroyed. Though the poor often get blamed for the destruction of environment, modernization and industrialization also contributes equally in the destruction of the natural resources.

Modernization affects nature in two ways. First, it is extremely destructive of the environment in its search for cheap biomass-based raw materials for industries like rayon, paper, plywood, soap, sugar, tobacco, jute, chocolate, food processing, packing etc. and secondly in its search for cheap opportunities for waste and effluents disposal in the form of gaseous and liquid substance. Chemical and liquids released through streams get accumulated in ponds and may in turn pollute the air, water and soil.

Today, many a flora and fauna have become extinct. Deforestation is increasing day by day. If the degradation of environment is not

prevented today, it is estimated that in coming 500 years the entire human race would be wiped off from the face of the earth. Also today most of our rivers are polluted. Leakage of poisonous gases and other harmful gases, liquids and solid wastes from the industries has almost become a regular phenomenon. The problem of noise pollution is reached at a alarming stage. Land erosion through winds has also become a common feature.

The definition of environment stated in the Environment Protection Act is an inclusive definition and therefore it does not exhaust the entire Universe of what is covered by the word 'environment'. Exhaustive definition in an evolving field like environmental control is likely to lead to recourse to judicial interpretation of highly complex scientific and technological matters whose complexion is ever changing as knowledge accumulates dynamically.¹

The fundamental question today before us therefore, is whether we can allow the destruction of the environment leading to the destruction of all living creatures including human beings on the planet. The answer obviously is –No. Despite our brutal exploitation it must be remembered that the environment and development are for the people, not people for environment and development.

It becomes very necessary to understand the causes and factors of environment pollution. The various causes of Environment pollution are poverty, population explosion etc. The changing life style of the people also has contributed to the change in the quality of environment. Today the man's needs have changed and this has resulted into efforts to fulfill those needs. And in the attempt to achieve this, the mankind has started exploiting nature. Science

¹ Baxi Upendra, Environment Protection Act: An Agenda for Implementation. 6 (1987)

and technology, no doubt have resulted into the development of mankind, it has agreeably brought mankind a long way and have modernized the mankind, but in this attempt, the nature, i.e the environment has been ignored to a large extent and a stage was reached when this development was at the cost of nature. The mankind had forgotten that the natural resources are not their personal property to be handled the way desired. It took long time to realize that the nature, the mother earth, needs to be preserved and protected.

However by the time this need was felt, it was high time. And the remedial measures needed to be taken at all levels. Environment protection has not just remained an issue of any one State or nation, but today it has assumed global dimensions. And definitely various developments were responsible for this. A new phenomenon, called global village had birth. And India too was touched with this phenomenon. In the decade of the nineties, we saw the arrival of the concept of globalisation in India. Economic growth was on the rise. Since 1991 India adopted new economic policies to spur development. In an effort to integrate the Indian economy with the global trade, the government has reduced industrial regulation, lowered international trade and investment barriers and encouraged export-oriented enterprise. Some commentators fear that liberalization will exacerbate environmental problems and increase inequities.² And the real problem faced was how to strike a balance between the benefits of a rising standard of living, and its costs in terms of deterioration of the physical environment and the quality of life. In the past, the danger of polluting air, water, and land was not fully realized and recognized, but now there is no doubt that it is a

² R.Suadrshan, Liberalisation and the Environment. The Hindu. New Delhi, 19 April 1996 and A. Kothari, Environment and New Economic & Political Weekly, 29 April 1995 p.924

matter of great concern. It may well be asked why it is that there should be a growing conflict between economic and technological advance on the one hand and the quality of environment on the other. There are two main reasons. One is rooted in a basic law of nature: it is impossible to add to the material resources with which the world is endowed and impracticable to dispose of waste materials outside the world and its envelope of air. Industry transforms natural resources and in doing so depletes some of them and spoils them –for example, our water resources-as a result of undesirable accumulation of waste products. The second reason for the growing conflict is largely economic. Little can be done about the first reason, for even the most powerful legislatures of the world cannot change the law of nature; but many things can be done about the second. Governments can protect the environment through legal protection.

