

“EVOLUTION OF ENVIRONMENTAL JURISPRUDENCE IN INDIA: A CRITICAL ANALYSIS OF EXISTING LEGAL FRAMEWORK”

CHAPTER-1 INTRODUCTION

“Earth provides enough to satisfy every man’s needs, but not every man’s greed”

-Mahatma Gandhi

1.1 GENERAL INTRODUCTION

Environment plays a vital role in human life similarly as within the development of society at massive. In India, surroundings and person isn't break away one another. That's why protection of surroundings is crucial for human survival, growth and development of natural resources. Healthy surroundings could be a necessary like of each person. There are varied issues round-faced because of ecological imbalance by Asian nation that causes serious damages to surroundings and human health.¹ Because of industrial advancements and technological growth there's large injury caused to surroundings. Protection of surroundings shall not be unnoticed at the value of human life and loss of living being from the world. There are many initiatives being taken and measures adopted by Asian nation in developing Environmental Jurisprudence.²

To understand Environmental Jurisprudence³, one has to perceive relationship between surroundings and jurisprudence and its evolution in Bharat. So, as to safeguard our surroundings from pollution environmental jurisprudence evolved in Bharat. Even within the Pre-Vedic Bharat natural depression Civilization that flourished in northern India regarding 5000 years, ecological awareness is same to possess existed. This can be clear from the archaeological proof gathered from Harappa and Mohenjo-Daro, World Health Organization were the civilization's powerful cities.⁴ Protection and clean-up from surroundings was the essence of religious writing (1500–500 BC) culture. Charak Vedic literature (medical Science book of 900 B.C. – 600 BC) offers several directions for the utilization of water for maintaining its purity. beneath the

International Journal of Law, Volume 4; Issue 1; January 2018; Page No. 20-22

Abraham C.M; Environmental Jurisprudence in India, 1999, Kluwer Law International, pp.1-2

our Judicial Bench

Practices and laws in Ancient India

Arthashastra (an ancient book on diplomacy, policy and military strategy), numerous punishments were prescribed for cutting trees, damaging forests, and for killing animals and environmental ethics of nature conservation weren't solely applicable to common person however the rulers and kings were conjointly certain by them. The history of medieval Bharat is dominated by Muslim Rulers wherever no noteworthy development of environmental jurisprudence transpires except throughout the rule of Mughal Emperor Akbar.⁵ Laws were created throughout British amount conjointly.

Environmental Jurisprudence in Bharat created a starting within the seventies once Parliament enacted the Water (Prevention and management of Pollution) Act, 1974. Within the Constitution of Bharat, it's clearly expressed that it's the duty of the state to 'protect and improve the surroundings and to safeguard the forests and life of the country'. Also, it imposes an obligation on each national 'to shield and improve the natural surroundings as well as forests, lakes, rivers, and life⁶. Bharat became the primary country within the world to possess provisions on the surroundings in its constitution as Indian parliament passed the forty second change to the constitution in 1976.⁷ There have been environmental legislations created pre-independence era and post-independence era additionally however still unresponsive solutions came from the provisions of these legislations and therefore the trend follows. thanks to lack of correct implementation of legislation⁸ for surroundings protection, the larger sections of Indian society, majorly rural areas lack were empty their rights of the free or common native resources provided to them naturally for his or her living. Environmental jurisprudence contains rules on numerous aspects of environmental protection and property development, each legislative and judicial. In India, numerous environmental protection laws are passed. However, the environmental protection movement gained momentum within the Eighties and 90s with the judicial vigil. The Indian judiciary has via a stellar role in protective the surroundings and spreading environmental awareness among the Indian people, armed with the correct of review and constitutional system of judicial independence.⁹

Unsustainable Patterns of consumption and production may lead to loss of natural resources, extinction of species, environmental pollution and harm to the human health. This pattern was a result of practices adopted by developed nations, degrading not solely the present surroundings however conjointly making a possible threat for future generations. It's been recognized as a threat to peace. Over-exploitation of natural resources, population, development, and growth on the price of environmental harm is that the main reason for this threat. All biological beings are dependent upon the surroundings, and equally, we tend to people at large conjointly, directly or indirectly, rely upon the surroundings for our subsistence and development. However, people at large in their enthusiasm for development didn't perceive that their own reality is being imperilled by threatening the surroundings.¹⁰ So, as to fulfil the greed; humans are abusing the utilization of natural resources. Thanks to their excessive use in such some way, the long run generation wouldn't be ready to meet even their basic desires.

cies and laws in Medieval India

Article 48 of the Indian Constitution, Refer to Directive principle of state policy and Fundamental Duties

India is one of the signatories at Stockholm Declaration which is known as the Magna Carta on Human Environment.

Article 21- Right to Life and personal liberty, Refer Constitution of India

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The present body and institutional framework for handling environmental problems is simply too infirm and ineffective. Therefore, there's a desire for robust administration and legislative action to handle true. In pre-independence era, assessing the loss to the surroundings, several laws were enacted by British government that had environment-related provisions. Indian Penal Code¹¹ and Criminal Procedure Code¹² have some provisions in regard to foul air and water beneath the heading "Public Nuisance." Issue of sound pollution was known within the Police Act, and therefore the Poison Act¹³ covers the problems associated with use of chemical and its management. The Indian Forest Act¹⁴ has provisions for forest and life protection.¹⁵ Several similar laws were envisaged and brought into force, however, thanks to poor enforcement; those were instead used for the use and privatization instead of the protection of the surroundings. And thus, the laws therefore enacted, couldn't comprehend the growing threat to the surroundings and no appropriate amendments might be incorporated to conterminous with the rising drawback. The trend of abuse of the surroundings was still continued even when the independence of Bharat. And lastly, Associate in nursing initiative was taken within the late 70s. The capital of Sweden Conference, 1972¹⁶ may be a landmark event within the history of surroundings jurisprudence and so gave impetus to any or all language countries to require applicable measures through that correct protection of surroundings are done. Before launching the measures, necessary amendments were necessity in Supreme legislation of the land, i.e., Constitution of Bharat. Originally, the Indian constitution had no provisions for environmental protection, because the framers of the Indian constitution couldn't foresee the menace. Though, the Indian legal code, 1860 has some bare provisions for the offenses regarding the environmental hazards beneath section 278.¹⁷ In 1976, visible of Article 253,¹⁸ the Government of India introduced forty second Amendment¹⁹ and side Article 48A and 51A within the constitution²⁰ of India with twofold approach to tackle the matter. Article 48A puts Associate in Nursing obligation on the state for cover and improvement of surroundings and safeguarding of forests and life. Whereas Article 51A (g) imposes an obligation on the voters to boost and shield the natural surroundings as well as lakes, forests, rivers, and life, and to possess compassion for living creatures.²¹ Besides these, minor changes were created within the seventh, eleventh and twelfth schedules to more elaborate the difficulty. In terms of common law, the Supreme Court of Bharat has via a big role within the emergence of environmental jurisprudence. By variety of judgments²², the Supreme Court of Bharat has outlined and demarcated the contours of the surroundings protection. Parliament has power to legislate any law for implementation of any contract, agreement or convention at bilateral as well as multilateral level. This power was conferred by the virtue of Article 253²³ of the Constitution of India. Literal Interpretation of Article 253 in response to

11 Indian Penal Code, 1860

12 Criminal Procedure Code, 1973

13 The Poisons Act 1919

14 Indian Forest Act, 1927

15 Article 21- Right to Life and personal liberty, Refer Constitution of India

16 United Nations Conference on Human Environment, Stockholm, Swed., June 5-16, 1972, Declaration of the United Nations Conference on Human Environment, U.N.Doc. A/CONF.48/14/Rev. 1 (June 16, 1972)

17 Section 278 Indian Penal Code, 1860

18 Article 253, Constitution of India

19 The Constitution (Forty-Second Amendment) Act, 1976

20 M. Karim v. State of West Bengal

21 National Environment Policy 2006

22 C Mehta v Union of India (1987)

23 Indian Constitution

Stockholm Conference²⁴ clearly indicates that the parliament possesses the inherent powers to make any law for the protection of the environment. Environmental jurisprudence²⁵ not only includes the laws which are made under the statutory authority, but it also includes interpretation of statutes and laws made by the judiciary. It also includes all aspects which are concerning with environment protection and sustainable development. The commencement of environment jurisprudence has been started in India by the Amendment of 42nd by insertion of Article 48(A) and 51-A (g).²⁶

1.2 STATEMENT OF PROBLEM

Environmental protection is turning into one in every of the globe community's main issues. International destruction goes on at associate degree new rate by act. The injury caused are going to be serious and permanent, destroying not solely ourselves, however future generations, unless this cycle is command in restraint. The hurt to the atmosphere won't solely be drained the state wherever it happens, however additionally at the world level. Collective efforts should be created by all public establishments, as well as the judiciary, to counter this basic threat. Human activities typically obtain to submerge values that square measure gift within the practices of the many developing countries, like respect for nature, territory of earth resources and public interests. These traditions may be a chic supply of inspiration for the future's environmental law, wherever they receive relevant attention. Environmental devastation caused by each natural and synthetic causes, like earthquakes, cyclones and nuclear explosions, industrial accidents, etc., has inflated the human life threat. Every issue that contributes to the decline within the setting serves to extend economic disruption, social tension and political antagonism in variable degrees. The thesis so demands that environmental instability and its direct impact on individuals, physical, cultural, economic, emotional and religious well-being, and also the terribly nature of life itself, be delivered to light-weight.²⁷

It mustn't be forgotten that it's the responsibility of this generation that has the chance to deal with environmental problems as a result of if this scenario is allowed to continue, future generation won't be there. Environmental challenges give a far a lot of formidable and permanent goal as a healthy setting may be a necessity for the proper to life. The environmental agenda isn't any longer one in every ethical and social feelings; the problem of human survival has currently become one. Despite such a big number of laws and actions, the environmental issue in India appearance bleak. With industrial waste and waste, the rivers and lakes still are obstructed. The air is heavily impure in several cities in India. Deforestation happens as traditional. Despite the social control of Acts, the protection of life isn't administered in its true spirit. Voters got to be driven and inspired to judge the pattern of grip the protection of the globe as an entire, the wealth of our prosperity and Earth. The existence of laws to guard air, water, soil, etc. doesn't essentially mean addressing the matter. It's to be enforced once the law is formed at the regional, national or state level. To with success implement environmental legislation, there should be an efficient agency to gather method and pass away relevant knowledge to an enforcement agency. If an individual or organization breaks the law or

²⁴highlighted in Oleum gas leak case and by Law Commission of India in its 186th Report in 2003.

²⁵per our Judicial Bench

²⁶d Amendment, 1976

²⁷passed in May, 2010- NGT Act

regulation, it should be enforced through the legal method. And if the implementation of the law isn't done strictly, the scientist has additionally worked on an issue on whether or not or not the legislative framework is spare to resolve the environmental or human health issue. As environmental proceedings is pricey as different forms of disputes, therefore the centre and state boards should be ready to afford the experience and body backing.

The problem once more is that the provisions of environmental law square measure mere letters, then however the life and blood is given to those letters as there's an enormous and wide gap between the environmental laws and also the social control of those laws. There's lack of demanding and strict laws for penalty underneath this law that's why the environmental legislations don't seem to be enforced strictly. there's a additionally an issue that continuously arise whether or not judges create laws or not or solely realize or interpret the laws just in case of environmental laws. Solely through education and awareness will these problems be resolved. The scientist so elects this necessary issue. The Centre and state got to judge the requirement of recent principles of setting like preventive principle, trust school of thought, property development, etc. The scientist additionally can judge the role associate degree effectiveness of PIL's in India relating to setting connected issues and their solutions and there's an analysis additionally done on the National Green Tribunal. There imperative would like that each the state and voters should sit along and take applicable steps relating to environmental degradation and injury caused to the nature and people.

1.3 RESEARCH HYPOTHESIS

The formulation of perfect policy on environmental issues, which is considered essential, is lacking and doesn't reflect in environmental legislation.²⁸ The judicial outcomes are often neglected and not properly complied by the respective agencies of the state²⁹.

1.4 AIMS AND OBJECTIVES OF THE STUDY

India has not only enacted various specific environmental pollution control laws, but has also incorporated important environmental protection provisions into its constitution. The Right to clean Environment had been incorporated as fundamental right. 42nd Amendment to the Indian constitution inserted articles 48-A directing- the state to protect and improve the environment and to safeguard the forests and wildlife of the country and Article 51-A (g) mentioning- fundamental duties of the citizens to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. Also, there are few changes being made in the seventh schedule of Constitution. This 42nd amendment³⁰ to the Constitution of India and the introduction of Articles 48-A and 51-A (g) marked the start of environmental jurisprudence in India.³¹

The main objective of this research is to analyse the distinct nature of Indian judiciary's outstanding contribution to the development of environmental jurisprudence within a broader constitutional and

Article 21- Constitution of India

C. Mehta v. Union of India

42nd Amendment to Constitution

Article 21, Refer Constitution of India

jurisprudential framework. After the 1972 Stockholm Conference on Human Environment, judicial awakening and environmental protection advocacy in India started formally. The word "judicial activism" refers to a system where, at one end, the logically-principled laws are in court's hands and, at the other end; there are requests, desires for society's expectations that force it to conform to the legal framework.

The public laws that existed were IPC 1860, CRPC 1898, and The Environmental Protection Act 1986. Public Interest Litigation (PIL) has risen in India to prevent environmental degradation and the judiciary has come on a number of occasions to rescue people. There are several historic court decisions in India that represent both people and the environment. There are international treaties and principles for the protection of environment. In the research on the proposed title "*EVOLUTION OF ENVIRONMENTAL JURISPRUDENCE IN INDIA: A CONSTITUTIONAL FRAMEWORK*", the researcher will also focus on the brief history of how environmental jurisprudence is made in India and evolved. The jurisprudence came to control pollution. Earlier when there was no separate legislation for environment protection, Constitution of India was referred. After which India signed KYOTO PROTOCOL. Basic framework to environment only gives the law relating to environment. The legislation just fills the gaps. Apart from other principles of Environment protection such as Polluter Pay Principle, Precautionary Principle, Sustainable Development, Public trust doctrine, Intergenerational equity, there came a new and an important principle called Absolute Liability principle in Oleum gas leak gas. Oleum case came after Bhopal Gas Tragedy.

For environment protection, legislation under article 23, known as Environment Protection Act, 1986 was passed. This Act was passed to fill the gaps in regulations relating to major environmental Hazards. There was also a need to set up special courts to deliver speedy and inexpensive justice. National Green Tribunal Act, 2010 has been enacted as an alternative forum. NGT replaced the earlier existing National Environment Tribunal and The National Environment Appellate Authority.

The researcher will discuss the interpretation of all the historical and landmark judgments on Environment and will enhance the jurisprudential aspects as well as the constitutional framework dealing with the environment in India.

1.5 RESEARCH METHODOLOGY

Research is a detailed and careful study of any subject in order to discover new findings and things. The crucial part of any research is about having an idea about the available literature and works already been done. Eventually the study should always bring an analysis and the loopholes if there are any.

According to Robert Burns, "Research is a systematic investigation to find a solution to a problem".³² According to Clifford Woody "Research comprises defining and redefining problems, formulating hypothesis or suggested solutions; collecting, organizing and evaluating data; making deductions and reaching conclusions; and at last carefully testing the conclusions to determine whether they fit the formulating hypothesis. Research is, thus, an original contribution to the existing stock of knowledge making for its advancement. It is the pursuit of truth with the help of study, observation, comparison and experiment. In short, the search for knowledge through objective and systematic method of finding solution to a problem is research."³³

Methodology refers the science of method and procedure. It is scientific investigation, explanation, and justification of methods which provide a procedure for carrying out research.

Goode and Hatt say, "Scientific method is a gateway to explore the truth by way of systematic, verifiability, generality, predictability and objectivity".³⁴

1.6.1 Research Design

The research is doctrinal, which is designed keeping in view the objectives and the scope of study. The doctrinal research concerns with legal doctrines. The data which have a major contribution in our research is judicial decisions by different courts of India. Doctrinal method includes two side processes that include source of law and interpretation of law. The research is basically doctrinal research and based on the secondary data that includes books, relevant articles, national and international journals, judicial pronouncements, AIRs, law journals, cases of higher and lower judiciary, reports of the various committee, etc. Some of the data is extracted from the reports of some organizations which are involved in protection of environment.

1.6.2 Sources of Data

The research study is doctrinal in nature that based on the books, legislations and the decisions of the various courts. It does not require any kind of field data or sample collection. The research is based on some primary sources and secondary sources which are as follows:

i. Primary Sources - The primary sources includes the study and analysis of legal provisions, orders, rules, statute, and leading judgements on environment jurisprudence and judicial protection. Above sources are studied from analytical point of view.

ii. Secondary Sources - The secondary sources includes articles, reports research paper and text which are related to environmental issues.

1.7 SCOPE OF THE STUDY

The researcher has mainly focused and restricted her research on some points related to the development of environmental jurisprudence in India by Judiciary, especially Supreme Court's intervention in various environment related matters. The main centre of the study is on various factors which initiate and give a new horizon to the judicial activism in India especially in the field of environment. India is a democratic country where the constitution is the supreme, and all powers are vested in three organs of governments, i.e., Legislature, Executive, and Judiciary. But in current scenario judiciary is not only imparting the justice but also making laws in social concerns. It takes the responsibility of legislature and executive in the field of environment. Judiciary also issued many guidelines and directions to the legislature as to how to make law, and even the legislature is not allowed to make law in contravention of these directions. Therefore interference by the judiciary is clearly visible, but in a positive manner, helps in controlling environmental degradation. Due to the inefficiency of Executive in our country, Judiciary had interfered in implementing some environmental laws for enhancement of environmental conditions. This must be considered as a

positive contribution which leads to judicial activism in the specific law for environment protection.

The focal point of the research analysis is to examine the legality of judicial activism in enhancing environmental jurisprudence. The new principles and methods adopted by Indian judiciary in implementing environmental laws and controlling environmental degradation are also examined in this research study.

1.8 SCHEME OF STUDY- The main body of the thesis will be organized in the fashion that would give clear and coherent understanding of the general message of the study, dividing into seven chapters. In order to avoid redundancy of discussion, citation will be used to make cross reference of other relevant sections. The present research work is divided under the following chapters.

Chapter 1 of the dissertation includes an introduction, need and scope of the study. This part of the thesis also has literature review, main objectives of the study, hypothesis of my research and lastly the methods used for conducting research.

Chapter 2 Deals with the study and analysis of previous research done in the field; a detailed literature review is detailed in this chapter.

