CHAPTER – II

ENVIRONMENTAL PROTECTION – INDIAN HISTORICAL AND INTERNATIONAL PERSPECTIVE

Environmental protection means protection of the nature and surroundings. Love of nature is not a new phenomenon. It existed from the beginning of human life. Man loves nature and nature in turn nourishes man. Nature and man are interdependent. Man cannot survive without nature. As a result it is the duty of man to protect nature. In order to understand the historical evolution of environmental protection in India, it is necessary to refer the Indian history from Ancient period to the contemporary. The researcher discussed historical evolution of Environmental Protection India by referring ‘Indian Religious Philosophy’, ‘Ancient period’, ‘Historical Period’, ‘During British Period’ and ‘Post Independent India’.

2.1 Historical Perspective of Environmental Protection

The concept of environmental jurisprudence in India is not new. The age-old environmental jurisprudence in Indian civilization is to live in harmony with the nature. Worshipping nature as deity and recognizing earth as mother show a kind of conservation ethics that comes to us through our history, culture, religion and Vedic philosophy.

2.1(a) Religious Philosophy towards Environmental Protection

Most of the mythologies have adequately conveyed the importance of environment. The religions all over the world have so much to say about the relationship between human kind and the earth. The world is green and beautiful. God appointed human beings as his stewards to protect it.¹

In Hindu Philosophy, it is believed that human body is composed of five elements (Panch Tatva) viz., Air, Water, Sky, Earth and Fire. In this sense the human body is a creature of the nature. The nature possesses an inherent quality of curing pollution by itself. After the birth of mankind the environmental Pollution started growing. Vedic societies put great emphasis on the purity of the environment. Performance of Yagna was a method to purify the surrounding air. In Hindu theology forests, trees and wild life protection held a place of special reverence.

The Vedas, the Upanishads, Puranas and the other ancient scriptures of Hindu religion give a detailed description of trees, plants and wild life and their importance to the community. Human habitations all through the ages have thrived on the river banks and in close proximity of water source. Forests have natural growth of herbs which provide cure for diseases. Our ancestors knew that trees were friends of mankind and forests were necessary for human existence and civilisation to thrive. It is these forests that provided shelter for 'rishis' and accommodated the ancient 'Gurukulas'. They too provided food and support for our forefathers living in the state of nature. That is why there is copious reference to forests in the Vedas and the ancient literature of ours. Similarly, it is said in ‘Skand Puran’ that ‘peepal’ is supreme of all other trees and has some medicinal value. Further in ‘Yagnavalkya Smrthi’, cutting trees and forests was a punishable offence. We also find reference of beautiful forests of ‘Nandanavana’ and ‘Khandavana’ in epic literature, the destruction of forests was considered to be a great sin.

‘Manu’ warned the people not to eat rotten food which may cause diseases. To maintain the quality of water and to avoid water pollution, he advised not to contaminated water by urine, stool or coughing, unious objects, blood and poison. In the same manner we find instructions in ‘Yagnavalkya Smrthi’ and

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‘Charak Samhita’ for the use of water for maintaining its purity. In addition to forests and other components of nature under Hindu theology, animals stood to human beings in a relationship of mutual respect and kindness. Many references are found in Yajur Veda, Bridhasmrithi, Yagnavalkya Smrithi and Vishnu Samhita with regard to the protection of birds and animals. The killing of birds and animals were strictly prohibited in these scriptures. However, the mauryan period received the utmost attention from environment protection point of view. It was during this period that detailed and prescriptive law provisions as contained in Kautilya Arthasastra were followed and enforced. The environment conservation, as it existed during Mauryan period continued more or less unaltered in subsequent reigns until the end of Guptha Empire in 673 A.D.

It is generally believed that ‘Srimat Bhagawatgita’ was chanted by Lord Sri Krishna at the beginning of the War of Kurukshetra as his advice to Arjuna. Gita is divided into several chapters such as Karma Yoga, Bhakti Yoga, Gyana Yoga and Moksha Yoga. The term 'Yoga' basically means addition while Karma, Bhakti, Gyana, and Moksha means devotion, work, knowledge and salvation respectively. Therefore the chapters of Gita revolve round the work, devotion, knowledge and salvation.