The economic reason why society may not strike the right balance between economic output and the quality of the environment is that the costs of many kinds of pollution are borne not by the polluters, but by somebody else. As a result of these external costs will not be taken into account by firms, individuals or other bodies who cause pollution. The other side of the coin is that those who spend money on reducing pollution may not always be people who gain from resulting improvement in the environment. This applies both to tangible pollution such as poisoning of fish in polluted waters and to intangible pollution such as unpleasant smells or ugly landscapes.

The characteristics of pollution have three main consequences:

1. Output of goods and services, which give rise to pollution, tends to be beyond the socially optimum point. Also, expenditure to reduce pollution will often be inadequate. It is

true not only for private firms or individuals: it is true also for public authorities. For example it is hardly surprising that a large proportion of the many sewage works in this country are inadequate, since it may well be that the benefits from better installations – in the form of cleaner effluent and hence cleaner rivers-would be enjoyed only by communities living further downstream. In such cases all the benefits are external to the sewage authority, which therefore has little inducement to improve its plant.

1. There is generally not enough incentive to reduce the amount of pollution per unit of output of the goods and services responsible so that not enough resources and effort are devoted to this objective. For example, if it becomes cheaper to distribute milk in plastic containers instead of glass bottles, this will be done whether or not the production and disposal of plastic containers impose higher pollution costs per unit of milk consumed than does the use of glass bottles. It is true, of course, that technological innovation in some industries has reduced the amounts of pollution per unit of output; for example, the switch from coal to other resources of fuel over the last two decades has greatly reduced the amount of certain kinds of airborne pollution per unit of industrial output. But this benefit to the environment has been fortuitous; we cannot rely on technological innovation automatically to reduce environmental pollution.
2. In so far as pollution costs are not borne by those who cause pollution or by the purchasers of their products, but by people who happen to be victims of the pollution, some of the total welfare resulting from the economic activity of the community is being redistributed away from the victims of

pollution in favour of other groups in the community. Manufacturers whose production gives rise to pollution make greater profits than they would if they were obliged to bear the full social costs of their production, and purchasers of their goods buy them at a lower price than they would if the price had to cover the full social costs involved. Therefore both the manufacturer and purchasers gain at the expense of other members of the community who may suffer in one way or the other from pollution.

Hence the problem that often to be faced is, not how to stop pollution altogether, but how far it should be reduced. One implication is that some productive activities have been pushed too far, not that they should cease altogether. To abolish all such activities, and hence deprive society entirely of their benefits in order to eliminate one particular form of social cost, would be a clear case of throwing the baby out of bathing water. Another implication is that inadequate attention and resources are likely to be devoted to reducing pollution per unit of output, not that there is no limit to the amount of resources, which should be devoted to this end. The more we spend on abating pollution the less we have available for other desirable expenditures.

The social benefits of cleaner air and water, less noise and a more pleasant landscape have to be put in perspective with other claims on resources, such as housing, health and education, or private consumption and investment. Nobody would suggest that allocation of resources amongst these uses should be based on an 'all-or – nothing' approach. For example, it would hardly be suggested that health has some absolute priority over all other social needs. Ideally we might all like to have pure water and complete freedom from noise and dirty air; but in practice we might tolerate some

shortcomings in the environment in the interest of having, say, better schools or better health or cultural facilities than we enjoy now. As long as resources are limited, choices have to be made alternative ways of using them.

The post independence political debate in India has been centered on two major issues: equity and growth. The environmental concern has added a third dimension: sustainability. India's biggest challenge today is to identify and implement a development process that will lead to greater equity, growth and sustainability.

Those people, who are most deeply affected by environmental deterioration in India, are the poor. They are the first victims of poor sanitation, bad air, contaminated water and scarce wood for fuel and fodder. India's poor are the ones who suffer most from the deterioration and loss of the nation's precious 'commons': water, air, soil and forest. For millions of Indians their only wealth is common property resources; and this is threatened by environmental degradation.