Chapter 3 & 4 covers “Evolution of environment Jurisprudence in India” And “Principles and Doctrines propounded by Indian Judiciary” – Deals with the evolution and global concerns for environmental protection. It also deals with the concept of evolution and development of environmental jurisprudence in India. Environmental law can be considered as a combination of some international principles, doctrines, norms and concepts propounded by various jurists and Indian judiciary.

Chapter 5 covers constitutional provisions for environment protection which explores the various provisions under Constitution of India for protection of environment. The Stockholm conference, 1972 is a landmark in the history of environmental protection and thus gave impetus to all signing countries to take appropriate measures for environmental protection. Before launching the measures, necessary amendments were prerequisite in supreme legislation of the land, i.e., Indian Constitution. Originally, the Indian constitution had no provisions for environmental protection, as the framers of the Indian constitution could not foresee the menace.

In **Chapter 6**, Judicial activism and environmental Jurisprudence in India is detailed which is based on the analysis of different legislations related to environmental protection in India. A surfeit of legislation has been come in to force at the different time in order to protect the environment. Several environment protection legislations existed even before the independence period, but true well-developed enactment came into force only after the Stockholm Declaration 1972.

Chapter 7 covers international perspectives - comparative analysis of International and domestic efforts in safeguarding environment. – In this section, we have assesses the legality of judicial activism in the sphere of environment protection. Independence of judiciary which is giving base for the power of judicial review made the judiciary to take necessary action in enhancing the protection of environment.

Chapter 8 the final conclusions and suggestions are given. Chapter 8 is the last chapter in which we have proposed some changes which must be made for effective functioning of environmental laws. This chapter

deals with the inefficiency of legislature which Indian judiciary have to deal with, and ultimately extend its scope of working by indirectly making some laws.

CHAPTER-2

REVIEW OF LITERATURE

• Dr. J.N. Pandey, Indian Constitutional Law in Chapter 11 talks about the Protection of life and personal Liberty³⁵ (Chapter 11, p 279- 287.) - This chapter talks about specifically articles 21³⁶ and these pages are given a talk on Environmental Rights and the decision given by the court, In Subash Kumar v State of Bihar³⁷ has held the rights to free water and air pollution, including the right to life. Rural Litigation and Kendra³⁸ vs. rights. State U.P. - Protection of Ecology and Environmental Pollution provided. The Supreme Court directed to take security measures prior to reopen the plant in SHRIRAM Fertilizer Food and cases³⁹. The court also considered to be concerned about water pollution control that comes to notice through public interest litigation⁴⁰. In the Indian Council for Enviro-Action vs. law⁴¹. Union of India, the Supreme Court said that the right to life of citizens is inviolable. In the case of Vellore Citizens principles of environmental protection are highlighted.

Ecology of coastal areas is protected in S. Jagannath vs. Union of India⁴². Mining in the hills of the Aravalli range is prohibited in M.C Mehta vs. Union of India⁴³. In the Noise Pollution Re⁴⁴, Article 21 includes freedom from noise pollution.

Intellectual Forum in Tirupathi vs. The state of Andhra Pradesh⁴⁵, it was held that in the name of urban development environment cannot be destroyed. Then came the Bhopal gas tragedy case⁴⁶ in which there are large natural disasters as well as human health because the Supreme Court is directed to dispose of hazardous waste and materials that affect the environment.

• Dr. Mamta Rao, Constitutional Law (Chapter 9, pp 231- 234.) - This speaks of Environmental Rights, including the Right to life and personal liberty and the right to health and a landmark vote included. This is explained through oleum

Article 21, Refer Constitution of India

R 1991 SC 420

(1985)2 SCC 431

M.C Mehta v. Union of India, (1986)2 SCC 176

(1987) 4 SCC 463, (1988) 1 SCC 471

(1996) 3 SCC 212; see also Vellore Citizen's Welfare Forum v. Union of India (1996) 5 SCC 647

R 1997 SC 811

R 2004 SC 4016

R 2005 SC 3136

R 2006 SC 1350

R 2012 SC 3081

gas leak case⁴⁷, the right to a healthy environment is part of the basic right to life under article 21. This article explains that the interruption of basic environmental elements hazardous to life within the meaning of Article 21. It also explains neighbourhood relations with the Public Trust Doctrine. The Court stated outright ban on smoking in public places in *Murli Deora S. vs. Union of India*⁴⁸. The perpetrators of the environment cannot take shelter under Article 1 (1) (a) request, freedom of speech and expression.

- Bare Act, the Constitution of India, 1949 - The opening itself speaks about the basic framework that gives the right to protect the environment⁴⁹. The chapter on Fundamental tasks clearly imposes a duty on every citizen to protect the environment. Article 51-A (g) said, it will be the duty of every citizen to protect and enhance the natural environment. The principles of the directive are directed goal of building a welfare state. A healthy environment is one element of the welfare state. Article 47 stipulates that the state will assume the standard of living and public health improvement that include environmental protection. Articles 14, 19 and 21 are used for environmental protection. Public interest litigation based on article 32 and 226 resulted in a wave of environmental litigation. Environmental jurisprudence through the structural basis of the constitutional framework⁵⁰.

From and Rangam Sukhwinder Singh Sharma, Review of Environmental Jurisprudence in India, Journal of General Management Research, vol.1, pp.1-13 - In this paper, the authors emphasize the importance of environmental Jurisprudence in India. It also explains the role of legislator and a variety of legislation in environmental protection. The author also spoke about international law emphasis on national law to deal with environmental protection. It talks about judicial activism and judgments given on environmental protection. The author provides advice and recommendations for further research in the development of environmental protection in India.

- Dr. V.G Shinde, Judicial contribution in improving the environmental jurisprudence, International Journal of Law, Volume 4; Problem 1; January 2018; Page No. 20-22 - The author focuses on the concept of environment and pollution and the importance of environmental protection. It is observed that, the Indian Constitution contains several provisions that require the State and citizens to protect the environment. The author talks about the contribution of the judiciary in environmental protection and on the principles discussed. Absolute Liability Principle comes in *Oleum Gas Leak case*⁵¹.
- Centre for policy research. Retrieved from cprindia.org/news/Indian-environmental-law-key-concepts-and-principles. - India Legal Environment: Key Concepts and Principles fill this gap through a critical analysis of the evolution of the legal framework of this environment in India. It studies the origins of environmental rights, both substantive and procedural, and the most significant four principles- the principle of sustainable development law, the polluter pays principle, the precautionary principle and the doctrine of public trust and outlining how the Indian courts have been established, interpreted and applied in whole range of contexts.

- **BOOKS**

- S.C. Shastri in his book, "Environmental Law" explains the growth of environmental law in India. This book is primarily judged some important judicial decisions of the Apex Court and the High Court of India. The law is always changing, and the author's help in studying the changing dimensions of environmental law. In India, environmental jurisprudence developed through the corridors of time, and needs to be assessed from

C Mehta v. Union of India

(1980) 8 SCC 765

^d Amendment

Constitution of India

C. Mehta v. Union of India

the ancient time period. Therefore, it is also mentioned that incorporated an environmental ethic in the Vedas, Purans and many historical texts and is also followed by a modern India.⁵²

- S.P. Sathe in his book, "Judicial Activism in India: abuse Borders and Enforcing Limits" clarify the role of the judiciary in protecting the environment, and how the judicial activism is needed to improve environmental conditions. This book focuses on the following issues: The power of judicial review and judicial review role in democracy today. It analyzes the judicial function in a variety of potential and address the question of accountability courts. It analyzes the various political events that determine the contribution of justice that not only exposes the abuse of public power but also limits the government's violation of the law. It covers the different approaches of the Supreme Court and the House of Representatives and the various conflicting claims of the Parliament and the Supreme Court in relation to the rule like the Parliament to change the law by the Supreme Court or not etc. trace the evolution of Apex Court in a different way, acts as an activist positive.⁵³
- Dr. I. A. Khan in his book, "Environmental Law" discussing the problem of environmental pollution in a very descriptive. The legal framework is also discussed from national and international perspectives on environmental protection in India.⁵⁴
- Dr. H. N. Tiwari in his book, "Environmental Law" clearly a complete definition of the Environment. It addresses some important issues that are the backbone of environmental protection such as global warming at the national or international level, international issues related to the environment, the causes and effects of pollution, etc. It also emphasizes the positive role of the judiciary in environmental protection.⁵⁵
- P. Leela Krishnan in his book, "Environmental Law in India" examines and attempts to bring forward development of environmental protection by the legal system in India. It explores the laws and practices of different established in ancient times and give a new direction of development environment. It also explains the relationship of environmental law with other laws in various disciplines. This refers to the role of the courts in a different way, and they develop a deep action is considered a public nuisance as a powerful weapon for protection of the environment in India. It summarizes the management of coastal areas and other related laws for environmental protection and enforcement in India. It outlines the role of the Indian judiciary in the development of environmental law in India. Interpretation of Article 21 by the Supreme Court and the right to live in a clean and healthy environment as a fundamental right is a significant effort and contribution of the judiciary. It also focuses on the importance of the Public Interest Litigation in the field of environmental protection. Environmental Impact Assessment and Public Participation in Decision-making environment in India also elaborate on some new methods of environmental protection.⁵⁶
- P. Leela Krishnan in his book "Environmental Law Case Book" outlining the role of the judiciary and judicial activism in the development of the law relating to the environment. It emphasizes the role of the

C. Shastri, Environmental Law, (Eastern Book Company, edn. 3rd 2008)

S. Sathe, Judicial Activism in India: Transgressing Borders and Enforcing Limits, 203 (New Delhi, Oxford University Press, 2nd edition., 2003)

I. A. Khan, Environmental Law, (Central Law Agency, 2003)

H. N. Tiwari, Environment Law, (Allahabad Law Agency, 3rd edn. 2001)

P. Leelakrishnan, Environmental Law in India (Lexis nexis Butterworth, edn. 2nd, 2008)

courts in the interpretation of the old law, explored and improved dark areas of the law by the statute. With this work, the author tries to explain the contribution of the judiciary in adjudicating matters relating to the incorporation of constitutional rights and environmental protection, and also where the principles of international environmental law implemented. Critically analyze the limits of judicial review in various parts of the environment and the influence of international conventions on judicial statement on environmental issues.⁵⁷

- Nimushakavi Vasanthi in his book, "The Constitution and Jurisprudence Environmental Policy in India" to explain important aspects of the laws and policies that provide an outstanding contribution in the field of environmental protection of the environment. It tries to explore the inter-relationship between different types of law such as international law, human rights, and sustainable development how of the national and international levels associated with environmental laws and constitutional. Reviewing the basic structure of the constitution and the Supreme Court's role in determining the various laws relating to protection of the environment with particular reference to Public Interest Litigation and Article 21.⁵⁸
- Lal's book, "Lal's Encyclopaedia of Environmental Protection and Pollution Law" contains a variety of statutes, regulations, and a statement from the judiciary governing environmental protection in India. It is a compilation of various laws and regulations relating to the environment. It contains the rules applicable in different countries, and it helps researchers to conduct a comparative analysis of environment-related laws and policies in the countries. This is a digest of various international declarations, mandates, conventions and protocols that provide the background in which the national laws and the laws can be understood. It also focuses on a brief introduction of significant judicial literature and statements related to the environment.⁵⁹
- H. K. Bharti and B.K. Dubey in their book, "Manual of Environmental and Pollution Law" giving a brief, simple and research-oriented approach in relation to environmental issues. It presents a wide range of assessment, decisions and directions of the high court and the Supreme Court by way of a simplified relating to environmental protection. It discusses the various ratings that give a clear idea about the environmental concerns associated. This book provides a combined approach with environmental laws.⁶⁰
- C. M. Jariwala in his book "Environment and Justice" legislation outlining the different petitions related to the environment and the active participation of the judiciary in the field of environment. It provides important findings in a case of getting what becomes adopted by the court to give judgment or order. A critical study conducted by the authors to find a new way to determine judicial activism. The main aspect of this book is on the following points:
 - To track an accurate technique to handle the scale for environmental justice.
 - To highlight the measures adopted by the legislation in environmental justice.
 - To check whether the courts work in the same direction as provided by law.

Leelakrishnan, Environmental Law Case Book (Lexis nexus Butterworth, edn. 2nd 2004)

Nimushakavi Vasanthi, Constitutional Policy and Environmental Jurisprudence in India (Mc Millian India, 2006)

Chuni Lal, Lal's Encyclopaedia on Environment Protection and Pollution Laws (Delhi Law Agency, Delhi, (2015)

H. K. Bharti and B.K. Dubey, Manual of Environment and Pollution Laws (Wadhwa and Company, Indore, 1st eds. (2010)

- To explore various modes of compensation and check whether this mode works in a satisfactory manner or not. It analyzes the different challenges before the courts in tackling environmental issues and suggestions to know the main administration of environmental justice.⁶¹
- C.M. Abraham in his book, "Environmental Jurisprudence in India" provides a brief introduction to environmental jurisprudence in India and analysis of different properties within the framework of constitutional jurisprudence. The main purpose of this book is to examine contemporary developments in the field of environmental development, and not only works as a companion to the common law but also provide concrete mechanisms to protect the environment legally. The growth of environmental jurisprudence has shown that it starts with some new confidence in creating a basic right to live in a clean and healthy environment. It does not seem to focus more on the international front but provide a different experience from the judiciary, expanding the scope of protection of the environment by the establishment of policies and regulations more stringent.⁶²
- Kailash Thakur in his book, "Environmental Protection and Policy in India" obviously factors that affect the environment and cause pollution as well as the different legal techniques to handle it. It gives a brief introduction of various environmental policies in force in India and the judicial approach to the emergence of judicial activism in developing and promoting environmental protection. It also focuses on the contribution of the Public Interest Litigation with various statements from the apex court on issues related to the environment. It shows to prepare some special courts and tribunals for matters relating to the environment, including public participation and access to information⁶³.
- Shyam Divan and Armin Rosencranz in their book, "Environmental Law and Policy in India: Cases, Materials and Statutes," including the statements relating to the environment leads to a brief introduction and a brief extract. It focuses on various laws and regulations relating to the environment, environmental policy, the different issues at national and international levels, regulation of hazardous substances, etc. ⁶⁴
- Jorge. E. Vinuales and Pierre in their book, "International Environmental Law" explains the appearance and development of international environmental law. It also includes the sources of international environmental law and the principles that give a new dimension to international environmental law. He gave a brief introduction and the importance of treaties and conventions that work for environmental protection at the international level. They work on the Sustainable Development Goals and the Paris Convention on climate change. They include the adoption of the Montreal Protocol Changes Kigali, the role of the International Law Commission on the atmosphere, the effect of armed conflict on the environment and the relationship between Human Rights and the Environment with the relevant case law.⁶⁵
- **ARTICLES**
 - Barry Hill, Steve Wolfson and Nicolas Turg in their article, "Human Rights and the Environment - A Synopsis and Some Predictions" provides that human rights and environmental rights are two sides of the

M. Jariwala, Environment and Justice, (A P H Publishing House, 2004)

Leelakrishnan, Environmental Law in India (Lexis nexus Butterworth, edn. 2nd, 2008)

Leelakrishnan, Environmental Law Case Book (Lexis nexus Butterworth, edn. 2nd 2004)

Amshakavi Vasanthi, Constitutional Policy and Environmental Jurisprudence in India (Mc Millian India, 2006)

Jorge. E. Vinuales & Pierre, International Environmental Law, (Cambridge University Press, Cambridge, 2018).

same coin. They stress on the world's water crisis. Under the UNO General Assembly adopted a resolution and recognized the right to water and sanitation as human rights⁶⁶.

- Benedict Kingsbury, Nico Krisch, and Richard Stewart in their article, "The Emergence of Global Administrative Law" to analyze the needs of the development of mechanisms of administrative law so that greater accountability in decision-making and rule-making can be achieved. They have been referred to institutions such as the WTO, World Bank, etc. and then talk about the structural mechanisms that have been developed for their implementation.⁶⁷
- Dinah Shelton, in his article "Human Rights, Environmental Rights and the Right to the Environment," provides a different derivation of human rights and commitment to the environment. He referred to the importance of various international treaties, national laws, and the International Court of Justice decision in the development of environmental law. He concluded by saying that human rights either directly or indirectly connected with the environment and it is the obligation of the state to create a balance between the environment and economic growth.⁶⁸
- **Others**
 - Websites: Many websites have been visited for the latest knowledge and information about various environmental issues such as the Human Rights Commission, the Ministry of Environment and Forests, the Earth Times, Environment News Service etc. A detailed list of these sites is given in the bibliography.⁶⁹
 - Newspaper: Some newspapers like The Hindu, Hindustan Times, The Times of India, and India Today also review each day for the latest information about the environment in India and at international level.⁷⁰
 - Statements: Some statements renowned committee 'which is reviewing such as the United Nations Environmental Annual Report, Founex Environment and Development Report, Report of the Rio Declaration on Environment and Development, Ministry of Environment and Forests of India reports etc. A detailed list of the report mentioned in the bibliography.⁷¹
 - Journal: A journal such as the Journal of the Indian Law Institute, Indian Journal of Environmental Protection, and Environmental Science: An Indian Journal, Journal of Environmental Protection etc. consulted and some relevant articles of this journal have been taken for a better understanding. During the review of the available literature found that there are some loopholes in the legislation that exists and it is not enough for environmental protection in India. So, the review of the literature suggests some further scope of the study and they were trying to cover the same under this research work.

CHAPTER - 3

ry Hill, Steve Wolfson and Nicholas Turg, "Human Rights and the Environment: A Synopsis and Some Prediction," 16 Geo. k. L. Rev 359-370 (2004).

edict Kingsbury Nico Krisch, and Richard Stewart, "The Emergence of Global Administrative Law," 68 LAW & Contemp. Probs (2005).

ah Shelton, "Human Rights, Environmental Rights and the Right to Environment", STAN J. INT'L L., 103-138(1991)

bert Burns, Introduction to Research Methods (Sage Publications, 2000)

R. Kothari, Research Methodology: Method and Techniques (Wiley Eastern Limited, 1985).

lliam. J Goode & Paul K Hart, Methods in Social Research, (McGraw Hill, London, 1952)

EVOLUTION OF ENVIRONMENT JURISPRUDENCE IN INDIA

3.1 INTRODUCTION

Everyone is entitled to enjoy the right to a clean and healthy atmosphere, making use of polluted air and non-hazardous and contaminated drinking water, and also to gain access to hygienic living conditions, and able to eat healthy and nutritious food. However, these rights are much worn with the way things are happening in the environment, whether it is right is protected or not. The present generation is consumed with the idea of development, and have paid little notice to the environment, and the havoc that was damaged in an environment according to their activities. They tend to forget that the environment is the source of their life, and that their provision is not possible without it. The whole world will not be able to call them developed, until and unless the whole atmosphere is able to keep the intake, and these developments are not at the expense of the environment. This is where the role of Environmental Jurisprudence kicks in, because it helps in the protection of the environment and helps in maintaining environmental virtue.⁷² However, it is important that prior to understanding the environmental jurisprudence, it is important that the environment be understood first.

