CHAPTER-II

HISTORICAL PERSPECTIVE OF ENVIRONMENT PROTECTION

2.1. Introduction

The awareness of environmental protection is not a new concept, but the importance of nature, clean and green environment has been emphasized since time immemorial. Global environmental problem is the result of crisis of values. It is known that during ancient time human beings and environment were regarded inseparable. At that time man had no opportunity to pollute the environment as is indiscriminating as on today it is because at that time the material technology was not in use. Ancient man was afraid of the natural environment and did not dare to pollute and damage the natural environment and the trend of polluting the environment was not present during the ancient time. Be it holy texts across religions or age old human practices, they have all emphasized sustainable life styles and moderation. In ancient life, of course as of today, the inhabitants of Indian civilization used to worship trees, animals and even non living objects which manifestly highlights the importance of each of them and of the symbiotic relationship between humans and nature. With the advancement of science and technology, this problem has assumed threatening dimensions. This problem has not only caused damage to nature but threatened the very existence of mankind. Activities like deforestation, water and air pollution and over exploitation of natural resources have brought us to the brink of disaster. While our ancients knew how to live in harmony with nature we have plundered earth's resources and polluted it threatening life. Nature is God and God is nature. That's how our ancient sages and wiremen treated our natural environment in all her glory. Ancient civilizations have

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never scarified nature to speculation, but holding it is divine, have honored her natural beauties by the erection of works of Art.\textsuperscript{7}

As we know that the forests, wild life, and more particularly trees were held in high esteem and held a place of special reverence in Hindu theology. The ancient ancestors of the age of Vedas and Upanishads, the composers of Puranas and Smriti Shastras pointed out to the necessity of a harmonious relationship between living beings and the entire environment. To live and to enjoy life, every living being needs a proper and permissible environment. Animals, birds, trees, shrubs, herbs, in short, ‘nature’ have always been revered by the Indian people from time immemorial. People showed respect for nature, both flora and fauna, in the same way, as they showed reverence to gods and goddesses. The Hindus, through the ages, have assigned religious or respectful status to innumerable animals and birds from the tiny mouse to the mighty lion.\textsuperscript{8}

The importance of environment protection in India can be traced back to the period between 321 B.C. and 300 B.C. In Kautilya Arthashastra, great importance has been laid on environment protection, and clear punishments have been prescribed on the basis of the importance of various parts of a particular tree.\textsuperscript{9} The prevalence of environmental protection movement has been fairly strong in all the developed societies like India, Romans, Greek and Chinese. Though in these times the problem of environmental pollution was not grave, even then the architects took due care in designing the buildings and cities to provide for satisfactory disposal of waste and garbage, etc.\textsuperscript{10}

This chapter is characterized into two major parts wherein researcher tends to discuss that environment protection - Indian and International Historical Perspective. 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.\textsuperscript{11}

\textsuperscript{11} \textit{Ibid}

2.2. Historical Perspective of Environmental Protection in India

The concept of environmental jurisprudence in India is not new. During ancient times, there was emphasizes on the care for natural sources. India has an ancient tradition of protecting the environment. Most ancient texts teach us that it is the Dharma of each individual in any society to protect the nature. The cultural and religious heritage of India shows a serious concern for the protection and preservation of the environment. The Vedas, Puranas, Upanishads, and other scriptures of the Hindu religion gave a detailed description of trees, plants and wild life and their importance to the people. The famous hymn in the World’s oldest scripture the Rig-Veda portrays the beauty of morning (ushas) and worships its glory. It also highlights the potentialities of the nature in controlling the climate, increasing fertility and improvement of human life emphasizing for intimate kinship with nature. Atharva Veda considered trees as abode of various Gods and Goddess. Yajur-Veda emphasized that the relationship with nature animals should not be that of dominion and subjugation but of mutual respect and kindness. During these Vedic periods, cutting of trees was prohibited and a punishment was prescribed for such acts. For example Yajnavalkya Smriti, has declared cutting of trees and forests as a punishable offence and has also prescribed a penalty of 20 to 80 pana.

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. In India, the concept of environmental protection can be seen originated from the period of Vedas.

16 Ibid
2.2.1. Environmental Ethics and Ancient India-

Most of the mythologies have adequately conveyed the importance of environment in ancient time. In ancient time there was no concept of legal provision for environment pollution in India. But at that time people worshiped the nature and paid more attention to protect the 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. India has a long tradition of protecting and worshipping the nature. The land trees and even animals are placed on a high pedestal since Vedic times.

There are numerous stories or anecdotes that depict the importance of trees in ancient India. Some stories even go to the extent of saying that ‘trees are more important than human beings.’ Another saying is this ‘dusaputra samadruma’ i.e., planting a tree is equally beneficial as having ten sons.

Since time immemorial, Indians had believed that the life depends on nature. All the activities of an Indian, during the day, from morning to evening, are governed by the various positions of the sun and the moon. Even our houses and buildings are built after taking into account the direction of the wind and the sun. All the systems of our life are organized in such a manner that water is conserved and its purity is kept in view. Plants and trees, groves, gardens and forests are developed in such a manner that the natural environment is preserved and protected.

Similarly, in ancient days, the attitude towards all the objects of the universe recognized the divine being present in the Panchbhuta (the five elements) viz., air, water, fire, earth and space. Our ancestors have perceived divine existence in trees, medicines, rivers, lakes, mountains and living beings. Due to such extraordinary awareness regarding the nature and ecological equilibrium India was the most

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22 Ibid.
advanced country of the world, at that time. It was considered to be a part of our traditions and cultural values not only to protect the environment but also to maintain the ecological equilibrium.²⁶

In ancient Indian way of life, before setting foot on the ground after waking in the morning, people addressed the earth as mother and requested mother earth’s forgiveness for stepping on it. Hindus regard rivers as tirthas (places of pilgrimage) and worship Gods abode is considered in lakes and mountains from which rivers originate.²⁷

The concept of Panchavati is the conclusive proof of the importance which had been given to the Forest in Ancient India. The work Panchavati is found in the vocabulary of all Indian languages, which confirms that, the tradition to protect pervading the whole country since primitive ages.²⁸

The term Panchavati consists of two words, viz., panch and vati, panch means five and vati means grove. Panchavati, therefore, means a grove which has five trees. **Panchavati** also means a forest in which there are five kinds of trees.²⁹

In Sanskrit literature, the most important of the five trees is *vata* (banyan tree). This tree represents the floor of sub-generating trees by turning its branches into trunks and great medicinal value. Second tree is *Peepal* which has also medicinal value in Atharvaveda. Other three mentioned in olden literature are *Ashoka, bael, harad*.³⁰ Some of the names of trees are associated with gods and goddesses are given in Table 1:

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<table>
<thead>
<tr>
<th>Name of Gods/Goddesses</th>
<th>Name of Trees and Plants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vishnu, Krishna</td>
<td>Peepal, Fig, Kadamb</td>
</tr>
<tr>
<td>Brahma</td>
<td>Vat, Banyan</td>
</tr>
<tr>
<td>Laxmi</td>
<td>Lotus</td>
</tr>
<tr>
<td>Buddha, Indra</td>
<td>Ashoka</td>
</tr>
<tr>
<td>Goverdhan, Laxmi</td>
<td>Mango</td>
</tr>
<tr>
<td>Sitala, Mansa</td>
<td>Neem</td>
</tr>
<tr>
<td>Brahma Gandhara</td>
<td>Palasa</td>
</tr>
</tbody>
</table>

Similarly, the most important classification of forests in ancient Indian literature was based on the form of the forest and the purpose it served. Broadly Vans (forests) were classified into three categories viz., Mahavana, Tapovana and Srivana. In ancient India, philosophers like Chanakya emphasized on the importance of environment protection in his jurisprudence, the state was required to maintain forests, fines were imposed for cutting trees and damaging forests, forests reserves were for wild animals and they would be killed or bound in places outside the reserve forests when harmful.32