The answer to India's immediate problem of poverty may be increasing the biomass available in nature and increasing it in a manner that access to it is ensured on an equitable basis. But according to scholars,³ giving a relevant 'green cover' to the country- the real Green Revolution- would probably require the most holistic thinking that planners, economists and scientists have ever known. India may become unlivable, if we fail to recreate nature on a massive scale in a manner that generates employment and equity.

³ Agarwal: Politics of Environment-II, In Centre for Science and Environment: The State of India's Environment 1984-85: The Second Citizen's Report, 362(1986)

Today India has the world's fourth largest urban population. And urbanization brings along with it its own problems. Denudation of forests is one such major problem. Today deforestation is a major environmental problem. It is disturbing the delicate balance of nature. It has resulted into change in the cycle of seasons and disturbed the ecosystem in general.

Today, the time has come to protect and save our environment. The Supreme Court has made it mandatory to include 'environment' as a subject in the syllabus of the students' right from the school level in order to create awareness among children. A clean, healthy and wholesome environment is necessary to lead a qualitative life. We see that approach of the Indian judiciary in dealing with the environment issues has been commendable. We find an active judiciary coming to the rescue of the citizens and the Mother Nature. Since the late 1980s, the Supreme Court and a few High Courts have embarked on complex administrative exercises. The Court widened the concept of *locus standi*. It issued several guidelines for protecting the environment. Life is not mere vegetative existence but it means much more. Quality of life is what is most important. Quality of life includes right to a clean, healthy and wholesome environment.

This approach of the Supreme Court has led to derive principles to guide the development of environmental jurisprudence. Notable amongst the fundamental norms recognized by the Courts are:

1. Every person enjoys the right to wholesome environment, which is a facet of the right to life guaranteed under Article 21 of the Constitution of India.⁴

⁴ Subhash Kumar v. State of Bihar, AIR 1991 SC420,424; M.C.Mehta v. UOI (Delhi Stone Crushing Case) 1992 (3) SCC 256, 257 and Virendra Gour v. State of Haryana 1995 (2) SCC 577,581.

2. Enforcement agencies are under an obligation to strictly enforce environmental laws.⁵
3. Government agencies may not plead non-availability of funds, inadequacy of staff or other insufficiencies to justify the non-performance of their obligations under environmental laws.⁶
4. The 'polluter pays' principle, which is the part of the basic environmental law of the land, requires that a polluter bear the remedial or clean up costs as well as the amount payable to compensate the victims of pollution.⁷
5. The precautionary principle requires government authorities to anticipate, prevent and attack the causes of environmental pollution. This principle also imposes the onus of proof on the developer or industrialist to show that his or her action is environmentally benign.⁸
6. Government development agencies charged with the decision making ought to give regard to ecological factors including (a) the environmental policy of the central and State Government; (b) the sustainable development and utilization of natural resources; and (c) the obligation of the present generation to preserve natural resources and pass on to future generations an environment as the one inherited from the previous generation.⁹

⁵ Indian Council for Enviro-Legal Action v. UOI (CRZ Notification Case) 1996(5) SCC 281,294,301

⁶ Dr.B.L.Wadhera v. UOI (Delhi Garbage Case) AIR 1996 SC 2969, 2976

⁷ Indian Council for Enviro-Legal Action v. UOI (Bichhri Case) AIR 1996 SC 1446,1466; Vellore Citizens' Welfare Forum v. UOI AIR 1996 SC 2715,2721 and S. Jagannath v. UOI (Shrimp Culture Case) AIR 1997 SC 811,846,850

⁸ Vellore Citizens Welfare Forum v. UOI AIR 1996SC 2715; A.P. Pollution Control Board v. Prof. M.V. Nayadu AIR 199 SC 812,819

