The onset of the '70s saw a world-wide awareness of the need to take effective measures for the protection of the environment. This was reflected in the measures adopted at the national, bilateral, regional and global levels. Emphasis was increasingly placed on concerns such as the protection and preservation of marine environment, a desire to avoid/minimise transnational effects of ultra-hazardous activities, controlling transfrontier air pollution, and the protection of international rivers. The high water mark, however, was the United Nations Conference on the Human Environment, 1972 (UNCHE). This Conference was followed by several more conferences, by the creation of new institutions at the global, regional and bilateral levels, and finally, by an enormous effort of international treaty making.

All this naturally brought to the fore the question of the norms and processes of international law and their potential for safeguarding the environment. This question was widely researched upon as several references in the body of this text would show. However, their approach tended to be piecemeal and lacking in the necessary holistic approach.

This study attempts to determine how a principle of environmental law gets to be accepted as such. The normal practice has been to look at the hierarchical order provided
in Article 38 of the statute of the International Court of Justice (ICJ) whenever confronted with such questions and to determine its exact legal value. It is felt that the enumeration contained therein of the sources is inadequate for assessing the evolving international law of environment. This is because of the following reasons. As mentioned at the outset, the awareness of the global community to the problems of environmental protection is of recent origin. The customary principle mainly enshrined in the maxim sic utere tuo ut alium non laede has hardly reached any refinement. The conventional law on the subject, given the time frame, is enormous. However, these seldom provided for anything other than cooperation, avoiding and mitigating environmental damage. Likewise, the general principles of law recognized by civilized nations lagged far behind in introducing any major principle for the protection of environment in the international arena. Under these circumstances one should look beyond these traditional sources of international law.

In this thesis it has been argued that the international law of environment exists today as a separate and distinct branch of study. If what has been stated above is true, how can this statement be accurate? This is because apart from the sources of international law listed in article 38 of the statute of the ICJ, a significant new source of international
law is the so called "soft law", also called the "UN law". In fact several authors recommended that the "UN law" should find a place in article 38 of the statute. Even without such express mention, as Leo Gross pointed out, the UN law "need not be legally binding in order to be effective; they may be effective even though their legality is doubtful". When the member states of the international community attain the desired goals through such a mechanism, even this imperfect legal norm would shape itself after consistent use into a norm of international law. It is contended here that such has been the case with the international law of environment and this study purports to highlight all such discussions in a theoretical framework. A traditional international lawyer might frown up on such an exercise, but taking note of Richard Falk's dictum that "international law is primarily one strategy among the strategies available to international leaders to facilitate cooperation and competition in international relations"2, it is felt that such a study would be rewarding.

This study is divided into four parts. Part I deals with the setting of the evolving international law of environment. This part highlights the new awareness for environmental preservation and investigates why this awareness did not result in the world community following a policy that would take
complete care of the environment. It demonstrates how the threats to the global environment make it imperative for some kind of international cooperation to tackle the problem collectively. It takes as the actors of the international community only the nation states and looks at their perceptions from various angles. It also briefly studies the emergence of the international law of environment, the limitations of article 38 of the statute of the ICJ and the impact of the "soft law" on the creation of international law, and finally, it refers to the codification work taken up by the ILC etc. This part also studies the different approaches to the study of the international law of environment from the writings of Kelsen, Friedmann, McDougal, and Falk as representing four distinct schools of thought. It then studies the socialist and the Third World approaches. Finally Part I identifies the trends in decision making that would provide the needed backdrop to the study contained in Parts II and III.

Part II deals with the institutional mechanisms devised by the world community for the protection of the environment. At the global level, it studies the U.N. system and its environmental activities prior to 1970. It makes a detailed study of the United Nations Conference on Human Environment and the creation of a U.N. subsidiary agency - the U.N.E.P. It makes an assessment of U.N.E.P.'s impact, the
Session of Special Character, and the System-wide Medium-Term Environment Programme. It then identifies several regional organizations currently active in the field of environmental protection. The activities covered include those of the Regional Seas Programme of the U.N.E.P., and the Regional Economic Commissions of the U.N. Economic and Social Council. These two represent the regional efforts of global organizations. Covered in the later section are the Economic Commission of Europe, the Economic and Social Commission for Asia and the Pacific, the Economic Commission of Latin America, the Economic Commission of Africa and the Economic Commission of West Asia. The remaining organizations, strictly intergovernmental, studied are: the Council of Europe, the European Communities, the O.E.C.D., the CMEA, the Organization of African Unity, the Economic Community of West Africa, the South Pacific Regional Environment Programme, the ASEAN Environment Programme, and finally, the South Asia Cooperative Environment Programme. This part attempts to study both the soft law principles as well as the rules and regulations adopted and enforced by the international regulatory mechanisms created by the intergovernmental organizations.

Part III deals with a study of multinational agreements for the protection of environment. The approach adopted in this was in determining the extent of the Parties' commitment by studying the process that went into or the mechanism
used for the preparation of the Convention; the time taken for the adoption of the Convention as law by the required number of states, and finally the manner in which the objectives of the Convention were translated into enforceable action to bring about the desired results. It quotes with approval the statement found in the World Conservation Strategy that "weak conventions are dangerous and are to be avoided because they permit the illusion that problems are being tackled when in fact they are not". Every agreement studied in this part is critically appraised from this perspective. For the purposes of convenience the development of environmental law is studied on a subject-by-subject basis considering the advances in these fields such as: Rivers and Lakes; Fauna and Flora; Protected Areas; Protection and Preservation of Marine Environment; Weapons; Work Places; Air Pollution; and general environmental agreements. Along with the agreements, the "soft law" principles on the subject have been referred to. The central point of this part was understanding the seriousness with which the member countries wishes to approach the problem of environmental protection and delineate the principles of law created in this process.

The concluding part - Part IV - attempts at a content analysis of the legal controls. Following the analysis made in the preceding Parts, this part is divided into the study of the customary rules, the codification activity, the settlement of
disputes, U.N.E.P., and its law making and ends with the concluding observations.

The basic argument in this study is that the international law of environment evolved not only through the so-called formal sources of law but also through different intergovernmental bodies like the United Nations, various regional organizations and non-governmental organizations like the International Union for Conservation of Nature and Natural Resources and the International Law Association. The study does not adopt any particular persuasion in finding solutions for international legal problems of environmental protection. It follows a purely functional approach and attempts to find answers within the existing international state system with the help of the various tools that are available.

KILAPARTI RAMAKRISHNA