Therefore, it can be stated that the higher values of life in the ancient India had been interconnected with Vana. It can be inferred from the Ashrams (the law relating to the various stages of human life) namely, Brahamacharya-ashrama, Grahista-ashrama, Vanaprastha-ashramas and Sanyas-ashrama. Out of these four Ashrams the activities get last two Ashrams i.e., Vanprashtha and Sanyas-ashrama were completely carried in the forests as to make these integral part of life. Even in the Grahastha and Vanprashtha ashrams, the life of an Indian in the ancient era was infinitely connected and dependent on the forests.33 Thus, trees are worshiped as Varikchay Devta with prayers; offering of water, flower, and sweets encircled by sacred threads. planting of trees is also regarded as a sacred religious duty and work of great virtue.34

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Puran has regarded as plantation of one tree is equal to 10 sons. According to Vaha Puran “one who plants one pipal, one neem, one ber, ten flowering plants or creepers, two pomegranates, two oranges and five mango trees will not go to hell”. Therefore, cutting of trees and destruction of flora was considered a sinful act. The ancient people developed many effective measures to safeguard our ecosystems and environment which reflect sustainable development in true sense. Hence, plants and trees must be treated as a part of one’s family.

2.2.2. Religion and Environmental Protection-Specially, during ancient time religion and environmental protection were closely related. Religion is commonly pertains to the spiritual domain while the science and technology are viewed as systems pertaining to the material domain. Issue of material development and progress has, therefore, been left to the charge of scientific experts while religious belief has been left to guide the inner spiritual development of the individuals.

2.2.2.(a) Environment Protection under Hindu Mythology-Hindu religion is one of the oldest religions of the universe. In Hinduism, it is found from Vedic period that the environment was part of ethos of ancient people. A perusal of Hindu religious scriptures called Vedas, Upanishads, Smrities, Purans, Ramayana, Mahabharata, Gita, mythological literature including stories, social and moral codes and political rules reveals that the general principles to be observed by all in their daily life. Sages, saints and the great philosophers of India lives in forests and on mountains where they mediated and expressed in the form, of Vedas, Upanishads and Smrities. It was perched of that in one form or other a worshipful attitudes towards the earth, sky, air, water, trees, plants and animals and to keep a benevolent attitudes towards these. It was regarded as scared duty of the mankind to protect these. The Hindu religion and

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35 Ibid.
40 Ibid.
law enshrined respect for nature and environmental harmony and conservation. It instructed man to show reverence for the presence of divinity in nature.44

Hinduism expressed the firm belief in natural environment in which man was placed, was considered manifestation of divine nature itself. Space (Akasa) was considered first creation of Brahma. Akasa created air (Marut or Vayu) and Vayu in the form of Tej or energy. The other element water (Apa) and earth (Kspiti) are further creations. It is the firm Hindu belief that God resides in these various forms of Akasa, Vayu, Tej, Apa and Kspiti, created further entities. The Supreme is imminent in every one of these components of environment. Our Vedas and Purans provide a complete code of environmental protection and emphasize the importance of harmony between man and nature.45

The Vedas

Vedas are the sacred Sanskrit texts of Hinduism. According to some scholars, the great sage Ved Vyasa codified and put the Vedas into writing at the beginning of Kali Yuga (3102BC). These are the Shruti Vedas, which include: Rig Veda (Wisdom of the Verses), SamaVeda (Wisdom of the Chants), Yajur Veda (Wisdom of the Sacrificial Formulas), and Atharva Veda (Wisdom of the Atharvan Priests).46 Initially, the Shruti Vedas consisted of four collections of mantras (Samhitas), each associated with a particular priest or aspect of ritual. Over centuries, three kinds of additional literature were attached to each of the Samhitas: the Brahmanas (discussions of the ritual), Aranyakas (books studied in the forest), and Upanishads or the philosophical writings.47

Rig-Veda -Rig-Veda regarded plants as have divine power. According to Rig-Veda, the universe consists of five important basic elements, namely: 1) Earth 2) Water 3) Air 4) Fire and 5) Ether.48 These Vedas have been devoted in the praise of lord Surya

48 SC Tripathi, ENVIRONMENTAL LAWS, 6th edn., Central Law Publication Allahabad (2017) p.18
Devta, Vayu Devta, Agni Devta, Varun Devta, Mother Earth, Vanya Devi, etc.49 Accordingly, felling of trees, polluting air, water and desert land was regarded as sin as these were to be respected as God and Goddesses. Our ancestors considered it as their pious duty to save trees and in order to do so they accorded every tree have religious sanctity. More over it is further required that nobody will destroy vegetation and no one shall kill animals. In this way both animals and plants are to be protected. In Treata Yuga every one performed yajna. It is notable that yajna or sacrificial fire was done to worship one or other deity but actually it helps in purifying the air and thus keeps the environment healthy.50 It also maintained that “one tree is equal to ten sons”.51

**Atharvaveda- Atharva Veda** is Indian scripture wherein the concept of respect for earth has been pronounced. It talks about the relation of plants with earth, “The earth is keeper of creation, container of forest52, trees and herbs.” In Atharva Veda, pure water is an effective medicine to cure all diseases and also prevent the diseases.53 It also mentions about the protection of wild life and domestic cattle. At present time this is considered one of the most important internationally recognized principle of sustainable development.54 The importance of water has been highlighted in the Atharvaveda.55

**Yajurveda-Yajurveda** clarifies the significance by mentioning that butter and firewood are offered into the sacrificial fire, it dissolves them into subtlety so as to settle in the atmosphere and thus yajna makes atmosphere free from impurities and stink. Yajurveda emphasizes that relationship with nature should not be that of dominion and subjugation but of mutual aspect and kindness.56 In the Yajurveda killing of animals was prohibited and it was observed that no person should kill animals. One should be helpful to all animals and by serving these one would obtain heaven. Killing of animals was and is against basic tenet of Hindu way of life which

has deep faith in the doctrine of Ahimsa (non-violence). Therefore, one should not kill God’s creatures but should protect these. Killing of mute animals and birds is still considered to be a sin. The Mahabharata warns us, which while it takes only a few to defile and cause the pollution, the whole of the society may suffer from various diseases. In *Devi Kavacham of Durga Saptshadi* it has been appropriately said that so long as earth has mountains, forest, trees, plants, etc. human race will continue to survive. In *Srimadbhagvatam*, it has been clearly said that a man who with exclusive devotion offers respect to sky, water, earth, and heavenly bodies, living beings, trees, rivers and sea and all created beings and consider them as a part of the body of the lord attains the state of supreme peace and god grace. Among the animals the more awesome once like tiger, elephant and snake and the once with which interaction was more like the monkey got more God like status. But the rest did not go unnoticed for almost every animal, big or small, was under the benevolence of a God shown in Table 2.