⁹ State of Himachal Pradesh v. Ganesh Wood Products AIR 1996 SC 149,159,163

7. Stringent action ought to be taken against contumacious defaulters and persons who carry regard to environment laws.¹⁰
8. The power conferred under an environmental statute may be exercised only to advance environmental protection and not for a purpose that would defeat the object of the law.¹¹
9. The State is the trustee of all natural resources, which are by nature meant for public use and enjoyment. The public at large is the beneficiary of the seashore, running waters, air, forests and ecologically fragile lands. These resources cannot be converted into private ownership.¹²

1.2 Significance and Utility of the Study

The present study may be useful in making certain changes in the environment strategy like lessening the burden of the Courts by setting up separate environment Courts. After completing the present study, the researcher may be able to throw more light on the judicial trends towards protection of environment. It is found that the judiciary in its proactive attitude has already started translating the directive principles of State policy into fundamental rights and the directive principles relating to environment are no exception to it.

¹⁰ Indian Council For Enviro-Legal Action v. UOI (Bichhri Case) AIR 1996 SC 1446; Pratibha Co-operative Housing Society Ltd.v. State of Maharashtra AIR 1991 SC 1453; Pleasant Stay Hotel v. Palani Hills Conservation Council 1995 (6) SCC 127, 139 and M.I. Builders v. Radhey Shyam Sahu AIR 1999 SC 2468, 2505

¹¹ Bangalore Medical Trust v. B.S. Muddappa AIR 1991SC 1902, 1911, 1924; Virendra Gour v. St. of Haryana 1995 (2) SCC 577, 583; Indian Council for Enviro Legal Action v. UOI (CRZ Notification Case) 1996 (5) SCC 281, 299, 302

¹² M.C.Mehta v. Kamal Nath (Span Motels Case) 1997 (1) SCC 388; and M.I. Builders v. radhey Shyam Sahu AIR 1999 SC 2468, 2498

However, all these are indirect efforts. The significance of the study is to bring to the notice of the legislators that it is high time for incorporating a direct and specific provision relating to healthy and wholesome environment in Part III of the Constitution.

1.3. Rationale of the Study

Prior to 1972, there were very few provisions relating to environment in all the countries of the world. The U. N. Conference on Human Environment and Development at Stockholm in 1972 is considered to be the *Magna Carta* of environment protection and sustainable development. Even in India, the provisions relating to environment were scattered here and there. Like, provisions relating to environment pollution under Indian Penal Code, 1860, Factories Act, Mines Act, Criminal Procedure Code and also the Directive Principles of State Policy in the Constitution. The year 1972 marks a watershed in the history of environmental management. Though the judicial activism had begun since Shriram Fertilizers case based on the above-mentioned legislations, the specific and special enactments on environment came only after the Stockholm Conference of 1972. First in the list is the Water (Prevention and Control of Pollution) Act of 1974. Then came the 42nd Amendment to the Constitution in the year 1976 wherein on the recommendations of the Swaran Singh Committee added Article 51A(g) which refers to the fundamental duty of every citizen to protect and improve 'natural environment'. The same Amendment also added a new Directive principle in Article 48-A dealing specifically with protection and improvement of environment. For the preservation Forests, the Forest (Conservation) Act was enacted.

To provide for the prevention, control and abatement of air pollution and to preserve quality of air, the Air (Prevention and Control of Pollution) Act, 1981 was enacted.

And ultimately all these various enactments led to enactment of the Environment (Protection) Act, 1986 for taking appropriate steps for the protection and improvement of human environment as resolved in the Stockholm Conference, 1972 and since 1986 we find a drastic change in the enforcement techniques adopted for the various environmental laws in India.

The researcher has made an attempt to address Indian environmental law, environment policy, and environment related problems on one hand and right to healthy and wholesome environment on the other. The study has been carried out from a constitutional and human rights perspective.