Essentially it' is based on atheism though mention about unseen force can be seen here and there, but it is basically surrender to one's self with perfection of work, devotion knowledge to achieve salvation of converts ‘purusha’ of the man to ‘purushottama’ or superman. This can be in any sphere or dimension and in such conversion obviously the question of surrendering to God does not arise. The concept of God is added later to benefit a class of people called ‘Purohits’ or ‘priests’.

Gita advises to get rid of ego out of any achievement or status. It revolves around a theory that although the man thinks that he works it is only a misnomer. Actually he is only a tool and the work is naturally done by nature or ‘prakriti’

through the man or purusha. The nature is so powerful that even if the man does not want to work, he cannot avoid since he is fully under the control of nature and he has to work as desired by nature. However, normally though the man cannot have superiority over nature under ordinary circumstances, he can do so with perfect work, perfect devotion and perfect knowledge, and once he does so he cannot control the nature to achieve perfect salvation. To achieve one has to surrender to himself to know that he is part of nature.

Since the man is the part of nature any damage to nature damages him. What is ‘prakriti’ or nature in spiritual dimension is the ‘environment’ in our dimension. Therefore, any damage to environment damages us since we are part of the environment that works continuously using us as its tool. It is needless to say that for our own survival environment had to be preserved. Environment is not only the physical environment comprising of the soil, the atmosphere and so on, but also the social environment. Therefore, to maintain environment not only the ecological balance has to be maintained but social evil has to be eliminated. Therefore, when ever such evils are on increase, superman takes birth as natural evolution who led man to purify the nature or environment.

Therefore, the dimensions of Gita spells out clearly the natural law. What it preaches is very clear and perfectly matches the scientific parlance. We only repeat the theory of Bhagawatgita when we speak about ecological balance, afforestation etc. only if we understand at our level of total dimension.⁶

Out of all the religions existing in the world, Islam is one of the latest and therefore, most modern. It was born out of Judaism. That is why Moses (Musa) and Jesus (Ista) are also considered as their prophet (Paygamber) while Hozarat Muhommed being the last in the line. The thoughts of Islam are so modern, that they can be compared with modern philosophy like those of Marx and Engels and perfectly matches even today social structure. The concept of Islam was designed

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considering ancient principle of 'Ijma' meaning consensus and also in close conformity with the modern concept legislation. Entire teaching as believed was revelation by Allah or God to prophet who inturn tried to create a new order according to revelation he received.

Since the entire universe is the domain of Allah the lord or creator, nothing can be beyond this creation. Entire system runs on Rububiyya, Rahma and Adala and with these three principles a perfect equilibrium exists. The process of growth and development is not accidental but is natural evolution. Every natural evolution or development that takes place is with a just i.e., according to requirement.

Among the adherent of Islam there are three grades of belief designated as: (a) Islam, (b) Imam, and (c) Ihsan. The first stage Islam means acceptance of the dogma of religion and following the path laid down so far as its four basic requirements are concerned i.e., prayer, fasting, and the poor tax. In Imam, the spiritual side is more developed and man has a more perfect faith. And finally Ihsan the highest stage. Precisely Islam relates to more individuals habits and practices. Imam brings them together for human unity and finally Ihsan brings universal unity with a perception of presence of God or Allah in every creation around. Considering all these stages together we may say everything around us is just a measure God and he created and developed according to just requirement.

Therefore, Environment has to be preserved as requirement of nature perceiving Allah present all around. Preserving environment does not mean we should discard modern development, since according to changing need, the modern development is also very much a just requirement. Only thing appropriate steps should be taken to see modern development does take place without harming the environment. It should also to be seen that the share of good and evil be shared equally since a man owns the wealth as a trustee of Allah since everything around belongs to Allah. Therefore, environmental priorities has to be measured as just measure of natural requirement and too much of fanatism on any
matter has to be discarded. Therefore, spirit of Islam gives us a perfect balance of everything around.\footnote{Ibid, p. 39.}

If single person who could change the course of world history was Jesus, the Christ born a decade less than 2,000 years back. Within a short span of time his life could organise the downtrodden upto such an extent that an inherent social strength could be created to fight imperialism of Roman Empire and attempt was brought to bring a new social order. Finally, he had to face death sentence to benefit millions. Today his concept briefly known as Christianity is the most spread out religion of the world found almost in all the countries in some proportion.