3.2 ENVIRONMENT

The meaning of 'environment' can be guessed from the word "Environment". Words tend to include features such as air, water, sunlight and food for all people living and non-living creatures that walk the earth. According to section 2 (a) Environmental Protection Act 1986, the term 'environment' has been defined as follows: "Environment includes water, air and soil and humans, other living things, plants, micro-organisms and property." Section 1 (2) Environmental Protection Act 1990 of England defines the environment as "environment consisting of all or any of the following medium, i.e., air, water and soil and air in the media other natural or human-made structures in above or below ground. "

Environment consists of three types of components:

1. The first, which is a component of a biotic or non-living components, which consist of all non-living things such as soil, air and water
2. Second, the biotic component or components of life, which includes all living things including plants, trees etc.
3. Finally, the energy component that includes solar energy, geo energy, hydro energy, nuclear energy, atomic energy, etc.

But inanimate or abiotic components are divided into three categories

3.2.1 Atmosphere

Layers of gas, which is also known as the air, which is referred to as the atmosphere. The atmosphere tends to cover the whole earth, and works to protect the life forms on earth, because it creates pressure on the planet, and it helps the presence of flowing liquid on the planet, along with allowing the absorption of ultraviolet radiation on the planet. It also helps in the absorption of heat, and the retention of same.⁷³ Atmosphere can be broken down into a combination of gas, some solids and fluids that surround the earth, and the deployment of thousands of kilometres in all directions from this planet.

3.2.2 Hydrosphere

This scope shows the dimensions of liquid water on the planet. It can easily be seen as a mass of water, and this includes water both above and below the planet's surface. This field of the planet is made up of sea, river and sea, lakes and even frozen water, and at the same time, this field is expected to cover as much as 70.8% of the entire planet. However, the ratio of drinking water out of this entire body of water is extremely 2.5% and a total of 0.3% and is available in freshwater lakes, ponds, etc.

3.2.3 Lithosphere

The upper part of the Earth is known as the lithosphere. It is a combination of crust and upper mantle that provides a rigid and stiff to the earth's outer layer. This content from the environment is also the most important because it provides natural elements such as iron, aluminium, calcium, copper, magnesium, etc. In combination of the above two components that provide a permanent source of nutrients and other natural resources for the life of botany, which produces glucose that use higher organisms for survival and sustenance. The lithosphere is used for different purposes such as for food, agriculture, forestry, mining or urbanization etc. It is full of natural resources. But as we're known for the natural resources that are not renewable and uncontrolled use of these resources increases the danger of pollution not only damages the current generation but also affect future generations.

3.3 THE NEED FOR DEVELOPMENT OF ENVIRONMENTAL JURISPRUDENCE FOR ENVIRONMENT PROTECTION

The evolution began the process of human beings grow at the expense of nature, the environment around them. This often involved the growth of human beings, but rarely, it was also made as part of the enjoyment. This haste and desire for development severely marred the environment, while humans have pursued their selfish intentions. The process of urbanization, industrialization, and any kind of development is strongly influenced by how the environment sustains and nothing can be done in the exclusion of a healthy environment. However, when these processes are done in a reckless manner and decisions are hasty, and then turn these activities affect the environment in unexpected ways, and sometimes at unprecedented scales. This other way affects the natural environment i.e. air, water, plants, animals, humans, and the negative microorganisms. Bhopal gas tragedy, Cherny BOLL disaster is examples live from disasters caused by man. To limit these activities or disasters of extreme need was felt internationally. Stockholm Declaration was held in

⁷³United Nations Conference on Human Environment, Stockholm, Swed., June 5-16, 1972, Declaration of the United Nations Conference on Human Environment, U.N.Doc. A/CONF.48/14/Rev. 1 (June 16, 1972).

1972 for the development of certain perspectives and uniform common principles to inspire and guide the world in the preservation and enhancement of the human environment layout. Bhopal disaster and Chernobyl are living examples of industrial risks.

Brundtland said that the Earth is one but the world is not. "We all depend on one biosphere for our lives. Yet each community, each country, strives for survival and prosperity without worrying about its impact on others. Some consume resources at a rate of land that leave little to the future generation. Other more in number, consume too little and live with the prospect of hunger, poverty and disease. The environment includes not only all living and non-living resources, but it also includes the reasonable use of resources so that it can be used by our future generation. The first time in the history of environmental law in India, the long-term environment has been defined by the Law on Environmental Protection, 1986, which includes all biotic and abiotic components. The concept of the preservation of these resources, which is also known as "sustainable development" was discussed by the World Commission UN Development and Environment (1987), which means that the development of the present generation without compromising the needs the future generation. Thus, the objective of economic and social development must conform to environmental sustainability.⁷⁴

In truth, the benefits of development are probably much lower than the loss to the environment. The result is environmental degradation and environmental pollution. Environmental protection is not a new concept in India; it is an age-old idea of living in harmony with nature. The environmental protection concept was soaked with Indian culture and philosophy since time immemorial. The traditions of Vedic culture, the prehistoric and historic period, medieval India tells the extent of India's awareness to the importance of environmental protection. To understand the present day legal system for the protection of the environment, it is very important to look into the recent Indian traditions of environmental protection. This chapter examines the development of environmental jurisprudence in India since the Vedic age to modern times.

3.4 LEGISLATIVE MEASURE TO PROTECT THE ENVIRONMENT

The supply of teak and shoes for the exchange rate and enlargement of agriculture that increase revenue procedure strengthening the state against individuals on the topic of command over forests began only in 1806, when an elected commission to inquire into the availability of wood teak- in Travancore and Malabar with methods for structuring Conservator forests, which really hit by forest wealth. In 1823, the post of Conservator of Forest revoked. Therefore, with no legitimate arrangement, the common wealth of India needed to endure a lot until around the centre of the nineteenth century. In the middle of the nineteenth century several steps were taken to secure remote and earth⁷⁵.

Forestry Policy 1894 3.8.1 The Forest Policy Statement of 1894 strengthened by empowering the country's situation hostile takeover all the hamlets for protection and an open goal. This strategy isolated jungle to follow the four classes on the premise useful:

⁷⁴ Declaration of Principles on Human Rights and the Environment, July 6, 1994, U.N. Doc. E/CN.4/Sub.2/1994/9 (1994)
⁷⁵ Convention on the Prohibition of Military or any Hostile Use of Environmental Modification Techniques (ENMOD Convention), May 18, 1977, United Nations Treaty Series, Vol. 1108, p. 151 (No. 17119).

1. Conservation of forests which are a fundamental part of the physical terrain area.
2. Prevention of forests which are a potential source of wood for businesses.
3. Some small forest contributes as a source of timber.
4. The remote field just for namesake.

Lamentably, this approach is limited both by the authorities and are open based on political issues. In addition, these strategies have many shortcomings, for example,

1. Under the name 'Open Benefit', the strategy has denied recognition of traditional protection techniques authenticity and washed privilege of the general population living in the village for a long time together.
2. The preoccupation allowed unchecked from different forests to agribusiness and employments
3. There was no notice of insurance / wild life conservation, private forests, and secluded held prepare and instruction ecology and so on.

3.5.1 The Indian Forest Act, 1927

To overcome these insufficiencies of the Forest Policy of 1894, the Forest Act of 1927 was established. This Act provides unlimited capacity for the rights of the British government unlimited and security forces to take control of land ownership uncontrolled forest, woodland and properties other basic personal or city through the basic notice and without making arrangements to pay or value, The Indian Forest Act 1927 was given to making the institution for enactment of forests with similar set up. a bill to strengthen the law to identify and delivered remote jungle trek was passed in 1927 and was transformed into Middle demonstration. Demonstration combine XIII contains 86 parts of the region. Things remote partition in four classes:

1. Owned Forests
2. Forest City
3. Ensuring Forests
4. Non-Government (Private) forest.

Timberlands held appointed to the municipal network called urban forest. The state government moved to the hamlet assign guaranteed and may prohibit the felling of trees, forests provide excavation and evacuation.⁷⁶

Forests Act of 1927 directed by Forest officers.⁷⁷ Under this Act, the responsibility to show the error of entangled seconds. 26 lies in the State and in which the warning has not been substantiated in accordance with the law of narrative evidence as required by the Indian Evidence Act, 1872, criticized the discipline required to be held. In the perspective of the setting up of Article 26 (1) (I), no individual can continue

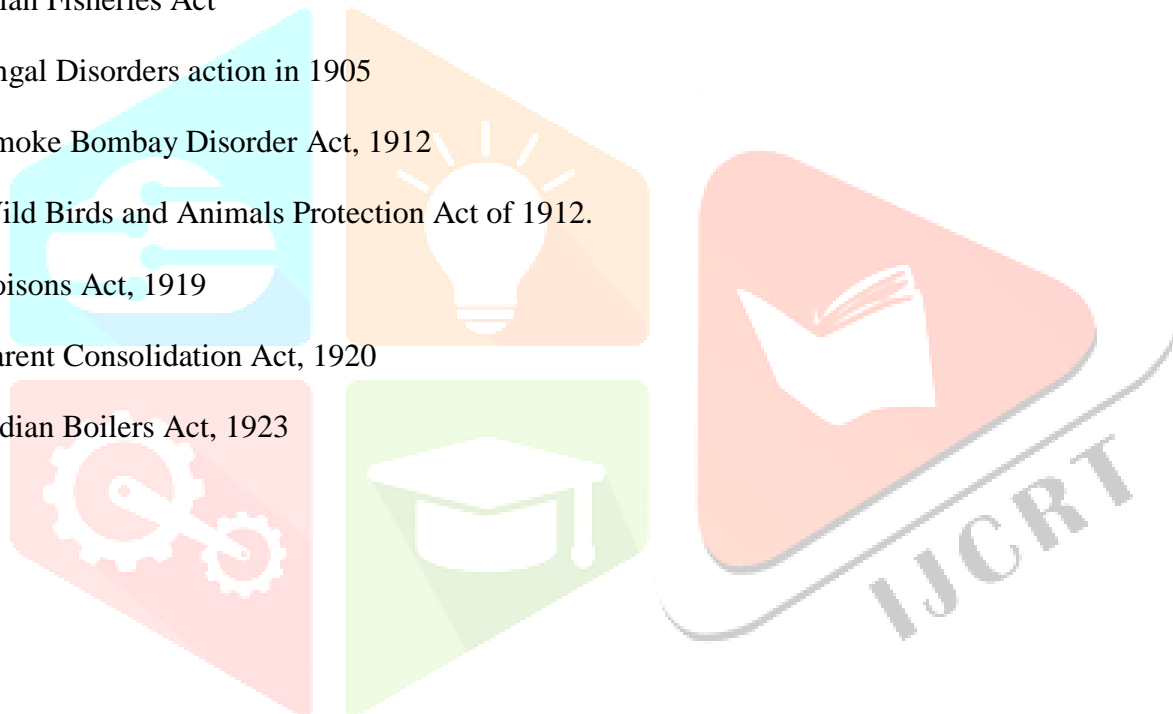
⁷⁶ The Indian Forests Act, 1927

⁷⁷ The Forest (Conservation) Act, 1980 The Wild Life (Protection) Act, 1972

fishing with forest saved without the consent of the Forest Officer or the State Government. Along the lines of fish found in the lake in the woods directly or held is a hamlet deliver.

3.5.2 OTHER RELATED ENVIRONMENTAL LAW

1. Shore Disorders (Bombay and Kolaba) Act, 1853
2. Oriental Gas Company Act, 1857
3. Indian Penal Code, 1860
4. Northern India Canal and Drainage Act
5. Madras Elephant Preservation act, 1879
6. Indian Easement Act, 1882
7. Criminal Code
8. Indian Fisheries Act
9. Bengal Disorders action in 1905
10. Smoke Bombay Disorder Act, 1912
11. Wild Birds and Animals Protection Act of 1912.
12. Poisons Act, 1919
13. Parent Consolidation Act, 1920
14. Indian Boilers Act, 1923



CHAPTER – 4

PRINCIPLES AND DOCTRINES PROPOUNDED BY INDIAN JUDICIARY

4.1 INTRODUCTION

An important commitment of the Supreme Court of Law of Human Rights has extended the level of Article 21 and identified by directly to life as well. This was included directly in conditions of safety and contamination. Incredible variety of legal cases was in direct support to develop and solid as a condition key directly in the forward direction to life under Article 21 of the Constitution India. This development by the Supreme Court of India has been praised by some researchers as the most innovative advance against the

fundamental rights of indigenous peoples. This section has the executive power of the law and talk about legal challenges and choices criticism transmitted by the Court to direct shepherds to the conditions and standards of safety and rights of the natural man of the population is affected by pollution 'environment. In addition to positive claim by the executive law in articulating various decisions important step in the case of pollution-related and interpret directly to a healthy state in importance immediately to life, part two important cases, more specifically, the Sardar Sarovar project (SSP) and the Bhopal Gas tragedy case in which the methodology was inconsistent with his lobbyist status. That fell shy to meet people in a general desire to reduce the large network of companies affected by the improvement of infrastructure and the victims of the mass failure. He did not consider the overall long-term impact of mass antagonists fiascos affect the current age and the age of the future.⁷⁸

4.2 JUDICIAL ACTIVISM AND ENVIRONMENT

Journey of judicial activism in the field of the environment started in the 1990s essentially Bhopal gas leak tragedy gives a new transformation in the judiciary and the role of the judiciary is now giving more emphasis on environmental issues. But that does not mean that the silence of the law in the case of environmental protection. After the Stockholm Declaration of 1972, various laws have been adopted to meet the obligations of the Stockholm Declaration. Important changes were made to the Constitution of India in 1976 by adding two new articles that Article 48-A and 51-A (g) for the protection of the environment. But the interpretation of Article 21 of the Constitution of India by the Supreme Court gave a new direction for judicial activism in environmental law. Public Interest Litigation has expanded the scope of locus standi and judicial review. It is a feature of judicial activism basics and in this way the judiciary has started a new era in environmental cases.

4.2.1 PUBLIC INTEREST LITIGATION

The Supreme Court recognized that the majority of people cannot get the context of equity, receives a dynamic methodology by loosening the standard support and enable citizens of the standard order of the Court in the open intrigue issues. In the 1990s, various leading natural problems before the Court pils. Despite the fact that the official request was not prosecuted on the Pils, given the issues the court may request the assistance of amicus curiae. It can also select the head or the body of a master to confirm the news and report. Regular master body where government offices, for example, NEERI and CPCB were approached to provide suggestions for corrective action. Before choosing to accept or reject the report of the court has heard the complaint, any assumption about the submitted reports. The decision of the Court in Pils is not self-executing.⁷⁹

⁷⁸ is one of the signatories at Stockholm Declaration which is known as the Magna Carta on Human Environment.

⁷⁹ Article 48 of the Indian Constitution, Refer to Directive principle of state policy and Fundamental Duties

As explained by Justice Muralidhar, the title properties are given in the case of a good final and compulsory PIL. Application is required by mandamus in which the Court gives explicit buffers for specialized recalcitrant countries to step explicit. Screen asks court to ensure consistency and combine with bearing the forefront of the results of non-utilization despite adding ridicule of the court. For the required guarantees, the execution of its screen short of choice, looking intermittent reports and the continuing pursuit of life. When using lagging behind, is asking the court that the authorities seem totally in court what else to clarify this issue. Large slice of the judiciary because there are endorsing a dream removed for contempt of court. PIL final order is the idea of the title of experts and demands the recognition of their state before execution. For example, setting the environmental court; Natural training presentations in schools. Government at liberty to discuss the consequences of the application and make a choice.

4.3.2 JUDICIAL REVIEW

The concept of judicial review in India is based on the American system of judicial review. Judicial review gives freedom by the courts retains the concept of constitutionalism in the Constitution. In exercising the judicial power of judicial review so as to maintain the coordination between different state organs to enable them to work within the limits specified in the conditions provided by the Constitution. Thus, through the power of judicial justice can check the legality of a law if it was passed by Parliament or by the laws of the country. In India, the Parliament or the Supreme Court, no rule of the Constitution of India which works on the principle of the rule. To maintain the supremacy of the Constitution, power was given to PK justice. Various articles of the Constitution guarantees judicial review, such as Article 13 which states that the laws that are incompatible with the fundamental rights vacuum. Sections 32 and 226 are the guarantor and protector of human rights. In the case of infringement could directly approach the Supreme Court or the High Court.⁸⁰

The judicial review of provisions in case of pre - constitutional legislation under Article 372. Article 131-136 provides authority to the Supreme Court to hear things between peoples, between nations or between unions and 'State. The Indian Constitution also mandates that the judgment SC binds all courts. The Supreme Court in Gopalan case observed, "In India, it is the Constitutional Court and that the law of the law to be must apply in all cases must comply with the requirements of the Constitution and the courts to decide whether the adoption is constitutional or not, and if the legislature violates the constraints of the Constitution, the court must declare the law unconstitutional for a court is bound by an oath to respect the Constitution. " in the case of Keshvananda Bharti, Khanna J observe that fundamental rights are part of the Constitution, the judicial power must be made to see that the guarantees given by the constitution to work or not. He further observed that the power of judicial review is an important part of the Constitution which cannot be ignored.

4.2.3 THE CASES WHICH DEVELOPED ENVIRONMENTAL JURISPRUDENCE IN INDIA

Major cases developed in India Environmental protection needs to be addressed as a judicial institution has been allowed to properly implement environmental law in India. One of the main cases is M.C. Mehta vs.

Kamal Nath⁸¹. - In this case the Court held that 'the effect of disturbing components critical condition, in particular the air, water and soil are fundamental forever be seen as harmful to life within the meaning of Article 21 of the Constitution.⁸²

Similarly, the nature of expanding Article 21 it was observed by the SC in Subash Kumar v State of Bihar, and states that "The right to life is a fundamental right under Article 21 of the Constitution and that includes the right to enjoyment of pollution-free water and air for full enjoyment of life. If something Endangering or damaging the quality of life in the reduction of the law, citizens have the right to have recourse to Article 32 of the Constitution to remove the water or air pollution that could harm the quality of life. "

In M.C. Mehta v Union of India⁸³, the Court while ignoring the use of standard settled in Ryland's v Fletcher states that 'the rules developed in the nineteenth century when every one of these improvements in science and innovation does not occur cannot bear the cost of any direction in developing any standard the risk predicted by standard protected and economic requirements of today furthermore, social structure. process of making the same law turned to the new principles in other cases, where the Court respect the 'polluter pays' standard as the main aspect of the tradition Clarification to. Standards must be adhered to, the Court held that it was not the task of the legislature to meet the cost both in action opposite of the damage or the activity of healing, given the fact that this impact will move the weight of money related to the contamination of payer. So by applying the said rules, the Court holds aquaculture (shrimp farming) industry has been working in the Coastal Regulatory Zone (CRZ) Notification as subjects to pay the people affected by the polluter pays guidelines.

