INTRODUCTION

Our Earth is like a 'little spaceship', on which we travel together and are dependent on its vulnerable supplies of air, soil and water. Man not only survives and functions in his environment but also shapes it and is, in turn, shaped by it. A careful husbandry of the Earth, therefore, is regarded as a sine qua non for survival of the human species and for the creation of decent ways of life for all the people of the Earth.

As the environmental quality is usually subordinated to development goals, the problem of environmental pollution has become an inescapable by-product of industrial development. The link between environment and development is inseparable, as development goals are achievable through certain environmental quality. There are, however, innumerable activities which are disturbing the human environment. The global problem of environmental pollution in general and water pollution in particular has now assumed serious dimensions. The pollution of water courses has created serious health hazards and is posing a threat to animal life and vegetation. Water gets contaminated through varied ways, especially throwing of industrial effluents or passage of domestic sewage into streams or wells or other human activities.

The problem of water pollution is now posing a serious
problem in India too. Growing industrialisation and urbanisation have been, primarily, responsible for causing pollution in rivers, streams, lakes and other surface water resources. Industries, which have been established on the banks of major rivers, have polluted their waters by throwing chemicals, untreated water and other hazardous wastes. Moreover, the lack of proper water treatment or sewage disposal facilities in most of the towns and cities in India have also greatly contributed in polluting the fresh waters of rivers and lakes as untreated sewage is, in most of the cases, directly thrown into them. The pathetic condition of all the 14 major rivers in India is only a case in point.

After the Stockholm Declaration (United Nations Conference on Human Environment, Stockholm, 1972) the concept of 'eco-development' has come into vogue. Accordingly, alongwith the developmental process, a greater emphasis is laid on taking preventive and control measures to combat the problem of water pollution. For this, however, effective legal measures are either lacking or have proved inadequate. An attempt has been made in this study to examine as to how water pollution is dealt with in international law as well as existing legal standards which can be assimilated as a part of de lege lata (accepted body of binding norms).
Being a developing country, India has been taken here for a case study to examine, the application if any, of these legal standards, the existing legal mechanism, case law and problems of enforcement.

As the problem of water pollution is now assuming an alarming character some steps have been taken in India to combat the problem. The Water (Prevention and Control of Pollution) Act, 1974, is a locus classicus in the field. The Act provides for machinery both at the central as well as state levels. The Central Board for the Prevention and Control of Water Pollution is assigned with the task of overall monitoring and also deals with water pollution in Union Territories. There are, at present, 18 state pollution control boards in India. At the apex level, the Department of Environment of the Government of India monitors environmental pollution in general and water pollution in particular. It has established, under a government resolution, a Central Ganga Authority (February 1985) with an action plan to combat pollution in the Ganga. Of late, a comprehensive Environment (Protection) Act, 1986, has been enacted. Although a welcome step, it is riddled with some serious lacunae and the mechanism envisaged under it has still not taken a concrete shape. It needs to be noted at the outset that the problem of water pollution in India
mainly covers surface water pollution. The groundwater pollution, unlike in some western countries, is generally not seen in India. This study, therefore, covers the problem of surface inland water pollution, in its different dimensions.

An overview of the problem of the international environmental pollution has been given in Chapter I. An attempt has been made to trace as to how international law deals with water pollution with the help of international treaties and conventions, state practice, judicial practice as well as scholarly writings. Accordingly, an effort has been made to ascertain the existing international eco-standards, which can be termed as general principles of international law (as per Article 38(1)(c) of the Statute of the ICJ). This encompasses responsibility for trans-boundary environmental pollution. The applicability of the principles, especially, of *sic utere tuo* and strict or absolute liability, in cases of damage caused by water pollution, has also been examined.

The Indian legal setting for water pollution control is examined in Chapter II. The relevant provisions of the Constitution of India for environment protection have been examined. It goes to show that India has taken a unique lead in giving a constitutional status to environmental
measures. The chapter provides a critical insight into the Water (Prevention and Control of Pollution) Act 1974, which is a statute par excellence in the field. It deals with relevant provisions of other existing statutes having a bearing on water pollution control. An evaluation of the recently enacted Environment (Protection) Act, 1986, is also given.

An attempt has been made to examine the actual implementation of the existing laws in the field in terms of their judicial interpretation as it arose in different cases before courts of law and enforcement in Chapters III and IV respectively. Accordingly, Chapter III deals with different cases which have arisen in the field, in order to trace the pattern followed and the norms being laid down in the interpretation of the provisions of the relevant statutes. The cases have been analysed and categorised according to the issues raised. A brief discussion has been given as regards some important environmental issues raised in the growing body of Public Interest Litigations, especially in the Supreme Court of India. It encompasses the five-judge Constitution Bench's landmark judgement (20 December 1986), laying down strict and absolute liability without any exceptions (overruling the Rylands v. Fletcher case precedent) to compensate the community by an enterprise
engaged in hazardous or inherently dangerous industry.

Chapter IV examines problems of enforcement, with the help of some crucial aspects which lay bare the structural difficulties and loopholes hampering the deterrent value of the statute itself. In this respect, apart from the efficacy of the legal muscle for water pollution control, the strategy, approach and coordination in the enforcement machinery has been dealt with, in order to provide an overall picture of problems in the field. In the end, Chapter V provides conclusions and recommendations.

The methodology has been analytical as well as empirical. Relevant UN documents, reports of the UNEP, and those of the UN Conference on Human Environment, the International Law Association, International Law Commission, ICJ, International Arbitration Awards, treaties and conventions on the subject have been used for the purpose. An analysis of the constitutional provisions and existing legislations for the control of water pollution in India as well as the annual reports of the central and state pollution control boards has been made to assess the situation in India. Further, an examination of the case law on the subject, with the help of judgements of Indian courts, has also been made. Last but not the least, detailed discussions and interviews with concerned decision making authorities as well as visits to some of the state pollution control boards in India were carried out.