The basic crux of Jesus’s teaching was on the ‘Ten Commandments’ which was the Code of Ethics to act good and repel bad habits. ‘Bible’ explains through its parables the triumph of good over evil. This creates social awareness finally to bring a social revolution which made a permanent place of Jesus in the world history. Jesus represented entire human world and was representative of God to banish evil. The Christian symbol Christ on the Cross itself a warning to all of us. The Cross represents two pieces of wood which created first energy, the fire by rubbing and hence the symbol of human creativity of Science and Technology. On the other hand, Jesus, the Christ represents entire world. Therefore, it perhaps represents if energy or scientific development are not planned properly it can destroy the world. The symbol is obviously a warning to all of us. Christianity clearly indicates code of ethics for individual Christians to follow Christian way of life. The individual Christians should join together at Church as a social institution following social ethics which brings mutual understanding. Finally, Christ represents the global federation for human code of ethics for international or national understanding for mutual yet peaceful co-existence. This three tier structure is nothing new. It exists in other religions too. Therefore, each man individually should follow certain moral ethics in his
personal level, as a member of society he do have certain duties for him, while at global level too he has certain duty, so that we may have a planet of peace and happiness with proper environment both social as well as physical.

Thus, his teachings came in the form of Biblical stories started from creation of earth. The inner meaning of the stories was eternal and was applicable to any ages even today. The story of 'Adam and Eve' with regard to forbidden fruit is very much applicable today. We have Satans in our society to lure good people for corruption and sin. The story tells us to be careful of bad people in our society. The story about Adam’s sons Caine and Abel is also common today. Therefore, we have Adam, Eve, Caine and Abel in every family while the external Satan trying to lure every one to the path of destruction is common. Under such circumstances the world grew with both good and bad elements, one following the path eternal truth and the honesty, while the other the path of destruction and the path of selfish code of ethics.

When the society grew further, there was increase in goodness as well as bad when the equilibrium tied in favour of bad, there was deterioration of social, moral and physical environment. There were fights and wars with ultimate objective of destruction with a society of exploitation. With the deteriorating environmental situation, when the earth could not bear the evil, there was a devastating flood. But since ultimately the truth prevails, the good people, good animals and other natural goodness could get place in Noahs ark for building a good society in future days to come. This is a teaching has relevance today. When we explicit nature or people beyond certain limit devastations shall come automatically. Today when we think of development, and when such development exploits beyond certain limit, it will bring certainly devastations. Thus, following the teachings of Jesus we must have developments only by maintaining environmental balance with objective of goodness to all.

Christianity does not teach us to be conservative enough not to develop ourselves. It teaches us to have development with a clear objective of goodness to
all. We must not forget that we are only trustees to God's property. Since we cannot be owner of any material in His Kingdom, He being the real creator. Thus, true spirit of Christianity shall keep up perfect environment.\(^8\)

In Shikh religion the concern for environment is evident from the fact that it considers every creature to be the incarnation of God and hence conservation and preservation are essential principles.\(^9\)

Gautam Buddha the greatest rationalist, humanist and environmentalist of the prehistoric era derived enlightenment while meditating under the Bodhi Tree. The basic tenets of Buddhism are simplicity and ahimsa or non-violence. The principles of simplicity teach us that man should not overexploit the natural resources. Buddhism preaches the norms of respect to ecology. It believes in non-separable relationship of man with trees and forests. The Buddhism tree is a potential source of food and shelter for man and animal. Buddha preached compassion towards every living creature.\(^10\)

Jainism condemns sacrifice of animals to the sacred fire. It disapproved captivity, whipping, overloading or depriving animals of adequate food and drink. Jainism also based on the principle, which is in close harmony with nature. Lord Mahaveera preached about Non-violence and regard for life were the essential norms of ecology. He also mentioned about protection to living creatures. According to him it creates nearness not only between man and nature but also between man and man. He proclaimed a profound ecological truth “One who neglects or disregards the existence of earth, air, fire, water and vegetation, he himself disregards his own existence.” Lord Mahaveer thus explained that man has no existence exclusive of nature.\(^11\)

\(^8\) Ibid. p. 43.
2.1.(b) Environmental Protection in Ancient Times

Protection of environment was prevalent in our ancient Indian society. During this period the concept of environment was best explained by the word *Paryavarana*, it means something that envelops us. The literature of olden times preached about worship of plants, trees, mother earth, sky, air, water, and animals. God is the creature of nature. It is the duty of the human beings to protect the nature. *Atharva Veda* considers Earth to be the mother and the other creations are its offspring’s. Water is considered to be the milk of the mother earth. Man has no right to destroy the creation of God. Hindu religion has enshrined respect for nature, environmental harmony and conservation. Trees, animals, hills, mountains, rivers are worshipped as symbols of gods and goddesses that represents the nature.¹²