4.3 DUTY OF STATE AND ROLE OF JUDICIARY IN ENVIRONMENT PROTECTION

As mentioned above, the explanation is shown by the Hon'ble Apex Court, that the provisions of the Constitution, especially Article 48A and 51A (g) threw an obligation of the State and citizens respectively, to secure and improve the environmental conditions of the area. It was agreed that the Directive Principles of State Policy are not binding, but the Supreme Court may order government officials to strictly adhere to these principles.

In Ratlam State v. the Vardhichand Apex Court considers that conscious metropolitan board cannot run away from important obligations to declare liabilities related money. The Supreme Court gave the title to the district, state organizations and legal entities to play out their obligations in terms of sanitation, welfare and conditions. It coordinated the evacuation of interference.

In cases of harm to the Taj Mahal⁸⁴ from air toxics from Mathura Refinery, Taj trapezium coordinated the formation of the court to direct practice with respect to air pollution. The Court requested that the Government find ways to embrace the activities up neatly to rebuild its white marble from Taj Mahal. In the

P. 182/1996 Decided on 15th March 2002

96) 8 SCC 462

P. 182/1996 Decided on 15th March 2002

R 1997 SC 734

case of open intrigue mentioned earlier, the Supreme Court, in providing guidance to the government to act in harmony with the sacred commitment satisfactorily.

4.4 ENVIRONMENT LEGISLATION AND JUDICIAL INTERPRETATION

The Supreme Court gave a few guidelines to the local government to set up an institutional instrument for usage of laws and authorization of the directly to Condition.

4.4.1 DIRECTIONS FOR ESTABLISHING AN AUTHORITY

On account of coastal states enables large organizations to make shrimp farming on a large scale ignore the Law of Environmental Protection, (EPA 1986) and the non-implementation of the Regulation of the Coastal Zone (CRZ) notification, 276th the justice guided the Government to establish an Authority under the Environmental Act Security life 1986 (EPA). Court selected National Environmental Engineering Research Institute (NEERI) to check the condition of the beach front of the east coast of India, and submit its findings. It also coordinated the workers busy with shrimp culture farms lien must be preserved and the remuneration to be paid to them. In Vellore Citizens Case court repeated that the central government should do things in line with Section (3) of the EPA. Bearing justice revelation creatures in nature, officials are not bound by them. Until now, the setup is not formed in a specialist, for the implementation of the EPA is being completed by the MOEF in agreement with the arrangement of the EPA, 1986.

4.4.2 DIRECTION TO ESTABLISH THE COURT ENVIRONMENT

In 1987, an Indian court while articulating the other standard exercise strict risk for dangerous or is harmful in Oleum gas spill Environment Court case supported foundation. The Supreme Court repeated the basis of the court certain conditions. In 1999, in the AP Pollution⁸⁵ Control Board v Professor Nayudu the communicated Apex Court, the Supreme Court, moreover, the Court of Appeal which faces difficulties in completing the accuracy of allegations logical and innovative.

Environment Court is particularly important to give legal sources, and logical information without feeling as opposed to leaving the convoluted problems for officers drawn from the official. Again of course be clear, as the proposal, the Government is not bound by it, but have the option to think about practicality and admit it. Despite the fact that the activities embraced by the MOEF⁸⁶ in 1990 in a conference with several driving ecological NGOs and the Central and the State Council is busy with the authorization of the laws of contamination control and the draft was established to prepare the court ecology all through the nation, it does not see the light of day. What developed after a drawn out period is rendition weakened more than the first draft.

96) 6 SCC 26

ited Nations Conference on Human Environment, Stockholm, Swed., June 5-16, 1972, Declaration of the United Nations Conference on Human Environment, U.N.Doc. A/CONF.48/14/Rev. 1 (June 16, 1972)

National Environmental Tribunal, 1995 and the National Environmental Authority redrafting 1997 the two agencies established but have been restricted environment and for the most part stayed on paper like that. They were dispersed by the lifting of the constituents of Acts when the National Environment Tribunal (NGT) Act 2010 was passed by Parliament. NGT in the current frame generally established on the lines recommended by the Apex Court and the legal system to provide logical guidance and access to equity ecology. The aforementioned Supreme Court mandate given by the method of precedent how the Court spearhead the use of global standards in the case of ecology and in providing a way for the foundation of the natural establishment and successful use of the system for legal and administrative great. The good faith of the 1990s it was also a glimpse. The Apex Court all out for the privilege of human negligence tissue affected by a super effort and victims of mass failure came as a stun to the general public, who was already looking to the Supreme Court with elevated requirements. Two cases were pulled out of disappointment Supreme Court in ensuring human privileges of the general population is affected by extensive repair efforts and countless victims of the disaster mechanic is Sardar Sarovar dam on the waterway effort Narmada and Bhopal Disaster case. It goes to demonstrate that without an unmistakable managing approach; even the most elevated court in the nation can miss the mark concerning offering equity to the casualties of ecological mischief.

4.5 CRITICAL ANALYSIS

The Indian judiciary has managed a broad scope of matters identifying with condition which were writs U/A 32, or then again by method for offers under Art 136 against the decisions of the High Courts. The most critical improvement in issues identifying with condition is the imaginative translation given by the Apex Court for directly to a clean also, solid condition' inside the ambit of 'directly to life,' a fundamental right under Article 21 of the Constitution of India. The Apex Court advanced imaginative strategies for access to equity by common residents and translated the current arrangements in the lawful framework to build up the statute with regards to condition security. Open energetic individuals from the common society regularly moved toward the Apex Court to look for an order to force the administration to act and satisfy its commitments, and to authorize laws to capture infringement even in issues, for example, the evacuation of refuse. The Apex Court thusly, has coordinated the specialists worried to submit to the laws identifying with condition, be it a focal service, state government or a metropolitan body. At times the Supreme Court even went to the degree of expressing that attainable and reasonable advancements were accessible to remove the harm caused to the condition because of such infringement. While observing its very own bearings, the Apex Court found sometimes that those in the official in charge of upholding the law were themselves ridiculing the standing instructions in agreement with the violators.

The usage of the guidelines and the stride at the standards, joined into the strategy & administrative structure had been incredibly moderate. PILs influenced the judiciary to react proactively to the requirements of the general population and take the issues of expansive scale infringement of common, political, financial, social-economic and social rights. Requirement of the directly to condition assurance through this type of litigation which amplified the entrance of the NGO's to some furthermore extent, polite society to approach the judiciary.

The dynamic inclusion of the judiciary in social issues is seen by a few researchers as principally judge-

drove and judge-incited prosecution The Apex Court kept the majority of the matters dynamic to keep the official from getting to be remiss or disregarding consistence, and has requested that the experts submit reports intermittently, which can be at regular intervals, at regular intervals or each month on the issues examined. Some stretch of time, a few examinations is an insignificant custom for they are not considered ant not even is their suggestions actualized. The Apex Court has been reprimanded for growing the area of rights under Article 21. The rights counted by the Judiciary by development of Article 21, aside from a contamination free condition, incorporate a directly to quick preliminary, directly to safeguard, directly to nourishment, safe house, wellbeing and instruction. These rights are alluded to as the new regularizing routine. It is contended that in doing as such, the point of the Apex Court has been to grow its formal ward as opposed to accomplishing genuine targets. An issue brought by specialists with regard to the legal activism is regardless of whether the courts have been meddling excessively in the working of the official furthermore, regardless of whether it tends to be a substitute for official effectiveness.⁸⁷

The quickly expanding number of petitions under the watchful eye of the Courts, the disputed method taken by judiciary and individual has made an uncertainty about the viability of the PILs. The different inquiries being asked in such manner the courts sufficiently equipped to interfere in regions that were not inside their legal capability. There are the correct sort of individuals accessible in the legal executive to take choices relating to the job of the official and are they sufficiently productive to go up against new situations when they are as of now loaded with a vast overabundance of cases. Without perpetual free statutory boards of natural researchers to prompt the higher legal executive are its individuals able and predictable in their methodology.

Teacher Cullet, with regards to NBA moving toward the Supreme Court for looking for alleviation in the Sardar Sarovar Dam Project, has suitably remarked that "while even in the 1990s moving toward the Supreme Court was not an undeniable decision, it was in the long run done on the grounds that it appeared, based on the current case law that help could be obtained. The halfway unforeseeable issue is that in the course of the last 12 a long time, PIL has endured a progression of difficulties and the influx of good faith which drove individuals to anticipate that courts should give full equity in all ecological and human rights cases in mid 1990s has demonstrated lost. This general pattern has been increasingly checked on account of huge improvement ventures where judiciary have been significantly less quick to go against the legislature than on smaller issues.

The Apex Court, censured for its job in the Bhopal disaster case and in its hands-off methodology in the Sardar Sarovar Project. Main legal counsellor fittingly remarked, the directly to condition insurance has been capriciously connected by individual judges as indicated by their very own emotional inclinations typically without clear standards controlling them about the conditions in which the court could issue a mandamus for condition insurance. It shows up when financial privileges of poor collide with condition insurance the court has frequently subordinated those rights to condition insurance; then again when condition insurance collides with what is seen by court to be 'advancement issues' or incredible business, personal stakes, condition

assurance is frequently relinquished at the adjust of advancement or comparable amazing interests.

The issues of competency was raised of the legal executive to manage complex natural issues and stepping into the area of the law-making body and the official, the reality remains that the force for condition assurance in the nation has originated from legal activism of the nineties. It's effect has been sure in spite of the fact that moderate, in constraining the official and the law-making body to act and fuse the standards set somewhere around the legal executive into a strategy and administrative structure. This has additionally cautioned the approach creators to hold up under as a top priority the way that the strategies they plan must stand the trial of decency, equity and lawfulness under the steady gaze of the courts. While the chief organs of the State are duty bound to act as per the Constitution and also work with one another in setting the essential human and essential privileges of the general population as the focal centre, in perspective of the quick improvement and industrialization occurring everywhere throughout the nation, there is a more prominent requirement for the legal executive as a defender of essential rights and human rights to guarantee that most by far of the voiceless individuals of India approach a clean furthermore, sound condition as an essential thing human right.

CHAPTER - 5

ENVIRONMENT AND CONSTITUTIONAL PROVISIONS IN INDIA

5.1 INTRODUCTION

Of late, industrialization, population growth and overconsumption of natural resources posed a potential threat to the peaceful coexistence of humans in the environment resulting degrading. This issue was due deliberation at various international platforms. The Stockholm conference, 1972⁸⁸ is a milestone in the history of environmental protection and thus gave impetus to all signatory countries to take appropriate measures for the protection of the environment. Before the measurements, the necessary changes were a prerequisite in the supreme law of the country, namely, Indian Constitution. Originally, the Indian constitution had no provisions for the protection of the environment, as the authors of the Constitution of India could not foresee the threat. Although the Indian Penal Code, 1860 contains important provisions for offenses relating to environmental risks under Article 278.

In 1976, in view of Article 253, the Government of India presented the 42nd Amendment by adding Article 48A and 51A in the constitution of India. Article 48A requires the state to protect and improve the environment and safeguarding of forests and wildlife; while the Constitution of India also imposes a duty on citizens to ensure the improvement and protection of the natural environment including forests, rivers, lakes

⁸⁸United Nations Conference on Human Environment, Stockholm, Swed., June 5-16, 1972, Declaration of the United Nations Conference on Human Environment, U.N.Doc. A/CONF.48/14/Rev. 1 (June 16, 1972).

and wildlife.⁸⁹ Besides these, changes miners were brought in 7 HT, schedules the 11th and 12th to experience the problem. In terms of common law, the Supreme Court of India has played an important role in the emergence of environmental jurisprudence. Through several cases, the Supreme Court of India has defined and delineated the contours of environmental protection. This article research tries to shed light on the constitutional development of the field of environmental protection, the implementation of various laws subordinates to rectify the issue and the role of the judiciary in protecting the environment.

The Constitution of India seeks to improve and develop a conceptual framework related to individual freedom and social justice. Therefore, the preamble of the Constitution itself is embedded with values for citizens. This value cherishes social justice and economic policy for citizens. The objectives of the Constitution as defined in the preamble gives direction and purpose to the constitution, and he tries to make India is a sovereign, socialist, secular, democratic republic. At first, the Editorial Board has embraced the term "sovereign, democratic republic", but the term "socialist and secular" was added by amendment 42 of the Indian Constitution, so that the objectives and ideals of the Constitution can be achieved. The constitution of India promotes a sense of freedom, equality and independence. The preamble, fundamental rights, the principles of the state policy, fundamental rights and the state centre relationship has its own importance and what distinguishes the change as the rationale of the Indian constitutionalism.

5.2 CONSTITUTIONAL PROVISIONS

Before the amendment 42 of the Constitution, no provision of the Constitution specifically deals with the protection of the environment. Even the idea of environmental protection was not in the spirit of the editorial board with the exception of Article 47 of the Constitution, this responsibility of guiding principles. It also imposes an obligation to the state, which requires the state to cause an increase in living standards, and also raise the standards of public health, and also requires the efforts of the State to significantly banned substances toxic, such as alcohol and drugs that affect the health of citizens, considerable extent.⁹⁰ This article does not have a specific provision dealing directly with environmental protection. But the efforts of the Supreme Court and the influence of the United Nations Conference on the Human Environment in Stockholm in 1972, introduced a new era in the field of environment. The conference had been proved as a milestone in the history of environmental management in India. Principle 1 of the Stockholm Declaration provides:

"Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being and bears a solemn responsibility to protect and improve the environment for present and future generations."⁹¹

For the balanced development of the world, there must be a close link between the environment and development. To meet the requirements of sustainable development, countries should take into account

ited Nations Conference on Environment and Development, Agenda 21, U.N. Doc. A/ CONF.151/26/Rev.1 (1992).

public health and poverty eradication. Since July 2003 Contribution Vision Statement on the environment and human health:

"There is an urgent need to treat the cause of ill health, including environmental causes, and their impact on development, with particular emphasis on women and children and the vulnerable groups of society, such people with disabilities, the elderly and indigenous peoples and development."⁹²

Indian Constitution has adopted the principles mentioned above in the fundamental rights and after four years of the amendment of the Indian Constitution declaration. 42nd was introduced with some important provisions for the protection of the environment. With this amendment, India became the first country that has environmental provisions relating to its Constitution. Two new items have been added to the Constitution of India, namely, 48A and 51A in 1976. Article 48A imposes a duty on the state to protect and improve the environment and forest conservation and fauna of the country. Article 51A pushes a duty on the citizen of a state to protect and improve the natural environment, including forest, lake, wildlife and living beings. Now both the state as citizens and are under the obligation to protect the environment. The reflection of the 1972 statement was quite remarkable in various decisions of the Supreme Court, and the interpretation of fundamental rights given by the Supreme Court added a new dimension in the management of the environment. Now, the right to life includes the right to live with dignity and to live in a safe and healthy environment also comes under Article 21 of the Indian Constitution.

5.3 ENVIRONMENT PROTECTION AND THE PREAMBLE OF THE CONSTITUTION

Opening means that the introduction or the beginning of a brief statement or document. Preamble of the Indian Constitution also gives the basic idea of the Constitution. It provides that our country is basically based on the idea of 'Sovereign, Socialist, Secular, Democratic Republic. That means countries pay more attention to the problems associated with the entire community or the entire nation is not an individual problem. In today's environment pollution scenario emerged as the biggest problem for the whole society. Country into a socialist state is under an obligation to address the pollution problems and to provide a basic standard of living, including pollution-free environment. Opening also provides a Justice on the ground of social, economic and political. This shows that the state must provide social justice, economics and politics. Justice also included environmental justice. Although the word 'Environmental Justice' is not included in the preamble of present environment and natural resources is a major concern for the whole country. So it also has an obligation to deliver justice on the basis of the environment as well. These resources are the assets of the entire country, equitable and sustainable use of these resources also come under the scope of the Preamble to the Constitution.

Environmental Justice is also supported by the words of KS Dakshinamurthy it, "as the subject of the environment, as environmental concerns and the environment as part of the socio-economic structure and political in such a way that no intellectual discourse, political or academic is complete without it."⁹³

⁹² National Environmental Tribunal Act 1995

⁹³ Washington International Convention for the Regulation of Whaling, United Nations Treaty Series, Vol. 161, p. 72 December 2, 1946.

Opening also ensures that India becomes 'Democratic Republic.' It shows that people have a right to participate in government decisions and have the right to know and policy approaches made by the government in terms of environmental protection.

The Supreme Court in the State of Uttar Pradesh v. Raj Narain,⁹⁴ very first time recognizes the right of citizens to know and declare that "If the government is charged with the burden of responsibility, and where every public agency is responsible for their behaviour as we are, it is difficult to maintain secrecy. For every job that is done in general, or by representatives of the public, the public is entitled to the right to know about these actions. They are entitled to the right to "know" that spiral right out of the right of free speech but do not stand to be absolute in nature. This should make one worry, especially when secrecy is claimed for transactions, without the same could pose a threat to public safety. "

In S.P. Gupta v. Union of India, the Court recognized "the right to know to be implied in the right to freedom of speech and expression."

On the Bombay Environmental⁹⁵ Action Group v. Pune Cantonment Board,⁹⁶ which is a writ petition, the Bombay High Court stating that an environmental group recognized as having a right to inspect the city permission granted to some private individuals. The court also upheld that the applicant has the right to know even in the absence of evidence of government irregularities. So an applicant has a right to know and check the documents as a group only wants to help the board Cantonment in maintaining environmental balance, and government documents cannot be termed as confidential and secret documents.