Table-2

<table>
<thead>
<tr>
<th>Associated animals and birds</th>
<th>Name of Gods/Goddesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dog</td>
<td>Bhairava</td>
</tr>
<tr>
<td>Owl</td>
<td>Laxmi</td>
</tr>
<tr>
<td>Elephant</td>
<td>Indra, Ganesh</td>
</tr>
<tr>
<td>Swan</td>
<td>Saraswati</td>
</tr>
<tr>
<td>Lion</td>
<td>Durga</td>
</tr>
<tr>
<td>Deer</td>
<td>Vayu</td>
</tr>
<tr>
<td>Crocodile</td>
<td>Ganga</td>
</tr>
<tr>
<td>Bull /Snake</td>
<td>Shiva</td>
</tr>
<tr>
<td>Rat</td>
<td>Shiva</td>
</tr>
<tr>
<td>Peacock</td>
<td>Kartikeya</td>
</tr>
<tr>
<td>Monkey</td>
<td>Hanuman</td>
</tr>
</tbody>
</table>


**Manusmruti (The Code of Manu)** - Manusmruti is the world’s first ethical compendium on human jurisprudence, presented by Maharshi Manu, originated sometimes immediate to the post Vedic age. It is known as the first systematic treaties on Hindu law. In the dicta for prevention of pollution in Manusmruti, we can get the reflection of ecological awareness:

1. Biodiversity means all living forms broadly ascribed as *Chara* (movable living world) and *Achara* (immovable: plant kingdom).
2. Pollution refers to spoilage of the five gross elements by unethical activity.
3. Contamination refers to any action against wholesomeness (*Ssoucha*).
4. Storage organs of plants like tuberous roots and underground stems, leafy vegetables, beautiful flowers, tasteful fruits, timber yielding trees, crops etc. remained objects of allurement in that period. For saving the plants and their parts from injury, *Manusmruti* describes various punishments for the offenders.
5. Importance was given for conserving and domesticating animals, biodiversity protection, and vegetarian food habit. According to *Manu*, agriculture caused injury to animals, specially the insects and germs in the soil.
6. For biodiversity protection, he mentioned that fishes of all types should not be killed for food purpose; one hoofed animals, village pigs, solitary moving animals and unknown beasts should be protected; carnivorous birds, birds of village habitat, web footed birds, diving birds feeding on fishes, birds with striking beaks should not be killed for the purpose of eating. Hesitated that killing of *Khara* (ass), *asva* (horse), *ustra* (camel), *mrga* (deer), *ibha* (elephant), *aja* (goat), *ahi* (snake), *ahisa* (buffalo) is a sin.

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In the Code of Manu i.e., Manusmruti, it has been observed that he who injures innocuous beings with a desire to give himself pleasure, never finds happiness, neither living nor dead.\textsuperscript{62}

\textit{Caraka-Samhita and Susruta-Samhita} - \textit{Caraka-Samhita} and \textit{Susruta-Samhita} are considered as the significant ancient Indian documents in medical science. These books have several chapters which describe different diseases, their treatment procedures and also can be considered as excellent texts for revealing the utility of medicinal plant resources.\textsuperscript{63}

\textit{Caraka} and \textit{Susruta} classified lands according to the nature of the soil, climate and vegetation into three categories-

- (a) \textit{jangala}, or the region of open spaces where a steady dry wind blewed. The common plants of the region were \textit{khadira} (\textit{Acacia catechu}), \textit{asana} (\textit{Terminalia tomentosa}) and \textit{badari} (\textit{Zizyphus jujuba}).

- (b) \textit{anupa}, or the marshy tract bordered by seas, where cold wind and networks of rivers prevailed. The common plants were \textit{vanjula} (cane or reed), \textit{hintala} (kind of palm) and \textit{narikela} (coconut), varieties of lotuses and water lilies, \textit{variparni} (\textit{Pistiasp.}), \textit{musika-parni} (\textit{Salvinia sp.}), \textit{jalantili} (algae) and \textit{saivala} (moss).

- (c) \textit{sadharana}, or the intermediate regions which had some of the features common to the other two regions. The common plants were \textit{mandara} or \textit{parijataka} (coral tree) and \textit{Santana} (kalpa tree).

The Vedic seers who had the realization of the Supreme reality have found the presence of that reality in all entities. The surroundings in which man is placed by the very compassionate Lord are divine in nature and are the very manifestations of that supreme principle. The earth, the sky, the air, the fire, the winds, the mountains, the rivers, the night, the dawn, the birds, the trees and theplaints, the forests have all been defined. Man’s well being depends on all these divinities directly and it is considered


his duty to respect and revere these in all sincerity and to refrain from any injury or insult to these.

2.2.2 (b) Buddhism and Environmental Protection - By the end of Vedic and Upanishad periods Buddhism and Jainism came into existence. Non violence, truth respect and love for other living organism including trees became the basic tenants of these religion. they also contain the precepts for environmental protection. Buddhism also emphasized very much over the rational use of natural resources by the man. Simplicity and non-violence are the two cardinal principles of Buddhism. These are closely inter-related. The optimal pattern of consumption, producing a high degree of human satisfaction by means of a relatively low rate of consumption allows people to live without pressure and strain and to fulfill the primary injunction of Buddhist teaching cease to do evil, try to do well. In accordance with the spirit of the Buddhist precepts, all over the world, one should abstain from killing animal either for pastime or for sacrifice. In the ancient India, before the birth of Buddhism the slaughtering of animals for sacrifices was common. Buddhism, not only abhors the vain destruction of animal life, but also regarded it as his duty to care for the well being of all animals. Buddhists abstain from taking life, not because, as they believe in the transmigration of souls, but solely through compassion and noblesse oblige. Buddhism inculcates compassion for animal life. Gautama Buddha’s religion was based on experience and logic. He believed on evolution of man.

The Buddhist follower emperor Great Ashoka promoted the planting the preservation of flora and fauna. He prescribed various punishments for hunting the creatures, like ants, squirrels, rats, birds and for cutting of tree also. He established two kinds of hospitals, one for men and another for beasts.

2.2.2 (c) Jainism and Environmental Protection - Jain religion maintaining harmony between men and nature, man and man but lays down even greater stress on minimum

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destruction of living and non-living resources for man’s satisfaction of material needs. In Jain evolutionary theory, every soul is equal and bound by varying amounts of *asravas* (karmic particles) depending on the type of body they inhabit. Human beings are most evolved of all have an inescapable ethical responsibility to protect them all. Jainism emphasizes on the life of modernization and restraint, on practicing a measure of abstinence and austerity and asks not to procreate indiscriminately lest they overburden the universe and its resources. It believes that using any resources beyond ones needs or the misuse of any part of nature is a form of theft. Ahimsa is the foundation of the Jain religion, Jainism prohibits the eating of any kinds of meat. In Jainism Ahimsa has been given the greatest importance and has been called the highest virtue (Paramodhermah). For a Jainist the fifteen vows should be renounced, some vows are related to the environment protection. In Jainism vows known as Karmdan, viz. Vankarm, Sphotrk Karm, Nirlanchan Karm and Asatipashan Karm are related to the environment protection.

2.2.2. (d) Bishnoi’s Faith and Environment Protection-Bishnoi is a distinct sect of Hindus who treated environment protection as a part of their religious duty. Guru Jambheshwr gave new message of love and peace adding fresh life. He propounded 29 principles which deal with specific aspect of life. In the deserts of Rajasthan, there has always been a feeling of oneness between nature and Bishnoi. Bishnoi’s history tells that in the year of 1730, near Jodhpur in Rajasthan in a Khejris village 365 Bishnoi gave up their lives to safeguard the Khejris trees. It was led by a lady Ms. Amerita Bai. The men of the king kept felling the trees and side by side they too were axed. It may be stated that the first Chipko movement was started by these brave people in India. The Bishnois consider trees as sacred, but their empathy extends to every living being on earth. So they protect the entire ecosystem that exists in their villages. Animals like blackbucks and chinkaras, and birds like vultures, partridges,

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71 Ibid. at p.12.
74 RC Dwivedi, CONTRIBUTION OF JAINISM TO INDIAN CULTURE (1975) p.120.
peacocks and even the endangered Great Indian Bustard, find the Bishnoi village a safe haven. Not only do the Bishnoi’s protect them from poachers, they also actively participate in helping them lead a life of plenty.\(^7\) By allowing them to graze freely in their farmlands; by keeping stone vessels near their home that are always filled with water; and even hanging water-filled pots from the branches of trees for the birds to drink from. Being nature lovers to the core, they bemoan the fact that, under the Indian Wildlife Act, animals are accorded various levels of importance. But to a Bishnoi, killing a monitor lizard is as hideous a crime as killing a tiger. To them, every life has the same value.\(^7\) Bishnoi faith preaches that trees are brothers and sisters. Before going to daily business they would salute the trees. Children are taught that no harm should be caused to the trees.\(^8\)

Thus, according to Bishnoi faith we have a culture where trees are regarded more precious and revered as lives.\(^8\) Though they protect every living organism in Nature, they shot into international prominence when they caught an Indian Superstar and his Super gang. The valiant Tiger Force had chased them and caught them red-handed with the blackbucks they had poached and killed.\(^8\)

In India, environment protection is not merely confined to religious preaching or as way of life but also finds place in the ancient literature. Kalidas, the greatest of the Indian poets, sang in the praises of Himalayas in ‘Meghdoot’ by describing it as the loftiest mountain on the earth surface located on the north of the country. The Himalayas ranges have influenced the climate, culture, ecology and environment of subcontinent. These are the ranges from where originate several perennial river like, the Ganga and the Yamuna, which mingle as one river have built up the gangetic belt the most fertile part of India. The legendary tradition of our culture is deeply associated with these two rivers as rightly observed by the Apex Court of India.\(^8\)


\(^{7}\) Ibid.