Ancient scriptures like *Vedas, Upanishads, Smritis, Puranas, Mahabharata, Geeta* mythological literature reveal the idea of harmony with nature and respect of nature. Sages, saints and great teachers of India lived in forest as a result people dared not destroy the forest. Protection of nature was considered to be the duty of every one. *Rig Veda, Manu smriti, Charak Samhita* have emphasized on the purity of water and healing and medicinal value of water. Because of this a system of *Maryada* (code of conduct) developed in Indian society to keep the water clean and wholesome.¹³

If one opens the ancient literature, we will find that there are evidences to prove that the society in the ancient time paid essential to the protection of the environment than what we think today. It was the 'dharma' of each individual in the society to protect the nature. The people worshipped the objects of nature. The trees, water, land and animals gained important position in the ancient time. For causing injury to plants different punishments were prescribed.

‘Govindaraja’ makes a distinction between injury to shade-giving plants, flower bearing plants and fruit bearing plants and he prescribes the lowest, the middle and the highest amercements respectively.14 ‘Kautilya' went a step further and fixed the punishment on the basis of importance of the part of the tree. Some of the important trees were even elevated to the position of God. 'Manu' imposes duty on mankind to protect the forests.15 The rivers also enjoyed a high position in the life of the society. They were considered as goddesses having not only the purifying capacity but also self purifying ability. Foulling of the water of a river was considered a sin and attracted punishments of different grades which included, penance, outcasting, fine etc. The earth or soil also equally had the same importance and the ancient literature provided the means to purify the polluted soil.

The above are some, of the illustrations to support the view that environmental pollution was controlled rigidly in the ancient times. The knowledge, the motivation, and the sanction were the basic postulates which regulated the eco-system in the ancient times.

2.1.(c) Environmental Protection during the Historical Period

During historical period before Maurya’s regime there was no precise idea of environmental conservation. Maurya period was perhaps the most glorious chapter in the Indian history for environmental protection. The concern for environmental protection in India can be traced back to the period between 321 and 300 B.C. Kautilya who was the Prime Minister to the king Chandragupta Maury of Magadha Empire mentioned a number of environmental tasks in his book Arthashastra. He dealt in detail and meticulously the various rules for the protection and up-gradation of environment. Rules made by Kautilya mandated the rulers to protect forest and animals. They also prohibited from killing or injuring certain animals and birds. Severe penalty was prescribed for the

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14 Govindaraja on Manu p. 285
offenders. *Arthashastra* also prescribed punishments for causing pollution and uncivic sanitation.

King Ashoka expressed his view about the welfare of creatures in his State. He gave orders for plantation by the roadside for the benefit of travelers. He also issued ‘*Adnyapatra*’ (Command of the king) to preserve forests and natural water resources. He prescribed various pecuniary punishments for killing animals that include even ants, squirrels, parrots, pigeons, lizards and rats.

Apart from forest enactments, British government also made attempt to regulate various kinds of pollution in India that is water, air and wild life. These enactments had a narrow purpose and territorial limitations. The Shore Nuisance (Bombay & Kolaba) Act of 1853 was one of the earliest laws concerning water pollution. The Oriental gas Company Act, 1857, to regulate pollution produced by Oriental Gas Company by imposing fines. The next most important enactment was The Indian Penal code, 1860. This Penal Code prescribes punishments in various kinds of pollution like nuisance, adulteration of food, drink and drugs, water and air. The Indian easement Act, 1882 protected the riparian owner against unreasonable pollution by upstream user. The Indian fisheries Act, 1897, penalized the killing of fish by poisoning water by using explosives. The earliest enactments during British rule to control air pollution were the Bengal smoke Nuisance Act, 1905 and Bombay Smoke Nuisance Act, 1912. In the field of wildlife protection the early legislation was limited to specific areas and particular species. In 1873, Madras enacted the first wildlife statute, The Elephants Preservation Act of 1876 (Central enactment) for the protection of wild elephants. The Forest Act of 1878 and Wild birds and Animals Protection Act, 1912 were other legislations that introduced regulatory measures on hunting. The first comprehensive law for the protection of wildlife and its habitat was the Hailey National Park Act of 1936, which established the Hailey National Park in the
State of Uttar Pradesh.\textsuperscript{16} The British for the proper utilization of land and to consolidate land holding enacted the Consolidation of Holding Act, 1920.\textsuperscript{17}