1.4 Introduction to Some Basic Concepts

The researcher has first explained certain basic concepts in relation to environment and environment pollution. Before dealing with environment pollution or environment protection, the researcher has discussed the definition of environment as dealt under the Environment Protection Act of 1986. Environment includes water, air land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, microorganism and property.¹³

¹³ Section 2 (a), Environment (Protection) Act, 1986

1.4.1 Ozone Layer

Ozone (O_3) is a colorless gas, which is allotropy of Oxygen. Thus, it has three atoms as compared to Oxygen, which has two atoms. Ozone is produced by recombination of oxygen under the influence of ultraviolet radiations from the sun in the upper layers of atmosphere. The Ozone formation occurs 16 kms above the surface of the earth. It is mainly found in the stratosphere and extends from 12 km to 35 km. This part of the stratosphere, which is rich in ozone, is called ozone sphere, ozone umbrella or ozone layer.

1.4.2 Ozone Layer as Protective Umbrella

The presence of ozone layer in the stratosphere forms a protective umbrella around the earth. It absorbs the harmful short wave ionizing ultraviolet (UV) radiations coming from the sun and thus prevents them from reaching the surface of the earth. These ultraviolet (UV) radiations are very harmful and if all the ultraviolet radiations coming from the sun reach the surface of the earth then there would be no life on this planet earth. Thus ozone layer forms a protective umbrella around the earth and protects all the living organisms on the earth from the harmful effects of Ultraviolet rays.

1.4.3. Depletion of Ozone Layer and Ozone Hole

This highly useful ozone layer blanket in the upper atmosphere has been under threat by a wide range of human activities. Though most of the ozone is produced above the equator of the earth as the maximum sunrays fall directly in that region, yet the highest concentration of ozone has been noted in the polar region. This is

due to global circulation. In the year 1985, Farman and his team of scientists noted that a gap or hole in ozone layer exists. This is called as Antarctica Hole or Ozone hole. In fact there is no actual hole in the ozone layer. It is the thinning of the concentration of ozone and ozone layer over the Antarctica region and generally called the hole.

1.4.4. Green House Effect

Like the Ozone layer there is also a blanket or layer of carbon dioxide (CO₂) gas in the lower atmosphere. When the sunlight consisting of ultraviolet rays, visible light and infra-red rays fall on the top of the atmosphere, then first of all the harmful ultraviolet radiations are absorbed by the ozone layer. The visible and infra-red rays pass through the layer of carbon dioxide and fall on the surface of the earth. It must be noted that the infra-red rays coming from the sun are of short wavelength and they pass through the layer of carbon dioxide easily. The infra-red rays have the unique heating effect in them so they heat the earth and various objects on the surface of the earth. Since the earth and its objects become hot, they also start emitting heat rays or infra red rays. These infra red rays are of long length wavelength. And they cannot escape out from the carbon dioxide layer. This heating up of the atmosphere of the earth due to the trapping of infra-red rays of long wavelength by carbon dioxide layer in the atmosphere is called *green house effect*.

1.4.5. Green House Gases

Those gases which can trap the infra-red rays to produce green house effect leading to heating up of environment are called green house gases.

1.4.6. Global Warming

It has been observed that there is a rise in carbon dioxide concentration from 275 ppm. 100 years ago to 350 ppm at present. It is also estimated to rise to 450 ppm by 2040. This rise in the carbon dioxide concentration will considerably increase the temperature on the earth and its atmosphere. This increase in the rise in the temperature of the earth and its atmosphere is called global warming.

The research scholar proposes to examine and make a critical study of right to healthy and wholesome environment in a constitutional and human rights perspective.

1.5. Object and Scope of the Study

Clean environment helps in enriching the quality of life. In the hustle-bustle of life, man has almost forgotten nature and has become more and more modernized with the aid of latest scientific and technological developments. Last six to seven decades have witnessed rapid industrial progress of man. At every step, man has chosen convenience over environment protection. One can cite numerous examples even from day to day life where man uses biodegradable material like rayon, polythene etc. For e.g. Man has preferred milk in plastic bags than in glass bottles, vegetables in polythene bags instead of jute/cotton bags. When this is so, we find the judiciary has given greater importance to life, health and ecology.