5.4 FUNDAMENTAL RIGHTS AND THE ENVIRONMENT PROTECTION

5.4.1 ARTICLE 14 AND ENVIRONMENT PROTECTION

As we all know Part-III of the Indian Constitution of India deals in basic rights. Idea and development of these rights was inspired by the English Bill of Rights, which is also known as the Magna Carta. The idea of inclusion of these rights in the constitution is to establish the rule of law and not of men. The main purpose of this section is to protect the dignity of the individual and provide the conditions in which an individual can develop themselves fully. These rights are not only available to the state against the individual. State terms have the same meaning as defined in Article 12 of the Constitution of India. This section is also to be considered as a basis for guaranteeing civil rights and provide basic human freedom is very important for the proper and harmonious development of every individual. These rights are inviolable, and the state cannot interfere with these rights without any reason. But these rights are not absolute in nature. There is a provision in the constitution that allows it to impose reasonable restrictions on fundamental rights for the benefit of society, both public and state security. The right to move the court for enforcement of these rights are referred to in paragraph (4) of Article 32, cannot be postponed unless otherwise stipulated by the constitution. Initially, there are seven basic rights, but after the 44th amendment, property removed from the

Journal of Constitutional and Parliamentary Studies Journal of Environmental Law.
196(3) SCC 212

The Police Act, 1861 The Poisons Act 1919

list of basic rights and after it had become only a legal right under Article 300 of the Constitution. Now there are only six basic rights guaranteed to every citizen of India, which is available without discrimination. It is classified as

- Right to Equality
- Right to Freedom
- The right to Exploitation
- Right to Freedom Religion
- Culture and Education Rights
- Right to Constitutional Remedies

Article 14 of the Indian constitution guarantees equal rights for all people. Placing an obligation on the state did not deny any person equality before law and equal protection of the law. It prohibits the state from acting in a manner that violates the right to equality of every person and ultimately to protect the environment.

The Supreme Court on numerous occasions that the arbitrary sanction of authority in environmental issues as unconstitutional.

In the State of Himachal Pradesh v. Ganesh Wood Products, the Supreme Court held that the moment of decision, the authorities should consider and give proper attention to ecological factors such as environmental policy and sustainable use of natural resources. Any decision taken by the government that affect the climate or the environment in a negative way as far as it held valid.

In Mandu Distilleries Pvt. Ltd. v. M.P.Pradushan Niwaran Mandal, of the Madhya Pradesh High Court struck down the decision taken by the pollution control board as it was taken arbitrarily. In this case, the pollution control board issued directions for the industry to stop production because of water pollution caused so much. But the court found that the decision was taken arbitrarily and cancel the order board for violation of Article 14 of the Constitution.

5.4.2 ARTICLE 19 (1) (G) AND ENVIRONMENT PROTECTION

Article In light of the above discussion, it can be safely concluded that in India, environmental protection is not a mere social awareness or concern, but an obligation of the state and citizens to protect the environment. Thus the emergence of environmental jurisprudence is the natural result of violations of the fundamental rights guaranteed to citizens. The Constitution puts certain obligations on the state to take all necessary steps to provide an environment that is clean, healthy and wholesome to its citizens and preserving the environment for future generations. It also raises some responsibility on the citizens to protect the environment of greater interest. Natural resources are a universal phenomenon, and therefore, all countries in the world are committed through various international instruments, agreements, etc. to act in ways that protect the environment. India is a signatory to all international conventions and agreements, and as defined in the Indian constitution, India has made laws inland in the path of international conventions. The constitution is supreme and sovereign documents to determine the boundaries of environmental protection

and environmental jurisprudence. gives freedom of trade and commerce. This article states that "All citizens have the right to practice any profession or carry on any occupation, trade or business." On the one hand, Article 19 (1) (G) guarantees freedom of trade and profession, and on the other hand, it establishes some reasonable limitations on this freedom. Some trade and industry carried out in a way that is not only dangerous to human life, but also harmful to other living creatures as well as for the climate.

The Supreme Court in various decisions also stated that the freedom of trade and business are subject to reasonable restrictions, and no one has the right to indulge in such kind of trade and occupation that may cause disruption to the community. High Court of Gujarat in one case observed that and finally declared that "if indeed hope by the applicant, that business must continue, it is at the cost of some further costs to be paid, they can do it, but it will also require that arrangements applicant makeup for plant purification, which will purify wastewater before being discharged on a public street, or entering the drainage system. Profit should not be allowed to the applicant at the risk against public health, which is mandated by law. "

In *Abhilash Textiles v. Rajkot Municipal Corporation* High Court of Gujarat adopted a pro-environment and stated that "Even though a person has the right to do whatever the choice, but there is no right to do business is inherently dangerous to the public, because the public interest which must be balanced with the interests of the citizens to run a business. " in the *MC Mehta v. Kamal Nath*⁹⁷, the Supreme Court clearly stated that "any business or offensive trade or human flora and fauna cannot be allowed to run in the name of basic rights." So it was very clear Trade activity or employment that is harmful to human life or flora and fauna cannot come under the auspices of the fundamental rights. Although Article 19 (1) (G) provides the freedom of trade and commerce but it must be under reasonable limits that should not be arbitrary.

5.4.3 ARTICLE 21 AND ENVIRONMENT PROTECTION

Guarantee protection of life and personal liberty has been granted under Article 21 of the Constitution of India. It provides that "No person shall lose his life or personal liberty except according to procedure established by law." The right to life does not mean only the presence of animals, but does not also include a life with human dignity. Despite bare careful, no specific provisions in Article 21 to live in an environment that is safe and clean. But the continuous effort of the Supreme Court and the influence international agreement makes it clear that the right to live in a healthy environment, safe and clean is also part of the right to life and personal freedom. It also emphasizes the point that the relationship between humans and the environment is conserved and if efforts were made in order to reduce dependence valuable relationships, not only would be fatal for human society but also all creatures in this world. it also makes clear that the main reason for environmental degradation or pollution is not the activities of developed nations but the lack of awareness of the not developing ion in the environmental field. Most developing countries take the problem Linking as a secondary issue, and even the legislative provisions they are not able to curb the problem. In India, the Supreme Court first deal with issues related to the environment in *Dehradun Excavation* case and stated that "the right to a healthy environment is part of the right to life and personal liberty guaranteed by Article 21 of the Constitution".

The Supreme Court also stated that the right to life includes the right to live with dignity and dignity requires a healthy and safe environment. So the court ordered the closure of the mine in the area of Missouri, is located in the Himalayan range as it was disturbed not only the ecological balance but also increase the likelihood of landslides and underground water blockage which may cause damage to many rivers and streams spring.⁹⁸

5.5 CONSTITUTIONAL PROVISIONS TO ADDRESS THE ISSUES RELATING TO VIOLATION OF ENVIRONMENT LAW

ARTICLE 32

Pursuant to Article 32 and 226 of the Indian Constitution, the High Court and Supreme Court of India has the power to entertain writ petitions relating to violations of the basic rights of life and liberty because of non-observance of the principles of environmental protection. Petition in the form of PIL can be filed by individuals or other organizations in the greater interest by reason of the failure of a state machine for controlling pollution or health hazards. Dr. Bhim Rao Ambedkar had referred to the provisions of the constitutional remedy as the heart and soul of the constitution. He quoted- "If I were asked to name a specific article in the constitution as the most important an article without this constitution will be a cancellation. I would not refer to other articles except this one. This is the spirit of the constitution and the heart it.¹⁹⁹ Article 32 itself is part of the fundamental rights in Chapter 3 of the Constitution⁹⁹. It provides that if the fundamental rights of each person guaranteed by the Constitution have been violated, the person has the right to invoke the jurisdiction of the Supreme Court under Article 32 to enforce these rights. The same power has been held by the High Court under Article 226 not only for the enforcement of fundamental rights but another purpose as well. Power of High Court jurisdiction in the case of a warrant wider than the Supreme Court.

The second significance article has been rated by Judge Gajendera Gadkar in the following words: "The right foundation for moving this court could, therefore, must be described as a fundamental building block of democracy raised by the constitution. That is why it is natural that this court should, in the words of Patanjali Sastri J. considers himself 'as the protector and guarantor of fundamental rights and must state that' it cannot be consistent with the responsibilities placed upon it, refused to entertain the application. seek protection against violations of these rights ".

In *Subhash Kumar v State of Bihar*, the court observed: "a petition under Art 32 for the prevention of pollution is maintained at a sample of affected people or even by a group of social workers journalist. But another way to proceed under Article 32 should be taken by people who are truly interested in the protection of the public on behalf of the community. Public interest litigation cannot be invoked by a person or body of people to satisfy personal grudges and enmity. "In many cases, the writ petition filled by a person or group of persons for the enforcement of human rights or basic rights. Because the right to a healthy environment has

⁹⁸ *Environmental Litigation and Entitlement Kendra vs. State of U.P*

⁹⁹ *Declaration of Principles on Human Rights and the Environment, July 6, 1994, U.N. Doc. E/CN.4/Sub.2/1994/9 (1994)*

become a fundamental right that is implied, written application very often resorts in environmental cases.

Bangalore Medical Trust v. B.S. Muddappa,

5.6 SEVENTH SCHEDULE OF THE CONSTITUTION

The following items have been added in the seventh schedule in 42 Amendment 1976 to put more concerted efforts towards environmental protection: Entry 17-A, added to the list simultaneously providing for Forests Sign 17-B was added to the protection of wild animals and birds Sign 20 -B, giving for family planning and population control

5.8 ELEVENTH SCHEDULE OF THE CONSTITUTION

Eleventh schedule is added to the constitution of India in 1992 under Article 243-G. In this new schedule, eight entries reserved for environmental protection and conservation.

Entry Number	Subject
2	Land improvement, implementation of land
3	Minor irrigation water management and watershed development
6	Social forestry and farm forestry
7	Minor forest produce
11	Drinking Water
12	Fuel and Fodder
15	Non-conventional energy sources
29	Maintenance of community assets

5.9 TWELFTH SCHEDULE OF THE CONSTITUTION

In the twelfth schedule entry no. 8 provides for urban forestry, environmental protection and the promotion of ecological aspects pursuant to Article 243-W. Direct Schedules urban body like the city to take steps in environmental conservation.

5.10 CONCLUSION

In light of the above discussion, it can be safely concluded that in India, environmental protection is not a mere social awareness or concern, but an obligation of the state and citizens to protect the environment. Thus, the emergence of environmental jurisprudence is the natural result of violations of the fundamental rights guaranteed to citizens. The Constitution puts certain obligations on the state to take all necessary steps to provide an environment that is clean, healthy and wholesome to its citizens and preserving the environment for future generations. It also raises some responsibility on the citizens to protect the environment of greater interest.

Natural resources are a universal phenomenon, and therefore, all countries in the world are committed through various international instruments, agreements, etc. to act in ways that protect the environment. India

is a signatory to all international conventions and agreements, and as defined in the Indian constitution, India has made laws inland in the path of international conventions. The constitution is supreme and sovereign documents to determine the boundaries of environmental protection and environmental jurisprudence.

CHAPTER - 6

JUDICIAL ACTIVISM AND ENVIORNMENTAL JURISPRUDENCE IN INDIA

6.1 INTRODUCTION AND HISTORICAL BACKGROUND

Environment is the most important areas in which legislation is basically required. Policies are broad guidelines developed by the administrators and planners. It establishes common objectives and their implementation in the hands of the executive. Plan ends fundamental approach for setting the instrument of change of certain situations be preferred domain. It is through these strategies we can accurately distinguish the problem; Repairing the need to frame an elective methodology and arrangements; settling on a decision of the selection based on a thorough examination if the benefits and costs; verbalization decision in so far as the purpose is communicated; give the association, faculty and assets to ensure the use of pull; and to establish a system to check the approach applied nonstop. In our country, it has been considered right from old to modern approaches chance natural assurance and enhancement. Verified, these laws are identified with an increase in the basic conditions, but very decent and the people know about the need for a natural insurance.

6.2 POLICY AND LAWS UNDER BRITISH COLONIAL RULE IN INDIA

During British colonial rule, because they are sensitive to nature, various progressive efforts made to improve the existing system. British period witnessed the beginning of new environmental protection. They departed the service ranger, giving a new lease of life and natural resources of water are drawn in their consideration in particular. In the field of remote assurance, the authorization of the Forest Act, 1865 opened the way early on to prove the government syndication directly to the forest. Standard rights for remote rural networks supervise the summarized by this Law Forest. Forests Act of 1927 explicitly restrained individual authority over wood and other products from the forest as they settle in it. On the other hand, wild life assurance, United practicing certain life natural protection. During the British period, concern for the assurance and enhancement of water assets go through a significant increase as a former Bengal VI Regulations 1819 make no reference to the security condition of the water from contamination but rather by the Government over the water assets. This step is radically changing people's opinion; the water is considered an asset as "fundamental property" of those who live, by monitoring lay with the general population.

The Oriental Gas Company Act of 1857 and The Shore Disorders (Bombay and Kolaba) Act, 1853 forced labour in water contaminates. Merchant Shipping Act, 1858 managed to neutralize the action of sea

contamination by the oil spill. Moving forward, out of the blue, great arrangements are made to prevent people, especially for environmental contamination and water to punish under the Indian Penal Code, 1860.

As against strict regulation under the IPC, 1860, Easement Act of 1882 enabled the solution directly into the dirty water but it what- anything but straight right (there is one for "frivolous pollute" or leave "other material damage"). The Bengal Smoke Nuisance Act of 1905 and the Bombay Smoke Nuisance Act of 1912 is the previous law sanctions in the British period, made provision for air contamination. Therefore, in view of the above, it can be safely concluded that the policy so framed for environmental conservation does not mean somewhat limited nature of over-exploitation of natural resources to satisfy their greed and increase revenue generation. Or sufficient legal certainty created for the condition. In addition, the expansion of this rule covered a very limited area.

6.3 LEGISLATIVE ACTION AFTER INDEPENDENCE

The Indian Constitution does not contain provisions relating to the control of environmental pollution and measures to Amendment 42 in 1976. The first ever provision of the Constitution under Article 372 (1) has been fused with the law that existed prior to the legal framework attend and that although cancellation by the Indian Constitution institution mentioned in Article 395, but is subject to a different arrangement of alternative arrangements of the Constitution and all the laws that ruling before the start of the Indian Constitution will remain in power until altered, repealed or revised by the able bodies or other skilled specialists. Thus, even after five years of freedom, many of these laws are still in activity with no critical charge in it. The period of time until the 1970s did not see many legislative efforts for environmental protection. Only two laws passed after the post-independence independence aimed at water pollution. The Factories Act, 1948 required all production lines to obtain a decent course of action for the transfer of waste and enable the State Government to implement this mandate regulation line. River Boards Act, 1956, requires that regulate the flow sheet allows water to prevent contamination of waterways countries. To remorselessness cruel to animals, the Prevention of Cruelty to Animals Act was introduced in 1960.

Some countries come up with some legislation dealing in a country that guarantees ecological, Orissa River Pollution Prevention Act, 1953, and the Maharashtra Prevention of Water Pollution Act, 1969.

The law, passed by the Orissa government contained provisions relating to waterways, while Maharashtra Act extends to rivers, canals, and other materials connected to them. Consequently, it has spread arrangements to prevent contamination of water and air, and so on; but there is no force bound together in building any strategy regarding contamination emit in the regions discussed above. There is no further improvement can be noticed until 1970. Meanwhile, arguments arise over the issue of the increase in population and the exploitation of natural resources leading to rising levels of pollution; human effects on flora and fauna. 1972 Stockholm Declaration altogether gives a new dimension to this problem and as a result the Government of India pointed declaration line arguments. Legislature makes understood through multilayer designs manner as the enactments instituted only thusly to check and control the natural contamination.

After 1970, the complete (outstanding) natural laws passed by the Union Government. Wildlife (Protection) Act, 1972, advocates for wise natural life and now the executive. Water (Prevention and Control of Pollution) Act, 1974, is the key legislation has provisions to ban environmental pollution and water and acts

as a sentinel for environmental protection. Forests (Conservation) Act, 1980 especially look into aspects of deforestation, the preoccupation of the forest ranger and community service. It also distinguishes the type of forest and then requires a different treatment for each type of forest. The Water (Prevention and Control of Pollution) Act, 1981, go to prevent contamination of the air by means of contamination control sheets. Environment (Protection) Act, 1986 was the introduction of a single concentration accommodate milestone in our country and apply for bail conditions to connect the escape clause in the existing enactment. This provides for the most part for the prevention of contamination, with strict penalties for violations. Public Liability Insurance Act, 1991, to accommodate the protection required to provide prompt alleviation to individuals affected by the accident happened while at the same time take care of any dangerous items.

The National Environment Tribunal Act, 1995, was established with the aim to speed up the prosecution of causes related to the environment such as happened in the case of the Bhopal gas leak. This law accommodates wise transfer of cases relating to the ecological aspects of councils experienced. This Act provides for the establishment of four seats in Bombay, Madras, Calcutta and Delhi to bring under control throughout the 8,000 most dangerous mechanical unit which leads to various types of contamination. The National Environment Appellate Authority Act 1997, to accommodate the setup of the National Environmental Appellant Authority (NEAA) to hear a progress as for confinement in a zone where any company, activity or procedure will not be completed or will be exposed to shield certain under the environment (Protection) Act, 1986.

The Biological Diversity Act, 2002, is the imposition of an important mediation is expected to be affected for the sake of network security related to biodiversity surrounds it.

6.4 ENVIRONMENTAL PROTECTION ACT, 1986

Despite the fact that there is a large group of enactment in India go to protect the Earth from contamination and maintain equitable distribution of biological nature cannot be taken in totality. Environment (Protection) Act, 1986, introduced when exercising powers under Article 25 of the Constitution, execute the selection was conceived during the United Nations Conference on the Human Environment held in Stockholm, in 1972 relied on to cover vacancies and provide the first idea of dynamic approaches to securing the biological community. This law looks to improve current legislation on prohibiting contamination by instituting a general enactment for natural insurance and to fill the holes in the direction of an ecological risk. This law is not transformed in many cases. Environmental Protection Act is the main enactment instituted to accommodate coordination of the Union and State Governments in the focus of specialists set up between water and air Acts. Consequently, in the context of air pollution, measures in addition to the prevention and control measures, the main part of the plane recover back to an earlier stage belonging to the provisions of the Environment Act. As indicated by the opening, the main purpose of the Environment Act is considered to accommodate security and improved conditions and issues related to that. "The law is the law that is unique to addressing this issue and extending to the rest of India.

6.5 NATIONAL ENVIRONMENT APPELLATE AUTHORITY ACT, 1997

On 30 January 1997, the President, holds the authority is vested in him under Art. 123 of the Constitution of India, stated that the law to accommodate the base of the National Environment Appellate Authority (NEAA)

to decide the case as to the cage in an area where every effort, task or procedure will not be made or will be completed subject to certain defend under the Environment (Protection) Act , 1986. NEAA has been approved by the National Environment Appellate Authority Act, 1997. Sec. 3 of the Act NEAA provides that the Central Government shall, by notification in the official gazette, build authority known as the National Environment Appellate Authority (hereinafter mentioned as the "Authority" Union Government. Created this Authority on 17.01.1998. Justice JS Verma, on the occasion of introducing NEAA states that the establishment of the reaction is very positive from the official, since it will acquire the desired results in the fastest time, with effect from the base date of the Authority, there is no civil court or other specialists will have wards to engage intrigue whatsoever in terms of any problems with the authorities enabled by or under this Act (Sec.15), the location will be in Delhi authorities. However, interest may be heard at the base camp or prudence of the Chairman, at some other place (Rule 4, The National Environment Appellate Authority Rules, 1997).