2.1.(d) Environmental Protection during the British Period

The invasion by the British and their rule in India started with destruction of natural resources. The early British rule in India was totally indifferent to the needs of forest conservation. The early period of British invasion we observed “fierce onslaught on Indian forest” by the British. This onslaught was due to increasing demands for military purposes, royal Navy, shipbuilding, supply of teak and sandalwood for exports and trade purpose. The first step to control over forest started in 1806, in respect of preservation of teak in Malabar, by appointment of Conservator of forest. The enactment of the Forest Act, 1865 was the first step in protection of the forests. The Forest policy Statement was made in the year 1894. In order to attach effectiveness to the Forest Policy, the Forest Act, 1927 was enacted. The Act denied the people any right over the forest produce on the grounds of domicile. This was the most comprehensive enactment in preserve the forest area.\textsuperscript{18}

2.1.(e) Environmental Protection in Post Independence Period

Once India became independent from the British rule, the early years of Indian independence there was no precise environmental policy. Government was making enactments from time to time to protect environment as per the demanding needs in the society. The two early post independence laws touched water pollution. The Factories Act, 1948 mentions, about the effective arrangements for waste disposal and empowered State Government to frame rules to implement these directives. River boards Act of 1956 for the regulation and development of inter-state rivers and river valley the government was empowered to prevent water pollution under this Act.

\textsuperscript{17} Singh Gian, \textit{Environmental Deterioration-Causes and Control}, (1991) at pp 95-96.
Other important enactments regarding environmental protection were Prevention of Cruelty to Animals Act, 1960 deals with protection of animals. The Atomic Energy Act, 1962 was passed to regulate nuclear energy and radioactive elements in India. The Insecticides Act 1968 provides regulation regarding manufacture and distribution of insecticides. There are other statutes that have some bearing on environmental pollution, in most cases the environmental concern is incidental to principal object of the law. All the statutes are scattered and piece-meal. During the period of 1970’s the Central government changed its attitude from environmental indifference to environmental concern and made different environmental legislations. This period saw the beginning of environmental policy in India. Developments during this decade gave a new dimension and direction to the policy concern in the field of environmental protection.\footnote{Shaber Ali, \textit{Environmental Jurisprudence – Indian Scenario}, AIR 2004 Journal 88.}

The year of 1972 marks a watershed in the history of environmental management in India. It was the year in which a Conference on human environment was held at Stockholm at the initiative of United Nations. India being a member of this Conference it influenced the process of environmental management in the following years. To implement the decision taken at the united Nations Conference on the Human Environment the Indian Parliament made tremendous change in the field of environmental management. It was in this decade that environmental protection accorded a Constitutional status by the Forty Second Constitutional Amendment Act, by incorporation of Article, 48A and Article 51A(g).

Parliament enacted nation wide comprehensives laws; they are The Wildlife Protection Act, 1972 and Water (Prevention and Control of Pollution) Act, 1974 in the field of wildlife protection and water pollution. In the early 1980’s nation wide forest conservation and air pollution laws were passed. They are Forest Conservation Act, 1980 and Air (Prevention and Control of Pollution)
Act, 1981 for the conservation of forest and control of air pollution. One of the most important environmental legislations that deal with all aspects of environmental pollution was Environmental (Protection) Act, 1986. All these comprehensive enactments made by the Parliament tried to protect environment in one way or the other to deal with various aspects of environmental protection and established different authorities to regulate and control the pollution. To some extent they prevented environmental pollution but their efforts are in vain to achieve the objectives. In this matter judiciary also played its key role in protecting and preserving environment through its judicial pronouncements. This is why the Indian Parliament became active to make environmental enactments to protect and preserve environment after the Stockholm Conference.

Different regimes had different rules, but they have shown their common concern for the preservation and enrichment of the environment. In the course of time human beings could not distill the obvious logic in various mythological command, gradually they started drifting.