2.2.2. (e) Sikhism and Environmental Protection - Sikhism (Khalsa) is comparatively of recent origin.\textsuperscript{84} It has demonstrated through performance of its followers, the most laudable virtues of protecting and enriching the natural environment, making the most efficient use of natural resources, for man’s sustained benefits in terms of food, nutrition, health and good living and developing the true spirit of partnership and sharing in community life. In Gurunanak Bani (Religious discourse) the term Jaga and Jagat refer to the world and convey the idea of process of creation from water, fire and air, God is the creator of these.\textsuperscript{85} According to religious belief of Sikhs, there is one way, one love, one beauty shines through air, water and fire. One humble-bee roams in the whole universe. He who understands this unity will be honored.\textsuperscript{86} According to Guru Nanak Dev, the immanent spirit of the God is continuously present in nature and nature is in direct and constant dependence upon His will. He is beyond the creation in the sense that while nature and human beings depend on Him\textsuperscript{87}.

2.2.2. (f) Christian Mythology and Environmental Protection - Christians are baptized in water, as a sign of purification. In fact, in almost all religions, a common thread is the sacred quality of water. Pope Paul VI, in his message to the United Nations Conference on the Human Environment held at Stockholm in June, 1972 stated that the environment and resources are for everyone; they are inalienable property of everyone, and there does not exist over this universal property discretionary sovereignty exempting from responsibility towards the humanity of today and tomorrow.\textsuperscript{88} This message of Pope Paul makes it amply clear that there is a close link between Christianity and environment and the thrust is for sustainable development. The man of today should not exploit the natural resources in such a way so that nothing is left for the coming generations.\textsuperscript{89}

2.2.2. (g) Islamic Mythology and Environmental Protection - In the Islamic perspective, the environmental and ecological activities are seen as a subject matter of a wider human effort to usher in a just and peaceful society. Peace with nature based

\begin{itemize}
  \item GB Ravinder Singh, \textit{Indian Philosophical Tradition and Guru Nanak} (1983) p.119.
  \item \textit{Ibid.}
\end{itemize}
on divine ethical principles which are immutable. According to the Islamic thought, these principles are required to be understood and followed by men in general so that there may not be any imbalance between men and nature.\textsuperscript{90} If one wants to understand the importance attached to environment and nature in Islam, it is necessary for him to understand the significance and meaning of Islam. Amongst the religions, the Islam enjoys the distinction of bearing a significant name. One of the meanings of the word Islam is “to enter into peace” and Muslim is one who makes his peace with God and man. Peace with God implies complete submission to His will and peace with man is not only to refrain from evil or injury to another but also to do good him.\textsuperscript{91} Yes, whoever submits (Aslama) himself entirely to Allah and he is the doer of goods to others, he has his reward from his Lord and there is no fear for such, nor shall they grieve.\textsuperscript{92} It is to be noted that with regard to the environment, the Holy Quran refers to the elements, forces and law of nature their functions and utility to man.\textsuperscript{93} The Holy Quran also refers the rules and regulations for their proper meaningful use and directions, not to disturb the balance between the different elements and forces of nature.\textsuperscript{39} According to Islam, the God has created the earth and implanted therein mountain hills and dales, valleys and slopes, rivers and springs, waterfalls and lakes, forests and the plains wherein dwell animals, birds and other living creatures of a thousand and one kinds. According to Holy Quran, all these are for the service of man, for his use and enjoyment, sustenance and development. But men should not forget that there are other numerous living creatures that also have a right to exist, and are entitled to use and enjoy.\textsuperscript{94} According to Holy Quran, the owner of land on this earth is God and whoever is in charge, possession or control thereof is only a trustee. The beneficiaries of nature are God’s creatures. However, the Prophet (S.A.W.) has qualified this saying that whoever cultivates such barren land, which does not belong to anyone and plants it with trees; he acquires a right over it. It is open to a community, which is enjoying the shade of a tree, either to cut and fell it or to eat its fruit. It is, therefore, submitted that Islam not only cared for environment but

\textsuperscript{91} Ibid.
\textsuperscript{93} SC Tripathi, ENVIRONMENTAL LAWS, 6\textsuperscript{th} edn., Central Law Publication Allahabad (2017) p.22.
encouraged limited use of natural resources. The concept of trusteeship also finds place in Islam.\textsuperscript{95}

\textbf{2.2.2 (h) Environment, Forest And Biodiversity Issues In Indus Valley Civilization-}

The Indus Valley Civilization was a Bronze Age civilization (3300-1300 BCE; mature period 2600-1900 BCE) extending from what today is northeast Afghanistan to Pakistan and northwest India. Along with Ancient Egypt and Mesopotamia, it was one of three early civilizations of the Old World, and of the three the most widespread. It flourished in the basins of the Indus River, one of the major rivers of Asia, and the Ghaggar-Hakra River which once coursed through northwest India and eastern Pakistan. Several characteristics of the city planning and social structure showed environmental awareness but it was the environmental change which was probably the main reason behind the fall of this civilization\textsuperscript{96}. In terms of productivity it was not a very productive region. Some rainfall occurred due to the monsoon and the depression belt generated on the Mediterranean Sea and a little in the winter. But the rainfall in winter was not at all sufficient for cultivation. The main crops in the winter were barley, wheat, peas and pulses. In summer, cotton was one of the important productions. They also practiced intensive agriculture. Crops were stored in storerooms covered by wooden doors.\textsuperscript{97} In August, there was flood every year in the Indus valley, but in winter the water level dropped. They used to store water for cultivation in winter. The area of cultivation was changed every year depending on the amount of rainfall and the direction of river flow. The people often used the ground water because of insufficient rainfall. They used the bulls in irrigation to overcome the water stress. In winter water often stored in the lowlands. Many anthropologists think there was an epidemic of malaria due to the increase in mosquito population in stored and confined water.\textsuperscript{98} In many coins and seals in Harappa there were a variety of animals including elephants, rhinoceroses and tigers. But at present, there is no forest area in Harappa and Mohenjo-Daro, which can indicate the changes in climatic conditions. In 1333, an Arabian traveler saw