Authority shall consist of a Chairman; Vice-Chairperson (which will be delegated by the President) does not exceed three as the Central Government may consider appropriate (Sec.4). An individual who will be delegated as the Chairman should be the judge of the Supreme Court, or the Chief Justice of the High Court. An individual to be elected as the Vice Chairman shall have a place in approximately two years served as Secretary to the Government of India, and mastery of, or involvement in viewpoint or identify problems with the condition of authoritative, legal, administrative or special. An individual who will be appointed as individuals of the Authority shall be informed expert or down to earth involvement in areas related to the preservation, executive conditions and laws or set up and repair (Sec. 5). PNS relationship as Vice Chairman of trouble, as the conclusion may be influenced by politics as opposed to contemplation ecology. Under the Act, any individual who feels aggrieved by demand conceded natural looseness in the zone in which each company, task or procedure will not be delivered or will be exposed to special protection, may record intrigue to the Authority within 30 days from the date of the request. In any case, the Authority may engage past intrigue. Length is so determined, if there is sufficient reason for the delay in documenting intrigue. Authorities are required to dispose of cases within the framework of 90 days from the date of filing. Furthermore, Article 11 stipulates that the time may be extended to 30 days if the authority considers that in the circumstances of this case.

6.6 THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT OF 1974 AND AMENDMENT, 1988

This law tries to achieve the goal of neutralizing the action to accommodate and regulate water pollution as well as maintaining or rebuilding of the healthiness of water (in the flooding of the well or landline). Act contains provisions relating to administrative experts in the sheet pieces involved countries to organize and implement the norms emanated for industrial facilities releasing toxins into waterways. A Central Agency plays out the same capacity for local associations and directions exercises between countries. Waste control and release sheet with a modern radiating support, reject or print application to agree to release. Gazette also limit contamination of water by encouraging the state government at the local fitting to establish new

industrial enterprises. This law recognizes the capacity of the Council to guarantee consistency with the Act by annexing the intensity of parts for analysis, testing different hardware and objectives as well as the capacity to take an example with the ultimate objective investigation of water from rivers or wells or testing of any waste or waste exchange.

6.7 RELATED ACTS

To provide administrative support for the opposite action and regulation of air contamination, the Central Government is authorized enactment of focus is called Air (Prevention and Control of Pollution) Act, 1981 is known as the Water Act, 1981. The Act means to prevent, control and decrease air contamination. Next in this series, the Environment (Protection) Act, 1986 also look into some parts of air contamination. Some subtleties of Water Act, 1981, and the changes in 1987 as follows: The Air (Prevention and Control of Pollution) Act 1981 and Amendment 1987 to embed choices made at the UN Conference on Human Environment held in Stockholm in June 1972 , Parliament ordered the whole country Air Act. The fundamental objective of this Act is to improve the properties of air and to anticipate, control and reduce air-polluting on in this country. This law is important settings are given below: - System Air Act is as practiced by her ancestors, Water Act 1974. To empower a coordinated way to deal with the natural, extended expert Water Act of focus and gazetted built by Water Act , to combine air contamination control. Contamination bloc countries do not have the necessary water to sheet sets of air contamination. By law, all companies working in the assigned area of air contamination control must obtain "consent" (enable) of the State Council. Americans were asked to recommend the principle of emanation for the industrial and automotive after counselling the Central Bureau and does not include the air quality benchmarks.

6.7.1 THE WILDLIFE (PROTECTION) ACT OF 1972 AND AMENDMENT, 1982

In 1972, the Indian Parliament sanctions the Wildlife (Protection) Act. Wildlife Act to accommodate state wild life warning sheet, directions for the pursuit of wild creatures and hairy creature, the basis of psychiatric hospitals and national parks, wild exchange controls to creatures, items and trophies creature, and punishment is legally compelled to ignore the law. Hurting the endangered species recorded in Schedule 1 of the Act that blocks all over India. Pursuing species, similar to those in need of guarantees outstanding (Schedule II), big game (Schedule IV), managed by permitting. Several types of animal pests delegated (Schedule V) may be pursued without limitation. Supervisory wildlife and other subordinate staff control Act. Amendments brought to Law, served setting that allows capture and transport of wild creatures for the administration of being the people logical. India is a signatory to the "Convention on International Trade in Endangered Species of Fauna and Flora (CITES, 1976)". In the convention, which means the rate or threatened species and their goods represented by the terms and conditions set out therein? The Indian government has also started several safeguards for individual threatened species such as the "Hungal (1970), Lions (1972), Tiger (1973), Crocodile (1974), and Brow antlered Deer (1981), Elephant (1991-1992)".

6.7.2 THE FOREST (CONSERVATION) ACT OF 1980

This law was passed in 1927. This law is a major perennial pioneer enactment. It was ordered to incorporate this law identified by the remote, the journey from the forest to create and obligations imposed on wood and other forest provides. Thus, the Forest (Conservation) Act declared in 1980 to introduce certain changes over the first Act 1927. The 1927 Act manages four remote classes, in particular forest is saved, the city timberlands, forest ascertained and private forests. A state may announce forest terrain or forest waste stored reasons and may move the giving of the village. Each approved logging of trees, dig, touch and chase in the jungle kept culpable by a fine or detention, or both. Forest saved distributed to the city known as a backwater town. Governments in the United States involved to establish certain forests and may prohibit the felling of trees; forests provide excavation and expulsion out of the village. Keeping of the hamlet guaranteed enforced through principles, permits and criminal indictments. Forest officials and their subordinate employees manage the forest Act.

6.8 GENERAL ACTS

The most important is the enactment of the Environment (Protection) Act, 1986. The Central Government is empowered to go to a certain extent for the protection and conservation of the Environment, to avoid contamination. The ins and outs of the Act are given below: - the Union Government may, by notification in the official news, may make rules for the authorization of the Act. It merits reference the names of some important principles, suggested under the Environment (Protection) Act, 1986 in the past and then to the administration and control of hazardous substances, which combine synthetic risky, squander and being a smaller scale. Hazardous Waste (Management and Handling) Rules 1989: The aim is to control age, accumulation, treatment, import, storage and processing of hazardous waste. Manufacture, Storage and Import of Hazardous Chemicals Rules 1989 feature of the terms used in certain situations, and set up an Authority to investigate, when a year, synthetic mechanical action can be unsafe and warehouses. The manufacture, use, import, Export and Storage of Hazardous Micro-organisms / Genetically Engineering Organisms or Cells Rules 1989 Conditions acquainted with the opinion with a safe environment, nature and well-being on the utilization of quality innovation and being a smaller scale. Biomedical Waste (Management and Handling) Rules 1998 This is an officially valid on drug services organization of streamlining procedures appropriate treatment of waste facilities doctor, for example, the insulation, transfer, accumulation and treatment. Recycled Plastics Manufacture and Usage Rules 1999 and Recycled Plastics Manufacture and Usage Rules of 2002. Amendments were acquainted with the principle preclude use of conveying sacks or compartment made of plastic is reused for groceries. The guidelines also set out a strategy to produce virgin and reusable plastic sack and re-used to convey plastic compartment. Municipal Solid Waste (Management and Handling) Rules, 2000

As shown by these standards every city strong waste produced in a town or city, will be supervised and administered according to criteria of consistency and technique specified in the Schedule to these principles. Waste handling and transfer office to be set up by civilian specialists alone or through an office administrator will meet determination and gauges as shown in the Schedule.

6.9 NATIONAL ENVIRONMENTAL TRIBUNAL ACT OF 1995

This has been made to grant pay for harms to people, property and the earth emerging from any action including dangerous substances. Along these lines the finishing up perception is that there are different Environment Legislations in India. In any case, the need of great importance is the viable requirement and usage of these Legislations to control and screen consistently expanding condition pollution.

6.10 CONCLUSION

Ecological laws in India are solid but need submissions from the general population. Despite having a special court that manages a natural case. India still occupies a high position as far as contamination worldwide. As shown by the Indian Environmental Performance Index as of now the position of 177 out of 180 countries. Natural law in India is actually facing an emergency use. With rapid industrialization, deforestation, increase in the population at the rate of blasting and lack of learning among individuals about the earth and the contamination of our general assets decreased at a staggering rate. One basic explanation behind this is there is no autonomous administrative body to naturally administration. This is taken care of the Ministry of Environment and Climate Change Forests (MOEF). Because of obstruction by the government over the administration of the Ministry, there is a poor execution of law.²³⁸ ecology there is also a lack of political will and open awareness. Practically all of the law are identified with the condition of thinking about human dominion over the environment and nature. We have enough contamination control device. The system is under the Prevention and Control of Pollution Act 1974 and the Prevention and Control of Pollution Act, Water chase sequences and control structures.

Enterprises are committed to taking the authorization from State Pollution Control Board for waste water releases and causes the release, but there are weaknesses in consistency in the absence of punitive measures solid. Comptroller and Auditor General of India in 2011-12 gave her account Audit Performance of Water Pollution in the Indian state that the punishment for the negation of WPCA 1974 is too weak. There is no freedom is given to the focus and gazetted who still need to rely on the state and government to focus on arrangements. This prompted the absence of people can afford. This arrangement in the administration wishes. PCB has no legitimate specialists and their choice will generally be rejected by the government. There is also a lack of assets for Pollution Control Board and they do not have the basic or the appropriate laboratory. There is convinced that legislation is not very elastic. The current law offers significance for some specific types of contamination or explicit classification of dangerous substances. The neglect of components present to recognize the polluter pays guidelines. Natural Litigation increasingly expensive in contrast with a different question because it includes the master declaration and special confirmation what can be done? An administrative body is free to be built.

The MOEF in 2009 had proposed to "National Environmental Protection Authority 'in paper exchange will go on as the body to' examine, control and implementation of the 'administration ecologically. As on account of Vellore Citizen Forum v. Union of India that the standard rules of the polluter pays connected. for this situation, interest Litigation General noted by lawyers in light of the fact that the tanneries and the different companies that release untreated sewage into the River Palar in Tamil Nadu. 35,000 hectares of agricultural

area has moved towards being either completely or somewhat deserves to be developed as per the Tamil Nadu Agricultural University Research Center, it was held that the business needs to remuneration salary for locals to harm brought by them and subsequently made for environmental reclamation. A reward system should be given to businesses, associations, and so on to identify violations and make the step for mega station issue. Financial allocation, cost sharing is supposed to also be promoted. Open awareness and the expansion of political will is the necessary condition to be questioned. NGOs can assume the important work in this regard.

There should be less political impedance in free administrative body. Basic controls more leadership should be given to the sheet. There is also a need to organize a collection of specialist just like general administration. It is essential that the legislation provides the ecological quality of the general public and the Court and the Court should forget about doing the work arrangement and should concentrate on making solid natural laws in India. There is a need to train engineers who did not pursue rules. It is important to have a general introduction to ecological insurance.

The 2006 National Environmental Policy difference and shows that there is a need to move to a general obligation solid system that depends on the wages of pollutant rules than criminal penalties components. There is also a requirement for the legislature to pass the Environmental Law Amendment Bill 2015 which seeks to force a fine of 50-100 million rupees general obligation to make a significant environmental hazard. Air Pollution execute some 1.2 million people every year in India. New Delhi air quality is several times as far as possible. 70% of India's surface water and ground water is lowered and unfit for drinking. By 2020 it is normal that 21 urban areas will not have water remaining lands. It is as shown by the continuous reports Aayog Niti. About 47 species of creatures and plants are fundamentally threatened in India as demonstrated by the International Union for Conservation of Nature Red Data Book. Phalodi in Rajasthan recorded a sultry day most of India 51 C which is comparable to 123.87 F back in May 2016. Urban India is the world's third largest generator of garbage and waste in 2050 counted on to rise to an amazing 436 million tons. It is very essential that the ecological law firm needs to actualize in light of the fact that the appearance of the future of India does not look brilliant.

CHAPTER - 7

INTERNATIONAL PERSPECTIVES - COMPARATIVE ANALYSIS OF INTERNATIONAL AND DOMESTIC EFFORTS IN SAFEGUARDING ENVIRONMENT

7.1 INTRODUCTION

Present international law today can be traced back directly from the development of international legal documents and discussions take place in the second half of the nineteenth century. But the current trend

International Environmental Law only be recognized after the 1980s. To understand the new principles and rules of international law requires a sense historic neighbourhood every aspect of the environment, which means the legal, political, scientific and other developments. this law has evolved in several periods at different times, showing an increase scientific knowledge about the environment, the development of new technologies and their impact. The evolution of the international political system and changes in the international legal mechanisms and the development of new legal institutions have also played a key role in it.

The development of International Environmental Law begins with the establishment of a bilateral fisheries agreement in the early nineteenth century and at the conclusion of the International Organization formed in 1945, the first era of the development is complete. It also can be classified as the first period of the development of International Environmental Law. Individuals under the current frame and the State began to understand that the process of industrialization degrading natural resources and thus the exploitation of natural resources should be limited by adopting a new legal mechanism for protection of the environment. Furthermore, the second period began with the establishment of the United Nations and associated with the United Nations Conference on the Human Environment. This conference is the most important one in the field of International Environmental Law, such as those held in Stockholm in June 1972, it is also known as the Stockholm Conference. This leads to the creation of several competent authorities and organizations concerned with matters Environment. Similarly, the adoption of international instruments in national law and international level with regard to some of the sources of pollution and environmental protection in general. The third stage of development goes from the Stockholm Conference and reach the end at the United Nations Conference on Environment and Development (UNCED Further) concluded in June 1992. The role of the United Nations this period out in the image as it tries to bind to and coordinate responses to environmental threats from an international perspective. This phase has also seen a ban on the production, consumption and International Trade of materials that are potentially harmful to the environment. Many regional and international conventions designed to address environmental threats. The Forth This stage is followed by the development of UNCED and more things done by these legal instruments. This era can be treated as an integration period. This period is mainly focused on international environmental threat of legal views can be integrated with other activities. In this period only a matter of time for the first compliance also addressed. They address the issue of compliance obligations under international conventions which results have been recorded in the International Jurisprudence. In understanding the development of the subject matter, the general principles and rules should be recognized. The first theme of international environmental treaties and conventions should consider. This can only be done through international understanding and usage habits. Also the scientific evidence should be taken into consideration proposed to treat the same environmental threats and that is incorporated within the framework of international law. This point is the most important to consider science and technology is improving rapidly, and also environmental effects. Without knowledge of science, it would not be possible to overcome the environmental damage and put the law in place. The third thing is the key to the complex web of national governments and non-state actors resulted generates some principles and standards.

The level of legal development for a particular area or subject depends on the attention that States along with the actors of non-state and international organizations have. Until and unless the nation has no intention to enter into binding legal obligations, international law cannot be an effective way to address the issue or problem. The last thing to consider is the role of the international authorities such as the ICJ judge and some of the International Court of Justice, because they also create some jurisprudence relating to International Environmental Law. This is due to increased environmental threats and things will international authorities prosecute very often, so that their contributions are important to consider.

7.2 THE INITIAL EFFORT

Several early attempts to preserve the environment is for the protection of wildlife such as fish, birds and seals, and also the limited scope of the possibility of rivers and seas. Scientific evidence and efforts for the environment followed by legal documents including works by several scientific scholars such as Count Buffon, Fabre, Surrall, Saussure and last of von Humboldt. These graduate studies related to the impact of deforestation in the country, floods, soil erosion, silting which is also the effect of deforestation and also the conclusion of inhabited and uninhabited appearance of living organisms. In the mid-eighteenth century it was established that, deforestation. international outlook on the conservation of flora and fauna is directly related to industrialization and the use of natural resources exploitation. This leads to the United States adopted the legal framework for environmental protection at the national level. At this point in time treatise irregular and improper to be adopted for environmental conservation. In the mid-nineteenth century to address the convention exploitation of fishery resources is adopted. Some common examples include preservation of oysters in this fishery convention to prohibit fishing in certain dates. Also, some special instruments are framed to protect fisheries in rivers and lakes of the above-exploitation. In 1931 the first whaling convention was also prepared.

Several other environmental organisms need to be protected by international cooperation, it is a migratory bird. The International Commission for the Protection of Birds proposed by Switzerland in 1872. This leads to the constitution of several international committees and finally concluded the proposals given by them to adopt the Convention to Protect Birds Useful to Agriculture in 1902. The Convention is based on the method of regulation is still in practice. Practices such as the provision of protection in an absolute sense for certain types of birds, such as the protection of their prohibits culling and destroying nests or breeding ground for them. Some exceptions are allowed in this convention as scientific research in nature and repopulation. The same thing has been reflected in the modern legal documents as well, such as the Berne Convention and the 1979 Convention on Biological Diversity, 1992. For the first bilateral agreement Migratory birds was adopted in 1916. In 1922 the International Committee for the Protection of Birds commonly known as ICBP which reflects the recognition of some new rules. This committee was formed to strengthen the protection of birds in the United States and Europe with the main objective to encourage the transnational coordination is not an international integrity.

It is a few attempts in the early period of the 19th century for the protection of the environment. But to better understand the global concern for environmental protection, several legal documents International Environment needs to be explained. The main international legal instruments are:

7.2.1 STOCKHOLM DECLARATION

Intergovernmental conference of experts on the basis of present scientific evidence on the duration of use of natural resources and conservation of the biosphere was sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO). In 1968 the UNESCO for the first time suggested the idea of a declaration on the environment. The UN Economic and Social Council and resolutions of the UN General Assembly made an effort to meet in Stockholm. Equally supports the idea of a basic document to address future actions for environmental protection. A committee of 27 countries was also established by this resolution, which directly provide advice to the Secretary-General to undertake some preparatory Meeting of Stockholm. Preparatory committee addresses most of the issues and leave some issues to be debated at the meeting itself. Initially the preparatory committee had a background paper to draw up a declaration of rights and duties of nations for environmental protection and improve the human environment conditions. Next to counselling Nations Members, the supervisory board agreed on the goal: to have a fundamental standard archives, shows the issues of nature and the rights and commitments of all pieces of the community with respect thereto; to animate popular network assessment and investment for the assurance and enhancement of the earth in the light of a legitimate concern for the present and the future to provide the age of the core values to the government for a detailed approach; and the targets set for the future of worldwide co-activity. All through its contents, this announcement is to assess the ecological burden caused by the contrast in the social and financial improvements. This premise and with the proposal of the Secretary-General concerning the substance, the initial board of supervisors establish an intergovernmental working meeting to organize the draft.¹⁰⁰

7.2.2 Rio Declaration

Rio Summit held in the Brazilian city of Rio de Janeiro, between June 3 and 14, 1992. Both the Earth Summit Development and Environment sorted out by the United Nations. Secretary-general is Maurice Strong. It is represented by 178 countries, speaking to a large extent by the head of state, though somewhere in the range of 400 delegates from non-administrative associations. Then again, some 17,000 people go to the NGO Forum, held in parallel to the summit. It took a long time since the Stockholm Conference, the First Earth Summit, to praise the second part of this opportunity. To be honest, very little progress was made in the last two decades in the atmosphere, despite the high expectations that were exemplified in the 26 number of principles issued by the Stockholm Declaration. The feature of this period was the emanation of the Montreal Protocol on the ozone layer security.