2.2. Environmental Protection in International Perspectives

Environmental problems are complicated one and their solution will not come easily. Most of these problems are further complicated by the fact that merely national approaches, though important are inadequate to provide lasting assurance of prevention and control. Most forms of environmental degradation are transnational in scope and must be dealt within a modern system of internal law suitable to the needs of today’s interdependent world community.20

Although the world is not environmentally uniform and the nations differ in environmental resources, but degradation of the environment affects all nations which requires a resolve on the part of them to conserve and protect the environment not only for the present generation but for the future as well. Development is an indispensable feature for any nation. Without development no

society can progress. No development is possible without some adverse effect on the ecology and environment. The strategy of development should be such as it can be sustained by ecology or which can sustain ecology. This is so because ecosystem has its carrying capacity, which the modern world refuses in accept. All the environmental problems associated with development have raised several questions regarding the type and nature of development and this has given rise to the concept of sustainable development. In *Vellore Citizens’ Welfare forum v. Union of India*\(^\text{21}\), Justice Kuldip Singh Stated the meaning of the ‘Sustainable Development’ in Environmental point of view that the Sustainable development means a kind of development that meets the needs of the present generation without compromising the ability of the future generations to meet their own needs. To preserve the genetic resources for future, which are being increasingly threatened by pollution, deforestation and shirking of land races is the common concern of all nations and to save the future generations from the holocaust of these developments, close cooperation is required amongst nations.

The environmental problems of poor countries like India are becoming acute and they deserve immediate attention in terms of planning and investment programmes. Since the depletion of resources in faster than their regeneration in these countries, it is absolutely essential to design or adopt technologies that are appropriate to both sound environment and sustained developments. Customary international law does not contain any specific rules on the protection and preservation of the environment. Hence treaties can play a vital role in the formulation of rules to regulate the conduct of States and in this regard the role of the United Nations is very significant which has laid down all impressive institutional frame work for this purpose.\(^{22}\)

2.2.(a) Stockholm Conference, 1972

The Global interest and concern about the environment pollution has arisen because of the First Conference of human Environment convened by 24th

\(^{21}\) AIR 1996 SC 2715 at p 2720.

General Assembly of United Nations Organisation at Stockholm in June 1972. The declaration adopted at the conference declares:

**Principle – 1:**
(a) Man has fundamental right to freedom, equality and adequate condition of life in the environment of a quality that permits a life of dignity and well being and
(b) Man bears a solemn responsibility to protect and improve the environment for present and future generations.

**Principle – 2:**
It requires that the natural resources of the earth including the air, water, land, flora and fauna, and especially representative samples of natural ecosystems must be safe-guarded for the present and future generations through careful planning or management, as appropriate.

**Principle – 8:**
It recognizes that economic and social development is essential for ensuring a favourable lining and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life.

Principles 11, 21 and 22 are also very significant for the perspective of sustainable development.

The work of the conference was mainly handled by three committees consisting of all the participating States. Apart from these three committees, the Conference established a working group to examine and consider the Draft Declaration on the Human Environment (DHE). The Declaration on the Human Environment contains 26 principles which laid down the basis of international policy for the protection and improvement of the environment at the national and international levels.

The Declaration on the Human Environment was accompanied by an “Action Plan” consisting of 109 recommendations on action that should be taken to protect and improve human environment,
The Stockholm Conference was addressed among others. By our late Prime Minister Mrs. Indira Gandhi Mr. Olof Palme, the Prime Minister of Sweden and Dr. Kurt Waldheim, then Secretary General of the United Nations. The need for a joint action was envisaged because the environmental problem is one which in the words of the Secretary General, “no nation, no continent, no hemisphere, no race no system can handle alone.” The Secretary General very rightly added that, ‘the quality of our atmosphere and oceans can be nothing else but the product of the behaviour of nations.’

In 1973, The United Nations initiated a major study of economic trends, taking into account such matters as the availability of resources, pollution and the economic impact of pollution abatement. Consequently the Environment Secretariat of the United Nations Environmental Programme (UNEP) began ‘Project 2000’ to examine alternative patterns of development and their policy implications.

In this direction of environmental management, during this period, a number of international and regional conventions have been made.

2.2.(b) I.U.C.N. Resolution

I.U.C.N. Resolution was passed in 15th session of the International Union for Conservation of Nature and Natural Resources (I.U.C.N) held in New Zealand in October, 1981. The Resolution related to environmental conservation and world conservation strategy.

2.2.(c) Nairobi Declaration, 1982

To celebrate the tenth anniversary of the 1972 Stockholm Conference on the Human Environment, 105 nations gathered at Nairobi from May 10-18, 1982 and adopted the Nairobi Declaration.