\textsuperscript{95} IA Khan, ENVIRONMENTAL LAWS, 2\textsuperscript{nd} edn. Central Law Agency, Allahabad (2002) p.33  
\textsuperscript{97} Ibid.  
rhinoceros in the Indus valley and later British rulers went to Indus valley for hunting tigers. The presence of leaves, wild animals like peacocks and one-horned deer, tigers, elephants, bulls in the seals and the mud pots reflect their views towards natural resources.\textsuperscript{99} Ficus religiosa, which has perhaps the longest continuity of a sacred tree in India, occurs on the seals from the Indus civilization, it is associated with Buddhism and is depicted in sculpture from Buddhist places of worship and it continues to be venerated in association with religious shrines of Hindus and Muslims. An icon, which had both the characteristics of human and other animals and the image of tree god in the seals, reflects their closeness with nature. In their Shamanistic religions wild animals played a major part. In the seal of “Pashupati”, a man was encircled with animals proved that they often went to the forest to spend a part of their life. About 50 years ago, Sir Aurel Stein (1931) and Sir John Marshall (1931) on the basis of their evaluation of the multiple archeological evidence from Baluchistan and Sind, proposed that climate in these regions during the Indus civilization period was wet than it is as present. This theory was accepted and supported by archaeologists like Stuart Piggot (1950) and Mommer Wheeler. Wheeler revealed that ample and equable rainfall in the Indus valley had made the plain alluvial and made it fit for human habitation. Probably large amount of local fuel were available in the Indus valley. The floating timbers from the Himalayan forests were used to prepare burnt brick which was a special characteristic of the Indus cities-Harappa, Mohenjo-Daro, Chanodaro And Sutkajender. These cities were easily accessible by water whilst other cities were less accessible and were seemingly content with stone and brick. The Indus valley people were mainly dependent on irrigation and overseas trade, which were possible because of the rain fed soil and the easy access to sea.\textsuperscript{100} Reduction of forests in that area was due to use of huge amount of timber-wood for burning bricks. So rainfall reduced and soil erosion caused deposition of silt in the Indus River which had choked off Mohenjodaro from the sea, causing a rise in the water table that must have been a prime factor in the destruction of Mohenjodaro. Thus the socio-cultural pattern of the Harappan civilization was probably getting out of hand with the spread of the culture to the south and east of the


\textsuperscript{100} Sayan Bhattacharya, “Forest and biodiversity conservation in ancient Indian culture: A review based on old texts and archaeological evidences” 19 International Letters of Social and Humanistic Sciences (2014) pp.35-46.
Indus valley. Seven layers of the civilization have been found after excavation in 1924, which indicates that the civilization was seven times built and seven times ruined due to some ecological problems.  

2.2.3. Environmental Protection during the Historical Period

2.2.3. (a) Maurya 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. The Mauryas firstly looked at forests as a resource. For them, the most important forest product was the elephant. Military might in those times depended not only upon horses and men but also battle-elephants; these played a role in the defeat of Seleucus, Alexander’s governor of the Punjab. The Mauryas sought to preserve supplies of elephants since it was more cost and time-effective to catch, tame and train wild elephants than raise them. 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 offenders. Arthashastra also prescribed punishments for causing pollution and uncivil 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 rat. However, the edicts of Ashoka and the contents of Arthashastra reflect more the desire of rulers than actual events; the mention of a 100 ‘panas’ fine for poaching deer in royal hunting preserves

101 Ibid.
shows that rule-breakers did exist. The legal restrictions conflicted with the freedoms exercised by the common people in hunting, felling, fishing and setting fires in forests.106

2.2.3.(b) Mughal Period-In Islam, there is close harmony between man and nature.107 During this period, a significant contribution from the point of view of environment conservation has been the establishment of magnificent gardens, fruit orchards and green parks, round about the emperor palaces, central and provincial headquarters, public places, on the bank of rivers and in the valley and dale which they used as holiday resorts or places of retreat or temporary headquarter during summer seasons. The famous Mughal garden which attract every nook and corner of country even today are thus pleasant cultural heritage of imperial Mughals.108 In addition religious policy of Akbar based on the principle of complete tolerance also reflects concern for the protection for birds and beasts in so much so as endeavors were taken during his reign to stop their unnecessary killing.109 They also employed scribes and were among the first to document their observations of nature in India. The foremost of the observers were Jehangir (1569-1627) and Babur (1483-1530).110

• Babur

The notes of Babur for instance indicate the former distribution of the Rhinoceros as far west as the Indus:

*The Lesser Rhinoceros is found at present in the Bengal Sunderbuns, and a very few individuals are stated to occur in the forest tract along the Mahanuddy river, and extending northwards towards Midnapore; and also on the northern edge of the Rajmahal hills near the Ganges. It occurs also more abundantly in Burmah, and thence through the Malayan peninsula to Java and Borneo. Several have been killed quite recently within a few miles of Calcutta. One of these species formerly existed on the banks of the Indus, where it was hunted by the Emperor Baber Individuals of this*

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108 Ibid.
species are not unfrequently taken about the country as a show.-**Thomas C. Jerdon, 1874**

- **Jahangir**

Jahangir also kept detailed records to hunts. From the age of twelve (1580) to 48 years he had 28,532 animals had been hunted with 17,167 by himself. These included 86 Tigers (and lions), 9 Bears, leopards, foxes, otters (*ubdilao*) and hyaenas, 889 - Blue bulls (Nilgai) and 35 *Mhaka*. Salim Ali suggests that the Mhaka must refer to Swamp deer. Ustad Mansur, a 17th century court artist of Jahangir, was the first man to accurately paint the Siberian Crane. The Dodo was brought to Jahangir’s court via Portuguese controlled Goa and an unsigned painting of it in the Hermitage Museum is attributed to Mansur.

2.2.4. 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. Britain’s position as cradle of the industrial revolution led to the very early development of public controls specifically related to environmental public health problems in mid nineteenth century, culminating in the landmark Public Health Act 1875. This onslaught was due to increasing demands for military purposes, royal Navy, shipbuilding, supply of teak and sandalwood for exports and trade purpose. 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

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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.\(^{114}\) The British for the proper utilization of land and to consolidate land holding enacted the Consolidation of Holding Act, 1920.\(^{115}\) 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.\(^{116}\) Main Acts in the field of Environment in the British Era Acts controlling Water Pollution crisis in India prior to independence- \(^{117}\)

1. The Shore Nuisance (Bombay and Kolaba) Act, 1853

This is the earliest Act on the statue book concerning control of water pollution in India. It was the first act in the field of Environment protection in India, which was enacted by the British for the British India. This act was passed so as to regulate the waste materials discharged in the coastal area of Bombay (Now Mumbai) and Colaba


area, from various industries functioning in these areas.\textsuperscript{118}

2. Oriental Gas Company Act, 1857

This act imposed restrictions on fouling of water by the Oriental Gas Company. The Oriental Gas Company provided fine of Rs. 1000, for fouling water and for the subsequent continuation of the offence, Rs. 500 per day. Oriental Gas Company (OGC) Act was among the first act in the field of water pollution.

3. Indian Penal Code, 1860

As regards to water pollution, Indian Penal Code says that whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to make it less fit for the purpose for which it is ordinarily used, shall be punished with simple or rigorous imprisonment for a term exceeding to three months or fine of five hundred rupees or both. The definition is confined to a voluntary act and acts committed without any knowledge or accidentally would not be covered under the present law. Moreover, it has limited operation to the water of public spring or reservoir. Further, looking to the gravity of the offence it attracts only minor punishment. It is surprising to know that in spite of the fact that this provision was incorporated to protect the public health, the cast ridden society wanted to enforce this provision against the lower cast person taking water from a public cistern but the Bombay High Court did not allow the above interpretation\textsuperscript{119}. Chapter 14th of the Indian Penal Code (IPC) is for Public Nuisance from section 268 to 291.\textsuperscript{120}

4. The Serais Act, 1867

The Act enjoined upon a keeper of Serai or an inn to keep a certain quality of water fit for consumption by "persons and use of it by the animals" to the satisfaction of the District magistrate or his nominees. Failure for maintaining the standard entailed a liability of rupees twenty. It is to be understood that the amount twenty rupees was a very big amount at that time and therefore should not be compared to the value of


\textsuperscript{119} \textit{R v. Bhagi} 2 Bom LR 1078.

twenty rupees prevailing now in the country.¹²¹

5. **The North India Canal and Drainage Act, 1873**

Certain offences have been listed under the Act contained in Section 70. It was to regulate the way a canal for the purpose of irrigation as well as to discharge the effluents from various industries as well as drainage system is to be controlled.¹²²

6. **Obstruction in Fairways Act, 1881**

Section 8 of the Act empowered the Central Government to make Rules to regulate or prohibit the throwing of rubbish in any fairway leading to a port causing or likely to give rise to a bank or shoal.¹²³

7. **Indian Easements Act, 1882**

It protected riparian owners against unreasonable pollution by upstream officer. Illustrations (f), (h) and (j) of Section 7 of the Act deal with pollution of waters. Section 28(d) of the Easement Act, 1882 on the one hand allowed a prescriptive right to pollute the water but it was not an absolute right. The illustrations (f), (g), and (j) of this Section, limited this prescriptive right not to unreasonably pollute or cause material injury to other.