Development and Environment, with Commentaries (1972).

International Convention for the Prevention of Pollution of the Sea by Oil, United Nations Treaty Series, Vol. 327, p. 3, May 12, 1954.

The understanding was consulted in 1987 and came into power on 1 January 1989. Until now in 1985, 20 countries including the maker of chlorofluorocarbons (CFCs), which is responsible for the expansion of the supposed "ozone whole", they have marked the Vienna Convention, who built a system to regulate the worldwide guidelines on ozone-drying. CFCs were replaced by HCFCs, which impact several times lowered, despite the fact that they continue to influence the ozone layer. Until full item can be found, HCFCs will be used as a temporary substitute. The Montreal Protocol is considered e.g. universal participation issues that affect the care of nature.

Among the objectives of the Rio Declaration, we can think about the formation of other types of participation between countries, segments and the people, on issues identified by the guarantee of the earth and the financial progress feasible in harmony with the earth and collaboration among nations to secure, protection and rebuilding the state of the Earth.¹⁰¹

7.2.3 THE SIGNIFICANCE OF THE RIO SUMMIT

In addition to creating of the UNFCCC and the COP, the summit also created the Convention on Biological Diversity; Declaration of Principles on the Management, Conservation and Sustainable Development of various Forests; Rio Declaration on Environment and Development, Agenda 21 last, an activity to create a model of sustained progress for the 21st century.

7.2.4 FAULTFINDERS TO THE RIO SUMMIT

In a lengthy article titled as "The carefully pull it from the highest point of the earth.⁶⁴ impressionist assessment of Rio92" composed by Roberto Guimaraes, the Brazilian political specialists, scientists of the Social Development Division of the UN Economic Commission for America Latin and the Caribbean (ECLAC), pointed out: "in general, all the agreements adopted at Rio-92 produced more frustration than satisfaction among observers. Convention on climate change, for example, is the most anticipated document of the Conference; and not without reason, because the convention was originally formulated to eliminate, or at least stop, processes that contribute to the increase in the average temperature of the atmosphere and the increase in sea level, so as to avoid negative impact on agriculture and coastal areas. Expectations are high regarding the convention that only comparable with the level of general frustration with the final text has been received. It is, in fact, the greatest failure of Rio. His text has been so "juicy" in the previous discussion that the document was finally approved by losing a lot of its original strength and resembles more a simple statement of intent. Instead of adopting urgent measures in this area, the current text only "recommends" the stabilization of carbon dioxide (CO₂) in the existing level in 1990. Even so, it did not set a deadline for it to be effective stabilization. "

7.3 MAJOR ENVIRONMENTAL CONVENTIONS IN BRIEF

Consult a universal understanding of the ecology in the twentieth century reflects the shared characteristics

arrakesh Agreement establishing the World Trade Organization, with Annexes, Final Act and Protocol, April 15, 1994, United Nations Treaty s, Vol. 1867, p. 154 (No. 31874).

of the worldwide interest in keeping with sincerity and honesty of our planet and set the method by checking the strength of the conditions and provide benefits to all meetings. Here are some of the great ecological setting, traditions and conventions which have been consulted in the twentieth century.

Global Whaling Convention 1946: It gives structure to the guidelines of the whaling industry and the preservation of the legitimate of whale stocks. The General Agreement on Tariffs and Trade (GATT) 1947: Environment and issues of exchange move in two ways: to practice ecological security influences the exchange, and the exchange repeats affect the natural exchange. Both are seen as an important component of decent progress. GATT has important consequences for the natural guarantees and advances facilitated trade around the globe. Article XX of GATT provides exchange limitations to meet ecological targets as far as they are not self-effacing or bias. The Antarctic Treaty, 1959: Under this arrangement, each atomic explosion in Antarctica and transfer thereof would preclude radioactive waste materials. The main point of this resolution is to keep the Antarctic quiet and free from atomic testing and the military.

The Ramsar Convention, 1971: It gives the system to keep the overall loss of wetlands through the intelligent use of wetlands and the rest of the council. It includes both public and living spaces that can be delegated manmade wetlands. Wetlands combines flow, reefs, marshes, swamps, lakes, salt marshes, mud, mangroves, coral reefs, fens, peat swamps, or drains - regardless of whether normal or false, does not change or temporary. World Heritage Convention, 1972: This is a tradition that is committed to the entire network of guarantee universal collaborate in the World Cultural and Natural Heritage. Since support in 1972, has turned into a standout among the best and the essential components for security purpose and landmarks around the world.

London Convention 1972: It is a tradition for the opposite action of sea contamination by disposal of spent and the different issues. London Convention, 1973: This is a convention obstruction in the high seas if there should be the occurrence of marine pollution by substances other than oil.

Convention in International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973 77: It provides a structure to control the universal exchange of threatened species. It provides security to more than 30,000 kinds of creatures and plants, regardless of whether they are exchanged as a living example, furring or dried herbs. The International Convention for the Prevention of Pollution from Ships 1973, as amended by the Protocol of 1978 (MARPOL 73/78) 78: This is the tradition of the universal control of a significant contamination of the condition of the ship because of their activities. Geneva Convention on Long-Range Trans-boundary Air Pollution, 1979: It provides a structure to control the long-going cross-border contamination and contamination gloom. UN Convention on the Law of the Sea (UNCLOS), 1982 280: It provides a global structure that manages the use of the sea in the world.

Convention for the Protection of the Ozone Layer, 1985 (the Vienna Convention): This is a settlement to reduce and takes the production and utilization of gas that destroys ozone in the earth's climate. The purpose of the Viennese tradition is to ensure human well-being and the condition of the destructive effects of the consumption of ozone. As a tradition the system did not set a specific order for exhaustion of the ozone layer. Instead, it sets a general commitment on meeting the ozone layer to secure and underlines the need for

participation. This tradition does not force the solid commitment. It just makes a structure that should be filled with more activities.

The Montreal Protocol 1987: It sets up a goal to reduce and in the long run take the creation and use of substances that ozone layer exhaustion grounds. Appropriate that nations need to set goals to eliminate substances deplete ozone. Be that as it may, provides a superb setting for the nations create. It felt the way that nations creative's almost added to this problem, so that they have a 10-year delay period eliminate the generation and use of ozone exhausting synthetic substances.

The Basel Convention, 1989: It controls the development of the trans-boundary hazardous spending and transfers them. The tradition of Biodiversity, 1992: It forces committed to saving biodiversity in both grounded and marine environment. Two targets fundamentals of this tradition is the use of managed part of a wide range of variety of organic and fair share and impartial profits arising from the use of assets throughout their generations, including by installing access to assets hereditary and the exchange of appropriate significant progress, given all rights to assets the and progress, and with the right financing. United Nation Framework Convention on Climate Change, 1992 (UNFCCC): This provides a significant system to direct anthropogenic environmental changes. Rio Convention, 1992: The fundamental point of this tradition is to alleviate poverty, the environment naturally and safely avoid humiliation strength and honesty of the biosphere. Kyoto Protocol, 1997: In this convention, the rise of the UNFCCC, the understanding was made between nation states to the nation in order to decrease the discharge of ozone depleting substances.

7.4 INTERNATIONAL JUSTICE AND ITS VIEW ON INTERNATIONAL ENVIRONMENTAL LAW

Initially, the condition around the world is not an appropriate subject of law worldwide. A natural problem is seen as a worrying issue of households in the ward sovereignty of each country. They tended to by the guidelines is not a conventional household around the world who have been prevalently law into the legal arrangement between countries. Equity in this way has implied validity, sway, balance and courtesy treatment between countries. Natural question in the world, too, has tended in terms of this standard. In 1938 and 1941, on an individual basis, grant Trail Smelter passed in two stages with the US - Canadian Arbitration. For this situation, a Canadian organization that works great purifying plants in British Columbia released sulphur dioxide to climate, harming crops, woods, fields, animals and pets structures in the province, which borders the United States from Washington. A personal case some have made against the organization through the metropolitan law (national), yet attractive settlement has been reached. In this way, the United States and Canada agreed to settle the question through the whole world the wisdom of Article IV of compromise (agreement to settle the question by the statement), provided that (a) the relevant laws to be "legal what's more, the practice followed in managing the related question US States such as universal law and practice, "and (b) that the reasoning given 'to the desire of meeting high contract to achieve the only answer to all the meetings in question.' In his choice, a court statement observed: "Under the principles of international law and United States law, no state has the right to use or permit the use of its territory in a manner to cause injury by fumes in or to another region or the nature or the people in it, when the case of serious consequence and the injury is established by clear and convincing evidence."Pulp Mills Case (ICJ

Decision) The "pulp mill" case is essentially a debate that occurred between further Uruguay, Argentina. It tends to be expressed that the debate occurred in connection with milled factories' development on Uruguay River. In the middle of that time, President Tabare Vazquez of Uruguay and Nestor Kirchner of Argentina. Two meetings have been entered into the real advertising, political and monetary clash. In fact, the question was also affected transportation and travel industry business tasks are pervasive between local. ICJ considered being responsible for the delivery of advanced legal procedures. ICJ finished up by ensuring that the bombing of Uruguay in Argentina illuminate on the tasks it is appropriate; in any case, the tasks are undoubtedly not prompt flow contamination. In this way, the plant mash claims being shut down due to contamination of the water lines that undoubtedly is not supported.

In 2010, the debate has been completed and the report in coordination with different exercises that will be shown on the river. The assertion kosher ICJ is a profound mind in a setting of natural question, basically in light of the fact that the Environmental Impact Assessment (EIA) has taken the standard price. This case displays requirements for EIA at any point between the existing boundaries impacts connected with the danger of contamination. 1975 Statute connected while making the judgment, to get it regardless of whether the procedural commitments have been completely broken by Uruguay further, consistent with a natural standard clear.

7.5 FUTURE OF INTERNATIONAL ENVIRONMENTAL LAW

Multifaceted nature of the relationship of national and worldwide has reduced the legal sufficiency of universal ecology. do not get the results have mostly been accused in a blockage arrangement, i.e. the sheer volume of legitimate instrument in the world that has increased since the 1972 Stockholm Conference and all the more lately after the landmark Earth Summit in Rio de Janeiro in 1992¹⁰².

Professor Edith Brown Weiss from the Faculty of law at Georgetown University, an honour to win the laws of nature and master arrangement, watches presence of cheap clogging "as an isolated set, the secretariat apart and subsidy instruments, including regulatory and deviations between understanding and a serious interest in the ability of the environment to take an interest affairs, the meeting of the meeting, and the related exercise ". Bargain smoke clogging the public will be restricted government assets to take care of troublesome issues and could over-burden of civil servants in the national dimension in charge of organizing and understanding actualization. It is most notable perceived by ineffective or underrepresented created the nation, particularly Small Island Developing States (SIDS), that backup staff. needs and adequate use only on the issue of environmental change course, SIDS - often with populaces from under 100,000 people - need to work through the various offices and tradition, for instance, the Alliance of Small Island States, the UN Framework Convention on Climate Change, the UN office of the agents of Appeal for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States and the United Nations Department of Economic and Social Affairs. Add to this the CBD, the UN Convention on the Law of the

development and Environment, with Commentaries (1972).

International Convention for the Prevention of Pollution of the Sea by Oil, , United Nations Treaty Series, Vol. 327, p. 3, May 12, 1954.

Sea, Agenda 21 global Island Partnership, Action Program globally for the Protection of the Marine Environment from Land-Based Activities (GPA) and you can imagine how inconvenient it would be, though for better administration of resources for assets each voyaging and settings for the exchanges. The purposes of the issue of bargaining blockages require more coordination to the different binding authoritative effort. One model is recognized in the book by Ann Power in Chapter 2, which shows that the CPI may be able to strengthen the provincial collaboration through existing local concurrences consolation on the guarantees and protection of marine assets significantly. CPI does not only help the countries in the survey the problem, build and rate setting, it also raised the creative monetary system to generate asset SIDS need to adjust to the wonders of the atmosphere and decrease powerlessness.

7.6 CRITICISM AND CONCLUSION

The main questions arise whilst conclude this is the International Environmental Law are really "legal"? There is no authoritative body stand that explains the universal ecological standards, norms, or the system. Regular universal law consists of a general ban or commitment that the state is accused of executing and implementing. Bodies were entrusted oversee global ecological understanding (especially secretariat, working for the benefit of certain meetings of the meeting known as COP) having constrained to take steps to boost consistent: they have limited forces and no specialist knowledge to capture wrongdoers. This body on a regular basis depending on the cooperation of intentional states, and draw their capacity to serve part is there are quite a couple states. implementation instruments to breach the rejection of understanding, and it regularly has a blend of facilitative and correctional work and just started to work with and by since ecological laws around the world is a consequence of global arrangements among nations, and finally a trade-off between competing interests, usually UAS and adaptable. This usually involves a general arrangement which envisages the enactment of implementing housing to provide a certain subtlety, steps, what's more, to create a universal system of ecological contingent on things legal operational. Global understanding of certain states may have the ability to adapt when receiving actualization enactment as far as offering entry into force of the power to operational arrangement understanding. Unless explicitly rejected or confiscated by the understanding, countries may also embrace the more defensive measures. Without administrative bodies, formal or traditional law any longer, has given the consensus of many settings, universal ecological laws that require a large number of indicia customary laws. It can be seen progressively as a universal approach, in which states vowed to try certain steps.

CHAPTER -8

CONCLUSION AND SUGGESTIONS

8.1 CONCLUSION

In the present research work, an attempt has been made to find out role of Indian judiciary in environmental jurisprudence. The centre point of the study is to check the authority of the judiciary and legitimacy of judicial activism in the expansion of environmental law. It also focuses on the special contribution of the

judiciary in the development of environmental jurisprudence in India. The study also focuses on the various techniques and method adopted by the Indian judiciary in handling the issues related to the environment and the development of environmental law in India. It traces the evolution of Apex Court as a positive activist. An attempt is made to study the judicial pronouncements on environmental law by Indian judiciary and the impact assessment of this judicial rhetoric in the development of environmental law.

For this purpose, the researcher has divided this research project in 7 chapters. In the chapter 1, the researcher has introduced the topic in detail, elaborated the aims and objectives of the study, and discussed the hypotheses of the research work. Further scope of the study has also been discussed with review of literature and research methodology. Doctrinal and non-doctrinal methods have been used to carry out present research work.

In chapter 3, researcher has discussed about the development of environment jurisprudence in India. In this chapter, the significance of environment, definition of environment and historical development of environment jurisprudence have been discussed in details. Researcher has highlighted the advent of environment jurisprudence in way back in Pre-Vedic era. Researcher has also discussed the status of environment jurisprudence in post Vedic period, in Mauriyan period, during Jainism and Buddhism, in medieval India, in British period and during post-independence period. Researcher has highlighted key changes observed in gradual understanding and development of environment jurisprudence in India.

In chapter 4, researcher has specifically discussed about the relevant legislation dealing with the subject of environment protection in India. All provisions since the onset and till date have been discussed in details for understanding the legal position of environment protection in India. This chapter is very crucial in terms of existing Indian laws to deal with the subject of environment. Broadly speaking, the researcher has elaborated the provisions of the Water Act, the Air Act, Environment Protection Act, the Forest Act, and the Biodiversity Act etc. Researcher has also highlighted the consonance of Indian laws with international agreements. Besides, the special laws, provision of certain general laws like the Indian Penal Code, the Code of Criminal Procedure, tort; Poison Act etc. have also been discussed.

In Chapter 5, Constitutional provisions relating to environment protection has been discussed in detail. Constitution of India is umbrella legislation out of which all subordinate legislation emanates. To validate the activities relating to environment in India, these should be in consonance with the Constitution of India. Researcher has carved out entire provisions envisaged in the Constitution of India, including the Preamble, fundamental rights, 42nd Amendment, directive principles, fundamental duties, Article 253 and relevant schedule. This discussion has corroborated the efforts undertaken in this direction. Indian Constitution is the first constitution, which has incorporated all written provisions relating to environment.

In Chapter 6, researcher has discussed about the role of Indian Judiciary in environment protection. This chapter is very crucial qua the research subject of the researcher. In this chapter, researcher has discussed about the judicial activism and various principles viz. Polluter Pay Principle, Precautionary principle, Sustainable development/ Public Trust Doctrine, Principle of absolute liability and leading pronouncement of Hon'ble Supreme Court and High Courts. This chapter critically analyzes the role of Supreme Court of India towards this end.

In chapter 7, researcher has reviewed the research work which discusses global concerns for environment protection. During this research, researcher has discussed development of International environment law so as to understand the Indian environmental jurisprudence in light of International development. In chapter 7, researcher has discussed various phases and historical developments gradually before and after. Globally speaking in Stockholm Declaration envisaged human environment for the first time and urged the participating members to incorporate the provisions in their respective domestic laws. Further, the researcher has also highlighted the significance of the Earth Summit held in 1992 at Rio de Janeiro. This summit paved the way for sustainable development for the first time. Researcher has also emphasized the poor implementation of the international agreements; even participating nations have not followed these properly. Lastly this chapter 8 concludes the entire study and proves the hypothesis conceived by the researcher. In concluding note, the researcher submits as follow:

In spite of sustained efforts by government of India and all legislations made towards environment related issues, the same has fallen short to the rising problem of environment debasement and degradation. The key legislations like, Water Act, Air Act, the Forest preservation and the ongoing complete Environment (Protection) Act, they are lacking to manage present day possibilities.