At the Nairobi meeting, the decision was taken for the creation of a special commission to propose long-term environmental strategies for achieving
Sustainable Development to the year 2000 and beyond’, which was endorsed by the Governing council of the UNEP in 1987 and later by General Assembly.

In 1987, the World Commission on Environment and Development (WCED) in its report entitled “our common future” emphasized on the conservation of natural resources while striving for the development goals. The politics should be geared to achieve sustainable development appropriate to the needs of today’s generation, yet without jeopardizing future generation’s chances of satisfying their own needs and choosing their life style. The demand that the development be made ‘sustainable’ applied to all countries and all people. Since 1987, Sustainable Development has rapidly become part of popular language.

2.2.(d) Rio Summit, 1992

In September, 1989, the Soviet Foreign Minister proposed for a summit meeting on Environment, in order to adopt some kind of code on environmental behaviour to give a strong push to environmental related activities. Accordingly the RIO Summit was held in RIO De Janeiro from June 3, 1992 and ended in June 14, 1992. This Summit is popularly known as Earth Summit. The RIO declaration proclaims that Human beings are at the center of concern for sustainable development. They are entitled to a healthy and productive life in harmony with nature. The ‘Earth Summit’ ended on June 14, 1992 after adopting the Rio Declaration. Agenda 21 is on the problems of greenhouse effect. Agenda 21 contains a checklist of do’s and don’ts, the rights and obligations to protect the environment through the next century.

It stresses on sustainable development and reflects the idea that the international trade and the protection of the environment are of complimentary value. The Agenda was a response to United Nations General Assembly’s call of December 22, 1989 to halt and reserve the effects of environmental degradation in the context of increased national and international efforts to promote sustainable and environmentally sound development in all countries. For this matter, it has the following areas within it’s encompass.

2. **Conservation and Management of Resources for Development**: Protecting the atmosphere, making the energy transition, an integrated approach to land resource use, combating deforestation, protection mountain ecosystems, meeting agricultural needs without destroying the land, sustaining biological diversity, management of biotechnology in an environmentally sound way, safeguarding the ocean’s resources, managing and protecting fresh water resources, safe use of toxic chemicals, managing hazardous wastes, seeing solutions to solid waste problems, management of radioactive wastes.

3. **Strengthening The Role of Major Groups**: Action for women, sustainable and equitable development of social patterns for sustainable development.

The Rio Declaration on Environment and Development containing 27 principles, reflects two major concerns; the deterioration of the environment and its ability to sustain life and the deepening awareness that long term economic progress and the need for environmental protection must be seen as mutually interdependent. The Declaration is not legally binding, but a strong moral commitment exists to adhere to the principles.

2.2.(e) **Berlin Summit**

The U.N. Climate Conference in Berlin adopted a mandate on strengthening the 1992 Rio Climate Treaty. It obliges developed countries to set objectives of further emission cuts by 1997.
2.2.(f) United Nations Commission on Sustainable Development

Following the Earth Summit, the UNCED, in pursuance of the decision of the United Nations General Assembly, established the United Nations Commission on Sustainable Development (UNCSD) to fulfill a range of functions. These functions broadly fell into the following three categories.

1. Monitoring the implementation of Agenda 21.
2. Reviewing the availability of financial and technical resources.
3. Acting as a forum for discussion, consensus building and decision making, which will include identifying weaknesses in the international legal and institutional regime, proposing areas for regulation by treaty and forging consensus on new issues.

2.2.(g) Enforcement of Environmental Rules

The role of environmental law is of great significance in the matters of compliance and enforcement if the international environmental instruments which are most crucial for the conservation and protection of the environment. While ensuring the effective participation of all countries concerned parties should at periodic intervals review and assess both the past performance and effectiveness of existing international agreements of instruments as well as the priorities of future law making on sustainable development. This may include an examination of the feasibility of elaborating general rights and obligations of States, as appropriate in the field of sustainable development as provided by General Assembly Resolution 44/228.

The question of international Liability of the state for causing environmental damage has been taken up by the International Law Commission (ILC) as a part of its consideration of the issue of international liability for injurious consequences arising out of acts not prohibited by international law, which preponderantly deals with the law of environment. But so far little progress has been made on the formulation of the draft provisions, since the wide differences persist on the nature of liability—whether it should be strict or fault based, and about its emphasis—whether it should be upon prevention or
compensation. In its latest deliberations on the issue the commission should examine the polluter-pays principles.