8. **The Indian Fisheries Act, 1897**

The Indian Fisheries Act, 1897 contains seven sections. This act penalized the killing of fish by poisoning water and by using explosive. Section 5 of the Act prohibits destruction of fish by poisoning waters.

9. **Indian Ports Act, 1908**

The Indian Ports Act, 1908, has regulated water pollution caused by the use of oil or discharging of oil in the port waters.¹²⁴

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¹²² *Section 70 of The North India Canal and Drainage Act, 1873.*
¹²³ *Section 8 of Obstruction in Fairways Act, 1881.*
¹²⁴ *Section 26 of The Indian Forest Act, 1927.*
10. **The Indian Forest Act, 1927**

This act was very comprehensive and contained all the major provisions of the earlier act and amendments made thereto including those relating to the duty on timber. The Act of 1927 also embodied land-using policy whereby the British could acquire all forestland, village forest and other Common Property Resources. Section 26(i) of the Act makes it punishable if any person, who, in contravention of the rules made by the State Government, poisons water of a forest area. The State Government has been empowered under Section 32(f) to make rules relating to poisoning of water in forests. This act is still in force, together with several amendments made by the State Governments.\(^{125}\)

Acts for the Protection of the Indian Environment;

1. **The Serais Act, 1857**
2. **The Orient Gas Company Act, 1857**
3. **The Shore Nuisance (Bombay and Kolaba) Act, 1853**
4. **The Northern India Canal and Drainage Act, 1873**
5. **The Obstruction in Airways Act, 1881**
6. **The Indian Fisheries Act, 1897**
7. **The Indian Ports Act, 1901**
8. **The Bengal Smoke Nuisance Act, 1905**
9. **The Explosives Act, 1908**
10. **The Bombay Smoke Nuisance Act, 1912**
11. **The Inland Stream Vessel Act, 1917**
12. **The Mysore Destructive Insects & Pests Act, 1917**
13. **The Poison Act, 1919**
14. **The Andhra Pradesh Agricultural, Pest & Diseases Act, 1919**
15. **The Indian Boilers Act, 1923**

\(^{125}\) Section 32 The Indian Forest Act, 1927.
16. The Workmen's Compensation Act, 1923
17. The Indian Forest Act, 1927
18. The Motor Vehicles Act, 1939
19. The Bihar Wastelands (Reclamation, Cultivation & Improvement) Act, 1946
20. Air Pollution Acts
21. Indian Penal Code, 1860
22. The Indian Boilers Act, 1923
24. The Poison Act, 1919

Municipality Laws

- Uttar Pradesh Municipality Laws, 1916
- Bihar and Orissa Municipality Laws, 1922

Both of these laws were amongst the earliest laws for regulating the environment conditions in the cities by the help of municipality laws.

- Wildlife Protection Act
- Forest act of Madras 1873
- Elephant Preservation Act, 1879
- World Birds Protection Act, 1887
- World Birds and Animal Protection Act, 1912
- Hailey National Park Act, 1936 (Now Called Corbett National Park)

In the field of wildlife protection, the first wildlife statute was enacted in Madras (Chennai) for the protection of wild elephants. The law introduced a general prohibition on destruction of wild elephants and imposed penalty on those who violated the embargo. The first effort by the Central Government came after six years later by the passing of the Elephant Preservation Act in 1879. In 1887, central government enacted the Wild Birds Protection Act prohibiting the possession or sale of wild birds recently killed or taken during the notified breeding season. In 1912, the
Central Government enacted a broader Wild Life and Animal Protection Act. Extending to most of the British India, this law specified a closed hunting season and regulated the hunting of designated species through licenses. Indeed, all the statutes related primarily to the regulation of hunting and did not regulate trade in wildlife and wildlife products - both major factors in the decline of Indian Wildlife. As a consequence, wildlife depredation continued and many species became extinct.\textsuperscript{126}

\textbf{Miscellaneous}

- The Indian Fisheries Act, 1897
- The Indian Forest Act, 1927
- Criminal Procedure Code, 1893

Criminal Procedure Code, 1893 was one of the major acts, which provided some of the very strict punishments for the environmental offences under the criminal law. Sections 133 to 144 in the Chapter XII of the Criminal Procedure under the heading Public Nuisance provided for the punishment under criminal procedure for the commission of any nuisance, which affected the public at large. The environmental degradation was also included in it as any degradation of the environment is automatically supposed to be affecting the public at large. The first comprehensive law for the protection of wildlife and its habitat was perhaps the Hailey National Park Act of 1936, which established the Hailey (now Corbett) National park in Uttar Pradesh.\textsuperscript{127}

\textit{2.2.5. 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. Other important enactments regarding

\textsuperscript{127} \textit{Ibid.}
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.

2.2.5.(i) Environmental Protection and Stockholm Declaration - The year of 1972 marks a watershed in the history of environmental management in India. The Stockholm Declaration 1972 The United Nations Conference on the human environment held at Stockholm from 5th to 6th June 1972, which is generally called as the Stockholm Conference. It was the first declaration of international protection of the environment. In the conference 113 States were participated, including India and accepted such declaration. The Stockholm Declaration contains 26 principles. These principles provide the basis of an International Policy for the Protection and improvement of the environment. The United Nations Environment Programme has been established by the United Nations General Assembly in pursuance of the Stockholm Conference. The Environmental Programme was set up in Geneva in June 1972. The UNEP worked as catalyst stimulator and coordinator among the member states on the environmental action. It worked very hard to implement the decisions of Stockholm Declaration into reality. The Stockholm Declaration influenced all the State Governments. Several governments have brought legislation on the environment. The object of the Stockholm Declaration was to pass the Mother Earth to the coming generations in clean and healthy conditions.

Declaration\textsuperscript{130} is a key instrument of modern international environmental law. It provided a negotiated framework within which sovereign states could develop a coordinated and cooperative approach towards international environmental law. It is very much a product of its time: a non-binding set of principles that have threaded their way through various treaties over the last 40 years.

Immediately after the Stockholm Declaration in 1972 there was a growing trend in national Legal Systems to give constitutional status to environment protection. For example, Art. 24 of the Swiss Constitution, adopted on June, 6, 1976 provide that “the Federal Legislature shall enact laws concerning the protection of man and his natural environment against burdensome influences…..” Art. 24 of the Greek constitution 1975 provides that “the protection of the natural and cultural environment constitutes a duty of the State.” The 1976 constitution of Portugal (as revised in 1982) both fundamental right and a statement of public policy relating to the environment. Art. 45 of the Spanish Constitution (1978) provides that “everyone has the right to enjoy an environment suitable for the development of the person as well as the duty to preserve it.” The Netherlands amended its Constitution in 1983 to include Art. 21 which provides that “it shall be the concern of the authorities to keep the county habitable and to protect and improve the environment”. Art. 225 of the Constitution of the Federal Republic of Brazil (1988) declares that “everyone is entitled to an ecologically balance environment.”\textsuperscript{131}

2.2.5.(ii) National Committee on Environmental Planning and Coordination-The year 1972 marks a watershed in the history of environmental management in India. This is because prior to 1972, environmental concerns such as sewage disposal, sanitation and public health were dealt with by different federal ministries and each pursued these objectives in the absence of a proper coordination system at the federal or the intergovernmental level. When the twenty-fourth UN General Assembly decided to convene a conference on the human environment in 1972, and requested a report from each member country on the state of environment, a Committee on human environment under the chairmanship of Pitambar Pant, member of the Planning Commission, was set up to prepare India’s report. With the help of the reports, the

\textsuperscript{130} Declaration at United Nations Conference on the Human Environment, \textit{UN Doc A/CONF 48/14/Rev 1 (1973).}

\textsuperscript{131} Evolution of Environment Jurisprudence under Article 21 of Constitution of India (Post Maneka Era); All India Reporters, Vol. 103-Part 1232 AIR p. 57.
impact of the population explosion on the natural environment and the existing state of environmental problems were examined.