Ecological issues in India includes various phenomenon and perils, especially typhoons and yearly storm surges, populace development, expanding singular utilization, industrialization, infrastructural advancement, poor horticultural practices, and asset misdistribution. These have prompted generous human change of India's indigenous habitat. An expected 60% of developed land experiences soil disintegration, water logging, and saltiness. It is likewise assessed that somewhere in the range of 4.7 and 12 billion tons of topsoil are lost every year from soil disintegration. From 1947 to 2020, normal yearly per capita water accessibility declined gradually by practically 70% to 1,822 cubic meters, and overexploitation of groundwater is hazardous in the conditions of Haryana, Punjab, and Uttar Pradesh. Woods region covers 18.34% of India's geographic territory (637000 km). About portion of the nation's backwoods cover is found in the territory of Madhya Pradesh (20.7%) and the seven conditions of the upper east (25.7%); the last is encountering net woods shortfall. Timberland cover is declining a result of reaping for fuel wood and the development of agrarian land.

India needs some more compelling enactments for this 21st century and dare to have the U.S model of administrative arranging and open examination. The guideline of manageable advancement must be perceived and accentuation on Environmental Impact Assessment is required. India being creating nation it focuses on the financial advancement yet it must be in co-appointment with ecological up gradation. However, the Environmental (Protection) Act is exceptionally yearning and kept up various elements of nature in India, condition security has been overwhelmed more by financial imperatives and the need of improvement. Consequently, now and then with a few bargains, the target lost which has brought about the disappointment of administrative mission.

The fast-developing populace and financial improvement is prompting various natural issues in India on account of the uncontrolled development of urbanization and industrialization, extension and gigantic strengthening of farming, and the pulverization of backwoods. Major ecological issues are Forest and Agricultural land corruption, Resource exhaustion (water, mineral, woods, sand, rocks and so on)

Environmental debasement, Public Health, Loss of Biodiversity, Loss of versatility in environments, Livelihood Security for the Poor.

It is assessed that the nation's populace will increment to about 1.45 billion by 2021. The anticipated populace shows that India will be the principal most crowded nation on the planet and China will rank second in the year 2050. India having 18% of the total populace on 2.4% of worlds all out zone has enormously expanded the weight on its regular assets. Water deficiencies, soil fatigue and disintegration, deforestation, air and water contamination burdens numerous zones.

Natural alteration is as old as the historical backdrop of human advancement. In the only remaining century, advancement and change have come a lot quicker than ever previously. While it took a couple of thousand years for man to go from Palaeolithic to Neolithic apparatuses, it has taken not exactly a century to alter ordinary weaponry to atomic gadgets. Advancement has been rapid to the point that nature has not had sufficient energy to adjust to these progressions and to human prerequisite and eagerness.

Additionally, the earth itself is exhausted because of exorbitant cultivating, utilization of synthetic substances and pesticides and over the top utilization of ground water. Water assets are seriously dirtied and outflow of poisonous exhaust from industry and vehicles has denied us of clean air. Industrialization and a developing shopper economy have prompted the formation of colossal metabolizes with their issues of indisposed junk and uncontrolled sewage.

To battle these issues, world bodies like the United Nations and the World Commission on Environment and Development have been planning thoughts for ecological security and practical advancement. A few worldwide meetings have been hung regarding this matter, beginning with the first in Tbilisi in 1977 to the Earth Summit in Rio de Janeiro, the Populace Summit at Copenhagen, the world Summit on Sustainable Development in Johannesburg and a few others. It is plainly clear that 25 years after the primary gathering in Tbilisi, there has not been a considerable change in ways of life or the dimension of mindfulness. Nations have put their own advantages in front of natural assurance and the eventual fate of coming ages.

As the years progressed, the administration of India has passed multitudinous laws to help them in their errand of natural insurance. Tragically, every one of the controls and acts has not done what's necessary to ensure the earth. The avarice of numerous in the administering bodies has prompted abuse of the laws and merciless misuse of the land, prompting environmental annihilation and social shameful acts. Most pioneers of industry do not have a social soul. They have misused our nation's assets and contaminated our earth, water and air. Open lack of care has not helped either. The general populations, as natives of this nation have not made their voices heard. The opening up of the economy and globalization has put a more prominent weight on the assets, further vitiating the delicate eco-arrangement of India.

An ongoing pattern which is cheering to note is the job of the Indian Legal executive in natural assurance. It has received open intrigue suit (PIL) for the reason for ecological security. This has demonstrated a viable instrument. For instance, an endeavour to get timberland land and change the course of the river Beas to encourage the development of a motel was made by an organization purportedly having direct connections with the group of Kamal Nath, previous Minister of Environment and Forests. The Supreme Court subdued the earlier endorsement conceded by the focal government for renting out woodland arrive and furthermore the rent deed between the legislature of Himachal Pradesh and the organization. The Government of

Himachal Pradesh was requested to guarantee that the space was re-established and that there was no development on that zone. The guilty party organization was entirely coordinated to end and evacuate all development and needed to pay for the reclamation of the territory's environment. It was likewise illuminated that the stream and encompassing district was and would stay open property.

The scientist presents that there exist passes in ecological insurance laws. There is disappointment with respect to administrative apparatus. It is presented that brutality on condition ought to be bared. There is a need to investigate the working of contamination control sheets. It has additionally been an acknowledged certainty that Indian laws for contamination control are loaded with imperfections. There is no adaptability in the gauges as they are increasingly prescriptive and characterize uniform benchmarks without considering, the sort or size of the business or the expense of contamination reduction. Legitimate activity to ensure and safeguard nature isn't up to the stamp in India because of the poor requirement of ecological insurance laws.

The opportunity has already come and gone that the general population of India wakes up to understand the serious extent of the harm destroyed on the mother earth in the pretence of advancement. To the chiefs, the assurance and welfare of our condition, barely matters. All these mean an unredeemable infringement of human rights by the industrialists who helps for the state's inaction under the façade of mechanical and innovative improvement. The general populations can't, any more surrender to passivity or eat the opium of modern and innovative advancement including human causalities as an unavoidable insidiousness. The analyst submits to kill the stifled imagined that has been excessively profoundly instilled in the mind that costs on condition security is a sheer waste and influence the basic man to experience the ill effects of the brains of Indians.

It is obvious from the talk in the proposal that the insurance and safeguarding of the earth are fundamentally identified with advancement, which is economical and falls under Article 21 of the Indian Constitution. By goodness of India being a signatory to numerous global instruments which turned into the piece of the law of land. Hence, the legal job for bringing out the job of legal activism through open intrigue suit is a Constitutional standard.

The ideas of natural improvement are completely valued and connected by Indian legal executive, while mediating the ecological issues. At whatever point, there is a risk to the earth, the equivalent must be settled and fitting the means to be taken to keep away from harm to nature. It is as of now late that the general population of India must wake up. 'Do or bite the dust' is the call at this urgent minute when natural survival and life's security are in question. It has been more than once, on numerous occasions focused on that the humanity must adopt worldwide strategy to keep up the environmental parity so as to protect life on earth.

The Supreme Court has changed the course of ecological law by making natural commitments official on the state by deciphering that the directly to a spotless domain is indispensable to the directly to life. This statute of major rights and receiving a right-based methodology towards nature has engaged the nationals to look for implementation of natural rights. The court has added to the advancement of natural law by translating different arrangements of the constitution to empower the use of universal standards of ecological law into national law. By applying the standards of supportable advancement the Supreme Court has offered impact to the standards of social equity inalienable in the constitution of India. In this way, while setting down

natural law, the court has in certainty set up the sacred targets of social financial and political equity and the major privileges of the subject of India.

An amazing development has grown up everywhere throughout the world for ensuring condition. Particularly International Environmental meetings embraced standards to manage the legislatures in their treatment of worldwide ecological emergency. States likewise embraced arrangements and rules in ensuring condition. Legal executive has given assistance in advancing ecological insurance.

In view of the entire discussion, it has culled out that international consciousness towards environment debasement has rejuvenated the Indian machinery. Moreover, in recent years, judiciary has acquired centre stage due to executive and legislative callousness towards environment protection. India is not a novice in the field for environment and ecology conservation. Since olden time's people of India have been active to save environment, Earth is one and hence environment is one. Landmasses are divided into sovereign nations. Therefore, all nations have to take collective efforts to save the environment. Understanding the extent of the problem, the nations of the world congregated under various platforms to discuss and resolve the issues. Responsibility and liability are fixed and it is expected that the treaties would be followed by heart. However, still there are certain roadblocks choking the path of crusade against environment debasement and degradation. Nations signing the international agreements are not obliging their duties towards others and duties to their citizen to save their own environment in blindfold of economic growth. This lackadaisical approach shatters the entire mechanism devolved for environment protection on earth.

In recent years, the popular governments in democracy lack convictions. Legislations are not properly enforced. People take advantage of poor enforcement. At such critical time, the role of judiciary becomes crucial. The issues relating to environment come before the judiciary and judiciary with its proactive approach of judicial activism not only decide the instant issue but also pave the way for strict enforcement of legislations. Judiciary corrects the wrong recourse undertaken by executive and also interprets the legislation in a very wise manner. In India, the Supreme Court, various high courts and Tribunals have been playing a very responsible role and have become guardian of environment and ecology in India. Through various pronouncements, judiciary has corrected the recourses leading to environment degradation. In judgment of Arjun Gopal & Ors, vs. Union of India W.P. (C) 728 of 2015 the Hon'ble Supreme Court prohibited certain class of firecrackers on the eve of Diwali and also fixed timings for remaining firecrackers.

In another leading judgment, Hon'ble Supreme Court banned the sale of BS-IV vehicles after March 31, 2020 when BS-VI fuel norms will come into force. In the same judgment, shelf life of diesel and petrol vehicles were set and registration of certain class of cubic capacities were prohibited. There are numerous pronouncements on environment related matters by the courts. In Chapter 6 the role of judiciary has been discussed in detail. Hence it can be safely presumed that Indian judiciary has been playing a crucial role in environmental jurisprudence and new contours are being carved out. Judiciary has also filled the vacuum created by legislative and executive by non-fulfilment of their respective liabilities.

8.2 SUGGESTIONS

For commitment for the security of condition and biological improvement in India:

- The existing legitimate arrangements are deficient to control the gigantic issues of natural contamination of different sorts in the nation. In this way, the legal executive needs to play an increasingly dynamic and useful

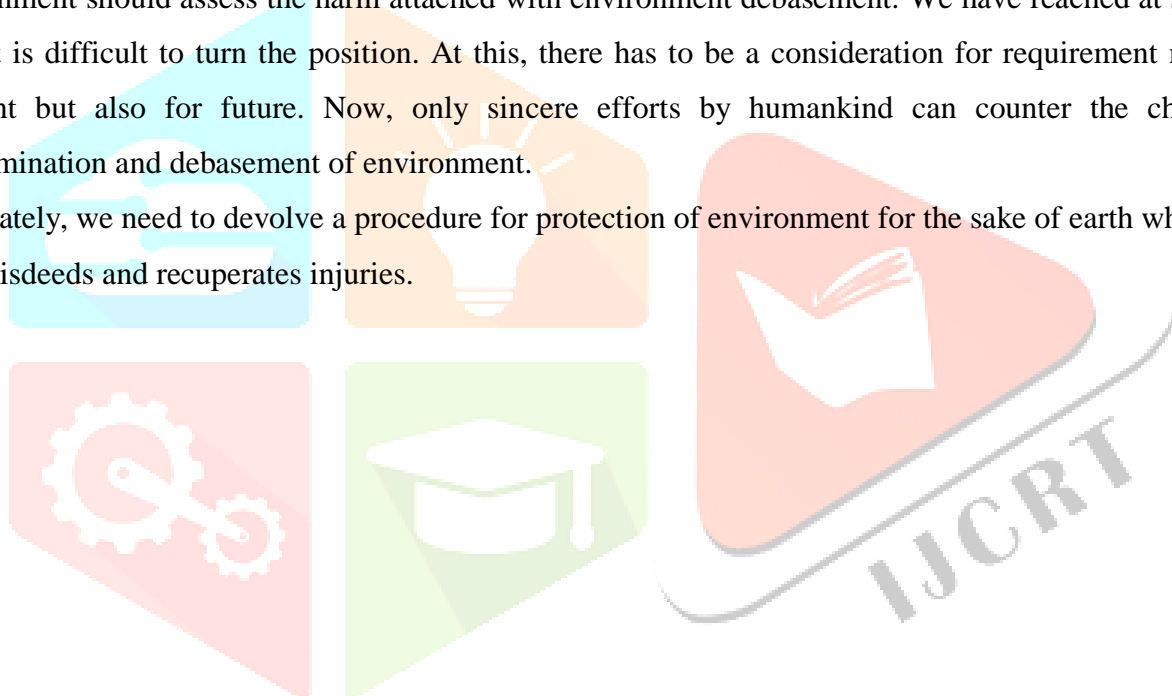
job. This has turned into even more fundamental in perspective of the absence of mindfulness in the majority of the contamination issues; absence of arranging and the lot of the enterprises and the neighbourhood bodies in such manner. New jurisprudential methods must be conceived to bargain sufficiently with the issues of contamination control and assurance of condition.

- Environmental law ought to be executed viably by receiving new instruments, components and methods like natural effect appraisal and ecological review and join ecological destinations in assembling forms, least use of perilous materials and harmful synthetic concoctions, watchful utilization of poisonous gases will diminish ecological load.
- Legal arrangements conceding a viewpoint directly to dirty air and water ought to be developing prohibitively by the courts.
- Legal arrangements planned to avert or control contamination ought to be translated so that even the inconspicuous intrusions of the antipollution laws are secured.
- Government ought to strengthen its awareness drive in making people aware about the dependence of human rights on natural environment. Human rights can only be enjoyed in wholesome environment.
- It is the time to take sincere pledge to be sensitive towards ailing environment and various factors leading to its degradation. People need to adopt natural practices for sustenance of life and enriching degrading environment by way of utilizing solar energy in day to day life, low emission of CFC, those which are very innovative, economic and eco-friendly.
- Guidelines, issued by Hon'ble Supreme Court of India in case of Ratlam Municipal Council regarding obligations of the municipal bodies to fulfil rights of citizens related to sanitation and public health and duties of the courts to ensure proper functioning of such civic agencies, should be implemented meticulously.
- It is the time to take a call for consolidated effort from all sides including all states, local bodies, all kind of gatherings, associations, foundations and individuals everywhere in any part of world adopting their particular exercises for protection of environment.
- The remedial approach should put stress on condemning the contamination of environment rather than imposing fines or punishments. A sense of responsibility needs to be inculcated in the mass instead of creating fearful regime.
- The courts have to promote special techniques or develop new mechanism to provide equity to all such people who are denied their fundamental rights.
- In this era of environmental crisis, it is more incumbent upon the authorities, administration, individuals and legal executives to contribute more in this domain. It is their further duty to oblige not only Indian standards but also international standards for protection of environment. All need to take a pledge for progressively monitor the environmental growth.
- Powers vested in the authorities by way of section 133 of Code of Criminal Procedure, 1973 are very crucial. Magistrate can control a wide range of contaminations like air, water and noise. This being a very quick and handy cure each one of us can explore it amply. These powers should be utilized wisely for betterment of environment degraded by human element.

- The Magistrate under the power vested in him under Sec.133 should act in a very fair and impartial manner to reduce the contamination of every kind and to establish social equity.
- United Nations and the member countries should devise a three-pronged approach to address the problem on environment. And these three key strategies are 1. Compilation of legitimate data with utmost earnestness on the ecological issues. 2. Motivation must be given to the people for addressing the difficulty of ecological contamination. More research efforts towards practical advancement on ecology and environment.
- Lastly it is the duty of the people to be mindful and sensitive towards nature and ecology. Human rights are totally dependent on clean environment, clean water and clean air. People should act together to fight debasement in administration. A mechanism for natural assurance can be devolved.

Government should control rapid increase in population and improve natural resources. Government efforts are need to aware and counsel general population about the increases of ecological assurance and manageable improvement. The opportunity has already come and gone the population, state and central government should assess the harm attached with environment debasement. We have reached at such a stage that it is difficult to turn the position. At this, there has to be a consideration for requirement not only for present but also for future. Now, only sincere efforts by humankind can counter the challenge the contamination and debasement of environment.

Ultimately, we need to devolve a procedure for protection of environment for the sake of earth which excuses our misdeeds and recuperates injuries.



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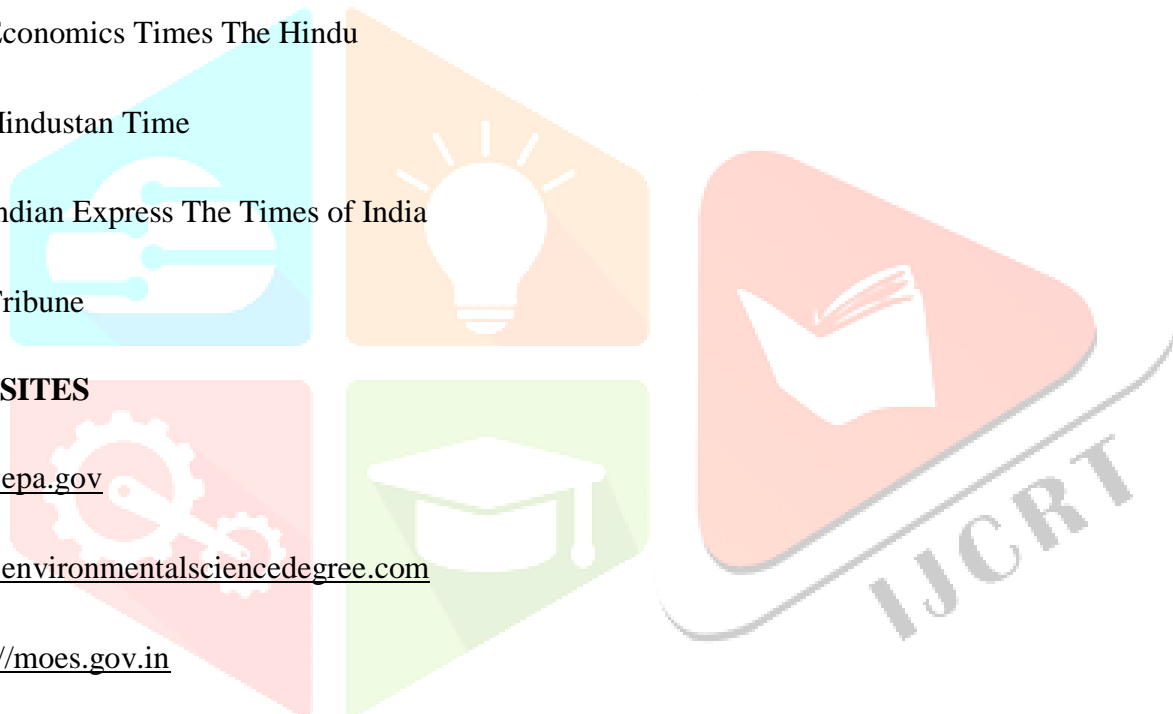
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