Dominic Mc Goldrick suggests that ‘Sustainable Development’ can be structurally conceived as having a three pillared temple like structure. The three pillars are composed of International Environmental Law, International Human Rights Law and International Economic Law. The attractiveness of such a temple is that it presents sustainable development as integrating and interactive these elements of an objective, a process and principle. It overarches a broad range of discipline yet it is separate. Its central pillar is international environmental law, a discipline of international law that has seen enormous growth in recent decades.

However, Mc Goldrick cautions that of sustainable development is to avoid the danger of being controversial and value laden, it is the more specific international law principles and rules that lie within the three pillars that must develop and evolve to meet new challenges and situations.

2.2.(h) GATT Impact on Indian Environment

GATT provides for liberalization, globalization and free trade. It is an instrument in the hands of developed countries to plunder the national resources of developing countries and it creates ecological imbalance through huge industrialization.

Under the pressure of developed countries and cause of financial constraints, India endorsed sign over the GATT agreement. This has led to the entrance of innumerable Multinational Corporations (MNCs) and Transnational Corporations (TNCs) in India.

The MNCs and TNCs with the aid of GATT have started exploitation of India’s natural wealth. The economically stronger nations have used trade as tool of their further domination. The GATT agreement has thus emerged as the tool of
environmental degradation in India. The GATT has adversely affected the environmental protection in India.

The industries are major sources of environmental pollution at the present day. The industries discharge the abundant amount of pollutants which cause ecological imbalance and environmental pollution. The problems has grown to be much acute after the GATT-1994 has come into force. The Supreme Court of India has observed ‘danger’ to the public health and well being of the community on account of chemical and other hazardous industries has become a pressing problem in modern industrial society.

The forests are said to be the most significant in maintaining the ecological balance. But the said fact is that the forests are being increasingly utilized for supplying a variety of raw materials to many industries. Deforestation is directly responsible for greater frequency and intensity of floods, soil erosion, and changes in climatic conditions. A recent report prepared by International Union for The Conservation of Nature and Natural Resources (IUCN) mentions that India has lost nearly 2.5 million hectares of mangrove forests. The total forest cover area has thus reduced to 12 per cent in 1997 from 22 per cent in 1991. the considerable range of deforestation has presented serious environmental problems.

Air pollution is another consequence of industrialization at the present rate, industries discharge untreated hazardous chemicals from their chimneys in the ambivalent atmosphere which degrade the quality of air rendering air unfit for breathing. The air pollution adversely affects the human life and their organs.

The development of agriculture is a sine qua non for the clean environment. Indian economy is also largely based on agriculture. On the other hand agriculture based economy is antithesis to the industrial based economy. GATT envisages and works on the principle of economic development through industries.
The U.S. today dominates the world economy. India has accepted GATT under U.S. pressure and also the developed countries. It is submitted that the developed countries through GATT had taken over the control of world’s natural resources for their own interest. India will be industrialized for the industrial growth of developed countries and the industries in India. Therefore, agriculture and environment are not secured.

As increasingly grim statistics indicate, over the past decades our global environmental and the living conditions for most of the inhabitants of the planet continue to deteriorate. The 1972 Stockholm Conference on “Human Environment” secured its place in the history of our times with the adoption of the first global action plan for the environment. The Supreme Court of India was, however, observed Stockholm Declaration as “Magna Carta of our environment”, the reason behind it is the first time at the international level importance of environment has been articulate. Historical importance of environment is very important to know the human relation with the nature. As it is observed by the various historical documents, nature is undoubtedly worshiped in India. Trees, animals, birds, air, fire, water and other planets also treated as superior powers of nature and human beings are duty bound to respect them. Disregarding of the environment is a wrong not only against the human beings but against all living beings on the earth according to the customary practice. In Indian Constitutional Jurisprudence, the protection of the ecology has also been specifically mentioned in Directive Principles of State Policy. The Indian judiciary has been played a remarkable role in interpreting constitutional provisions particularly the fundamental ‘Right to Life’ under Article 21 of the said Constitution to protect the environment. A detailed discussion has been made in the next following chapter III of this study.

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23 Karnataka Industrial Area development board v. O. Kenchappa, AIR 2006 SC 2038 at p 2043.