By early 1972, it had been realized that unless a national body was established to bring about greater coherence and coordination in environmental policies & programmes and to integrate environmental concerns, an important lacuna would remain in India’s planning process. Consequently, as a result of the major issues highlighted by the reports, a National Committee on Environmental Planning and Coordination (NCEPC) was established in the department of Science & Technology.

The NCEPC is an apex advisory body in all matters relating to environmental protection and improvement. At its inception, the Committee consisted of fourteen members drawn from various disciplines concerning environmental management. Most of the non-official members were specialists. The Committee was to plan and coordinate, but the responsibility for execution remained with various ministries and government agencies.\textsuperscript{132}

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). The Indian Constitution is amongst the few in the world that contains specific provisions on environment protection. The chapters directive principles of state policy and the fundamental duties are explicitly enunciated the nation commitment to protect and improve the environment. At the beginning of the 21st Century environment issues have emerged as a major concern for the welfare of the people.\textsuperscript{133}

Parliament enacted nationwide 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 nationwide 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

\textsuperscript{132} Environmental Issues, Polity and Governance, Chomical Year Book 2011, pp.51-53.

\textsuperscript{133} Amit Dubey and B.K. Tiwari, “Role Of The Judiciary In Environmental Protection” 7(1) Journal of Environmental Research and Development (July-September 2012).
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. Between 1972 and the present there have been numerous developments that have built upon the foundation created by the Stockholm Declaration, in particular the 1992 Rio Declaration\textsuperscript{134}. This provides an indication of the areas that remain vitally important to the international community, and also which new priorities have been introduced. Scattered across the past forty years are a number of instruments that have attempted to fulfill the 26 principles of the Stockholm Declaration in some way.

2.2.5.(iii) Environmental Protection and the Five Year Plans

a) The First Five-Year Plan (1951-56) - The First Five Year Plan (1951-56) put considerable emphasis on the development of forests. The aim of the Plan was to provide for the expansion and improvement of areas under forests, for meeting the increased demand for timber and forest produce in the immediate future as well as for the planning of long range development of forest resources. Besides these, revenue derived from forests was also an important consideration for which forests had to be managed. A most significant step in this direction was the enunciation of the New National Forest Policy of India in 1952, revising the old forest policy of 1894 in order to bring it into line with the requirements of the economy. The policy emphasized the protective as

well as productive roles of forests and suggested, as a desirable long term objective, that one third of the land area (around 33%) should be under forests including 60% of the land in hilly regions and 20% in the plains. Programmes of forest development in the States during the First Five-Year Plan were mainly a continuation of programmes which had been initiated under post-war development schemes during the period from 1947-51. These included schemes for afforestation and plantation, improvement of forest communications, preparation of working plans, application of modem systems of intensive forest management, introduction of modem logging techniques, demarcation of newly acquired areas with a view to their rehabilitation, improving the growing stock and strengthening of forest administration. The first five year plan was instrumental in bringing about a marked improvement in levels of production, both in agriculture and in industry. It also initiated a number of structural and institutional changes.  

In view of the urgent need for protecting India's rich heritage of wildlife, conservation of wildlife was considered as an integral part of forest management. Owing to this, the Indian Board for Wildlife was constituted in 1952 which has done useful work for the cause of preservation of wildlife in the country. An overall provision of Rs 7.64 crores was made in the plan (in both Centre and State budgets) for forestry and wildlife conservation programmes.

b) Fourth Five Year Plan i.e. 1969-70 to 1973-74- In the fourth five year plan i.e. 1969-70 to 1973-74 in the process of economic development environmental issues were considered explicitly for the first time. It was observed that “the physical environment is a dynamic, complex and inter-connected system in which any action in one part affects others. There is also inter dependence of living things and their relationships with land, air and water. Planning for harmonious development recognizes the unity of nature and man. Such planning is possible only on the basis of a comprehensive appraisal of environmental issues, particularly economic and ecological. Therefore, introduced the environmental aspect into the planning and development. The

\[135\text{ Review of the First Five Year Plan,1957 , Government of India PLANNING COMMISSION PRINTED IN INDIA BY THE GENERAL MANAGER, COVT OF INCH I'KSSS,NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBU&VTIONS, DELHI, 1957 p.13.}\]

\[136\text{ Planning Commission, Fourth Five Year Plan 1974-79.}\]
planning commission also pointed out that it is the obligation of each
generation to maintain the productive capacity of the environment which
leaves some healthy environment to its successors.\textsuperscript{137}

c) In Fifth Five Year Plan (1974-79)-There it is necessary to introduce
environmental issues which are vital for national well being in the fifth five
year plan (1974-79) the importance of involvement of National Committee on
environmental planning and co-ordination in major industrial decisions is
stressed\textsuperscript{138}. The plan also stressed, if balance is maintained between
development planning and environmental management then pursuit of
development goals would not reduce the quality of life. In this context the
minimum needs programmed received fairly high priority which was expected
to minimize environmental degradation in rural areas and reduce poverty
levels.\textsuperscript{139}

d) In Sixth Five Year Plan (1980-85)-A chapter on Environment and
Developmental and ecological principles in land use agriculture, forestry,
marine exploitation, mineral extraction, fisheries, energy production and
human settlements, it lays down an institutional structure for environmental
management in the central and state government. It forms a guideline to
administrators and resource managers in formulating and implementing
programmes and projects.\textsuperscript{140} In the section on Ecology and Environment the
causes for environmental degradation is mentioned as there is no consideration
of the costs of environmental degradation at the policy making level, there is
lack of long-term perspective in development planning, all agencies tend to
maximize their own profits and ignore the costs, they were imposing on
society at large, while a community pending on a resource for its subsistence
both then and in the future thus has a stake in its conservation, an
entrepreneurs were only interested in quick profits, even when this led to the
destruction of the resource base, the need to take out a subsistence living had
led to the cultivation of marginal land, the overgrazing of depleted pastures,
the over felling of forests, and the destruction of the national resource base,

\textsuperscript{137} O.P.Dwivedi, INDIA’S ENVIRONMENTAL POLICIES, PROGRAMMES AND STEWARDSHIP,
\textsuperscript{139} Syan Divan and Armin Rosen, ENVIRONMENTAL LAW AND POLICY IN INDIA CASES
MATERIALS STATUTE, 13\textsuperscript{th} edn. Oxford University Press, New Delhi (2012) p.34.
\textsuperscript{140} Planning Commission, Sixth Five Year Plan (1980-85) p.152.
damage to productivity and scenic beauty due to mining, brick making and other similar activities protection of ecological assets is one of the goals of the sixth five year plan”.  