In the protection of the environment, judiciary has played a very active role in the form of judicial activism. Though the Constitution

of India has conferred right to life upon all persons to enjoy this right to the full extent quality of life becomes very important. The first indication of the right to a wholesome environment may be traced to Dehradun Quarrying Case.¹⁴

The judicial activism has helped in preserving the nature. To examine with the help of case laws how far the judiciary has succeeded in preserving the mother earth from the claws of the various polluters was the object of this study.

The study, which is based on sustainable development principle, also emphasizes to examine the quality of life while maintaining the balance between progress and development on one hand and preserving the environment on the other, thereby, enriching or diminishing the quality of life.

The object of the study was to find answers to the following questions:

- **Do we have enough laws dealing with the protection and preservation of the environment? If yes, how far is the enforcement machinery effective in its implementation?**
- **Whether the judiciary is protecting the right to healthy and wholesome environment? If yes, is it a curative or a preventive measure?**

The researcher intended to carry out the above study in a Constitutional and Human Rights perspective.

¹⁴ Rural Litigation and Environment Kendra V. State of Uttar Pradesh. AIR 1988 SC 2187

1.6 Hypothesis of the Study

The researcher has formulated the following hypothesis:

- That the legislations relating to environment are ineffective mainly because of lack of stringent punitive measures.**
- That, implementation machinery is unable to impose enough sanctions on the polluters, thereby leading to the degradation of environment.**
- That the role of the judiciary which has evolved the principle of 'Polluter Pays' and 'Precautionary Principle' comes into the picture only after the environment has been polluted (in a particular case)**
- That, there are no proper treatment plants for the management of biodegradable wastes and effluents.**
- That, the fundamental right to life cannot be fully enjoyed without a clean, healthy and wholesome environment.**
- That, to ensure quality of life there is a need to maintain a balance between development and environment.**
- That, to create public awareness relating to healthy and wholesome environment, the Government and voluntary organizations should play an active role.**
- That, poverty and population growth are the major hurdles in enforcing the right to a clean and wholesome environment.**
- That, because of the burden of cases there is a need for special environment law courts to deal with environment law cases.**

1.7. Methodology of the Study

This is purely a doctrinal study. As this study is socio-legal in nature, the researcher proposes to adopt a case study method. The researcher intended to carry out the present study by critically examining the various constitutional and legislative provisions relating to environment and also the relevant case laws. The case law study method enables in understanding the dynamics of current cases. By this one could understand both the state of law in a given subject and the directions that courts are likely to take in the foreseeable future.

The researcher has studied the various international conventions and legislations on environment and collected the relevant material.

The researcher has collected the required data basically from specific and related conventions. The material and information are collected from various sources like relevant statutes, published national and international books, parliamentary works, national journals and paper presented at seminars, symposia and workshop, judgments of Courts and relevant website available on the topic. The study also includes a comparative analysis made of various national and international legislations on the topic. The researcher also has collected data basically from secondary source like books by eminent jurists, statutes both national and international, case laws- Indian and foreign, articles of environ- jurists published in journals of repute and material collected from various treaties, conventions and covenants, bilateral as well as multilateral. The current and day-to-day developments relating to the study on hand is also to collected from various websites, print electronic media. By collecting this material, the researcher proposes to draw a comparative and critical analysis of the study on hand so as to reach the core aspects of the topic.

1.8 Limitations of the Study

The environmental law and the issues relating to environment are vast. However due to the constraint of time the researcher has restrained to limited area and have focused specially on the Land mark Judgments.

1.9 Review of the Chapters

Chapter One deals with introduction. In this Chapter the researcher has given general introduction to the topic of environment, the causes and factors of environment pollution and the importance of the topic in the present day context. It also includes the object and scope and rationale and significance of the study. The methodology adopted for the study is also to be dealt under this chapter.

Chapter Two deals with life and environment in which the interaction between concept of life and concept of environment has been discussed. The researcher has discussed the inter-dependence of quality of life and quality of environment. Life is not mere vegetative existence. It means much more than that. And in this interpretation of the concept of life quality of life is of utmost importance. And once one talks about the quality of life, then quality of environment has a major role to play. One can say that the two are inter –dependent. In this chapter the researcher has tried to establish this inter- dependence. Quality of life and quality of environment have a very close nexus. In this chapter an effort is made first to give an elaborate meaning and concept of life. The researcher also tries to trace the origin of life and meaning of quality of life. Quality of life is determined on the basis of

knowledge, inventions, innovations, needs and necessities. Desire of man is to develop and improve persistently and this predominates the life and quality of life. A change in the life-quality has also been influenced on the outcome of the regional, racial, cultural, geographical and climatic differences and as a whole influence the social and economic order of life.

Also the concept of environment has been discussed in this chapter. The various definitions of environment have been discussed here. Environment as is understood includes water, air and land and the inter relationship which exists among water and, air and land, and human beings, other living creatures, plants, microorganism and property. This chapter throws light upon the concept of quality of environment. A clean, healthy and wholesome environment is necessary to ensure the quality of life. So finally an inter relation has been attempted to be established between the two. A polluted environment is harmful for life. The concept of quality of environment as envisaged in various religions has also been discussed in this chapter. The synopsis of the chapter is as under.

2.1. Introduction

2.2 Meaning of Life

2.2.1 Definition of Life

2.2.2 Exceptions to the Conventional Definition of Life

2.2.3 Other Definitions

2.3 Origin of Life

2.3.1 The possibility of extraterrestrial life

2.3.2 Biological Evolution of Life

2.3.3 Current Models of the origin of life

2.4 Concept of Life

2.4.1 History of the concept

2.4.2 Scientific concept of life

2.4.3 Philosophical concept of life

2.5. Concept of Environment

2.5.1 Concept of Environment

2.5.2 Environmental Factors

2.5.3. Environment under Indian Scriptures

2.6. Inter-relation between Concept of Life and Concept of Environment

2.6.1 Human Impact on Vegetation

2.6.2 Human Impact on Soil

2.6.3 Human Impact on Water

2.6.4 Human Impact on Climate and Atmosphere

2.6.5 Human Impact on Geomorphology

2.6.6 Human Impact on Animals

2.7 Quality of Environment

2.8 Quality of Life

2.9 Quality of Life and Quality of Environment-Interdependence

Chapter Three deals with various National and International legislations relating to environment. There are several International Conventions pertaining to Environment protection. The researcher has discussed the important International Conventions in relation to the environment, like the Stockholm Declaration, The Rio de Janeiro Conference, The Kyoto Protocol, The Convention on Climate Change, and The Convention on Biodiversity etc.

The Researcher also has discussed the various National Legislations. They are:

1. Environment related provisions under different legislations prior to 1972
2. The Water (Prevention and Control of Pollution) Act, 1974
3. The Forest (Conservation) Act, 1980
4. The Air (Prevention) Act, 1981

5. The Environment (Protection) Act, 1986
1. The National Environment Tribunal Act, 1995
1. Environment related provisions under the Constitution of India.

Chapter Four of this study deals with the role of the Executive in the Environmental matters in maintaining Sustainable Development. The synopsis of this chapter is as under:

4.1. Introduction

4.2 Meaning and origin of the doctrine of Sustainable Development

4.3. Salient Principles of Sustainable Development

4.3.1 Inter-generational equity

4.3.2 Use and Conservation of Natural Resources

4.3.3 Environmental Protection

4.3.4 Precautionary Principle

4.3.5 Polluter Pays Principle

4.3.6 Obligation to Assist and Cooperate

4.3.7 Eradication of Poverty

4.3.8 Financial Assistance to Developing Countries

4.4 Industrial Development and Sustainable Development

4.5 Urbanization and Sustainable Development

4.6 Environmental Policy and Sustainable Development

4.6.1 Fourth Five Year Plan

4.6.2 Fifth Five Year Plan

4.6.3 Sixth Five Year Plan

4.6.4 Seventh Five Year Plan

4.6.5 Eighth Five Year Plan

- 4.6.6 Ninth Five Year Plan**
- 4.6.7 Tenth Five Year Plan**
- 4.7 Development at whose Costs: Environment Impact Management.**
- 4.8 People's Movement For Environmental Protection**
 - 3.7.0 First Movement for Environment Protection**
 - 3.7.0 Chipko Movement for Environment Protection**
 - 3.7.0 Silent Valley Project**
 - 3.7.0 The Tehri Dam Project**
 - 3.7.0 Narmada Bachao Andolan**
 - 3.7.0 Environment Movement in Karnataka**
 - 3.7.0 Movements in Gujarat**
 - 3.7.0 Movements in Uttaranchal**
 - 3.7.0 M.C.Mehta Foundation**
 - 3.7.0 The Environment Society of Chandigarh**
 - 3.7.0 Law School Efforts in Protection of Environment**

1.8 Environmental Impact Assessment

Chapter Five deals with how to maintain the balance between development and environment, its protection and preservation. The researcher has dealt this Chapter from the Human Rights perspective. Here a study has been made of the various international human rights instruments pertaining to environment. Here, the balance between the environment and development is studied from human rights point. The synopsis of the chapter is as under:

5.1 Introduction

5.2 Meaning of Human Rights

5.3 Right to Healthy and Wholesome Environment –A Human Right

5.4 International Instruments on Human Rights and Environment

5.5 Environment Related Human Rights violation – Instances

5.6 Relation between Human Rights, Environment Protection and Development

What is the role of the Judiciary in maintaining and preserving the Environment? What is the judicial trend in this context? The researcher has tried to answer these entire questions in the **Chapter Six** of the Study with the help of various landmark case laws. It has been observed that the Indian Supreme Court has emerged as the protector of the fundamental rights. The judicial development of environmental law has been vigorous and imaginative. The judicial response to almost all environmental litigations in India has been very positive in India. The primary effort of the Court while dealing with the environmental related issues is to see that the enforcement agencies, whether it be the State or any other authority, take effective steps for the enforcement of the laws. One sees the Supreme Court in an activist role. One finds the Court issuing directions to the Municipal Council for cleaning the waste or at other times issuing directions to the enforcing agencies of the State for preventing air pollution and directing the conversion of all the old model vehicles into CNG. Ordinarily this may fall in the purview of the Executive. In fact it is the function of the Executive to look into the proper execution of

the laws. However, when we find the executive inactive, we see the rise of an active judiciary, which we see as a watchdog on the two organs of the Government. The synopsis of this chapter under :

6.1 Introduction

6.2 Judicial Initiative: Role of Public Interest Litigation

6.2.1. From 'life' to 'life with dignity'

6.2.2. Relaxation of the rule of locus standi

6.3. Environmental Dimension of Article 21

**6.3.1 Right to Healthy and Wholesome Environment:
A Fundamental Right under Article 21.**

6.3.2. Cases pertaining to quarries and stone crushers

6.3.3 Article 21: Trade effluents and water pollution

6.3.4. Article 21 and Taj cases

6.3.5. Article 21 and Air Pollution

6.3.6 Right to livelihood and environment protection

**6.3.7 Industrial Pollution and Re-Location of
Industries**

6.4 Environmental Dimension of Article 19

**6.4.1 Freedom of speech and expression and
environment protection**

**6.4.2. Freedom to carry trade or business and
environment protection**

6.5 Impact of Right to Know on Environmental Protection

6.6 Right to Equality and Environmental Protection

The Researcher has concluded the study on hand in **Chapter Seven** by proposing certain remedies and suggestions based upon the study of various case laws. Some constructive and pragmatic suggestions have been made by the researcher. The synopsis is as under:

**7.1 Quality of Life and Quality of Environment:
Interdependent**

**7.2 International Instruments and National
Legislations: Ineffective**

7.3 Role of People's Movement: Need of the hour

7.4 Constitutional Provisions: Sufficient

7.5 Role of Judiciary: Satisfactory

7.6 Human Rights Perspective

7.7 Suggestions