e) The Seventh five year plan (1985-90)-The seventh five year plan\textsuperscript{142} emphasized on Sustainable development. Due to the pressure on the project planners and managers to pursue single handedly developmental activities loosed the sight of environmental aspects and for its realization it took about a decade and urgent remedial measures were needed. In the words of the plan environmental pollution is a serious hazard in India. It has both direct and indirect effects on health. Air and water pollution from industrial and community sources is the most important health hazard in India resulting also in destruction of natural and marine resources and also spoiling the scenic beauty of the attractive places like beaches. To improve the quality of environment and to create environmental awareness the plan called for government and voluntary agencies and also involvement of the public. Poverty and underdevelopment as opposed to development activities had led to many environmental problems. Thus the seventh plan recognized that the nation’s planning for economic growth and social well-being in each sector must always take note of the need to protect environmental resources, and must work to secure improvement in environmental quality. Thus plan emphasized in prevention of air and water pollution and waste management.\textsuperscript{143}

f) The Eighth Five Year Plan (1992-97) -The Eighth five year plan due to uncertain political condition in India came out in 1992 rather than 1990. The plan has given more importance to environment by moving the subject of environment to the fourth category of subjects. Since Sixth plan period efforts were made to integrate environment issues in the planning process in all the key socio – economic sectors resulted in sustained planning in all major sectors like industry, science and technology, agriculture, energy and education includes environmental consideration. The planning commission set up an expert committee to formulate long – term sectoral policies. The committee also noted that the environmental problems were continuing to

\textsuperscript{142} Chapter 18 of Planning commission, 7\textsuperscript{th} Five Year Plan; 1985-90, New Delhi.  
\textsuperscript{143} Planning commission, 7th five year plan; 1985-90, New Delhi, Chapter 18 Seventh Five Year Plan 1985-90, Vol.II ,New Delhi (1985)P. 387.
cause serious concern. The environmental degradation was seriously threatening the socio-economic progress and the life support systems are being damaged beyond repair. The plan suggested eight major tasks i.e. to protect restore and regenerate degraded environment and increase the productivity and to generate employment through these activities, to decentralize control over nature and natural resources, to develop and disseminate an understanding of nature, to formulate a national policy for the environment and design an appropriate institutional and legal frame work in support of the policy, to ensure co-ordinate and integrated government action aimed at conserving nature and making sustainable use of natural resources, to make individuals and institutions more accountable for any actions impinging on the environment and to monitor the state of the environment. However it failed to outline explicit means of integrating environmental considerations, with in sectoral programmes and projects. The main objectives of eighth plan are reliance on domestic resources for financing investment, increasing technical capabilities for development of science and technology, modernization and competitive efficiency, so that India economy can keep in pace with and take advantage of global development. The eight plan renewal emphasis on economic sphere through elimination of licensing reduce the capital costs for development of environment friendly technologies. The inadequacy of environment planning led to prohibitive licensing and discouraged industrial concerns. Means for ecological sustainability are recognized in eight plans as not independent of traditional development objectives. And are thus subject to trade offs. The ecological sustainability will depends on adequate environmental safeguards and standards in the form of legislation, environment impact assessments, economic and regulatory instruments and skilled management to safeguard the environment from potential industrial abuse. The plan emphasizes human development as the core of India’s development effort. A decentralized approach to environment and sustainable development is proposed, such an approach will diminish the

145 S Singh, “Planning for Environmental Sustainability” (39)3The India journal of Public Administration (July – Sep 1993) p.357.
146 Manmohan Singh (Minister of Finance, Government of India), Environment and the New Economic Policies, p.155
efforts made. This section on environment is shorter than the previous plans. It is not made clear how industrial and environmental concerns to be integrated into over all planning, in spite of policy protection measures. The generation of polluting substances is increasing and causing damage to environment\textsuperscript{147}. The major highlights of the achievements in the environment sector during 8th plan are for abatement of pollution activity of central pollution control board has been improved to survey pollution for prevention and control of pollution, submission of an environmental statement by the polluting units, adoption of clean technologies in small scale industries, mapping and analysis of environmental data, development of standards of industries, pollution control and monitoring, economic instruments like enhancement of cess rates on water consumption, pollution control equipments, pollution abatement equipment, biodiversity conservation. Plan also ensured public participation, launching a new scheme as “Paryavaram Vahini”, Environmental education, training and information. Government has enunciated policy statements on abatement of pollution and on conservation; attention was given to make pollution control laws during eighth plan period on implementing India’s international obligations like Rio-agreements, Agenda’21, Montreal protocol and commission on sustainable development on global environment policy. India became a party to the UN convention on climate change, Bio diversity convention, Basel convention and Montreal protocol; National river conservation programmes are sponsored. The ninth five year plan\textsuperscript{148} strengthened the central pollution control board. The proposed activities are bio-monitoring for assessment of pollution and health of aquatic system, water quality monitoring, soil pollution monitoring, epidemiological studies for formulation of standards based on health considerations, environmental audit promotion of infrastructure and capacity up gradation programme industrial pollution control and prevention projects, the common effluent treatment plants (CEJP), adoption of clean technologies in small scale industries including waste water re-use and re-cycling. Ninth plan proposes the preparation of statistical data and reports on status and trends in environmental


\textsuperscript{148} Chapter 8 of Planning Commission, 9th five year plan Vol. II. (1998-2002).
quality. Environmental impact assessment and development and promotion of clean technologies are proposed where various studies on “the carrying capacity status for Doon valley, National capital territory, Damodar River basin and Tapti River systems, assessment study of industries was undertaken under this 9th Plan. A comprehensive legislation is proposed during ninth plan. The labeling of environmental friendly products by granting ECOMARK helps in pollution abatement. The supporting infra structure for the National Environmental Tribunal was provided during the Ninth plan. The Tenth five year plan\textsuperscript{149} emphasizes on completing the schemes planned in 9th plan and introduction of a few new schemes. The scope of common effluent treatment plants scheme will be enhanced schemes with International co-operation under eco-restoration, water shed management, water and energy sectors, biodiversity, climate-change, ozone layer protection, land degradation etc with the help of India Canada Environmental facility, Global environmental facility, schemes under the clean development. Mechanism, the developed countries having commitment of green house gases reduction can get credit by investing in developing countries in schemes. They would reduce GHG’s emission like renewable energy sources, efficient conversion and utilization of energy sources etc. An International quality botanical garden is to be established in NOIDA, near Delhi, to conserve the endangered/threatened plants of the country. Zoological survey of India during Tenth plan includes conservation of endangered species. Conservation of Mangroves and wet lands shall be strengthened in tenth plan.

The main elements of the programme are provision for basic services like water supply and sanitation, enactment of public disclosure law and community participation law in institutionalize citizen’s participation. The areas like health, water management, drinking water, urban infrastructure and agriculture are responsibility of states and the states will have substantial assistance from the centre. The 11\textsuperscript{th} plan aimed at significant improvement in the area of environmental protection. The socio-economic targets of 11\textsuperscript{th} plan are increasing forest and tree cover by 5 percentage points, attaining WHO standards of air quality in all major cities by 2011-12, treating all urban waste water by 2011-12 to clean river waters and increasing energy

\textsuperscript{149} Planning Commission, 10th five year plan (2002-07) Vol. II. New Delhi (2002).
efficiency by 20% points by 2016-17. State governments should take determined steps to improve air quality in all major cities. As our rivers and water bodies are seriously threatened by unrestricted discharge of effluents, water must be fully treated. This should receive priority attention from state government in areas of large urban and industrial concentration. Appropriate policies are aimed to be designed and implemented to increase energy efficiency and thus limit the harmful effect of carbon combustion on the environment. Despite of many problems several environmental policies, institutions and laws were enacted as a result of five year plans. Eighth plan, though importance was given to environment overall developmental activities are much focused. Especially 9, 10 and 11th plans covered major environmental protection activities. Thus India has made sincere efforts in protection and improvement of environment.150

2.2.5.(iv) Environment Protection and Environmental Movements -CHIPKO movement, 1973 and APPIKO movement (in Karnataka) for saving the forests for exploitation are the examples of people’s responses for the protection of environment by their involvement. In Kerala, at the grass root level, the campaign against the Salient Valley Project as led by Kerala Sastra Sahitya Parishad. The society for protection of Salient Valley filed a PIL against the government to stop the execution of the projects. There has been sustained agitation by certain environmentalists and social workers against the Narmada Valley Project.151 The movement is known as Narmada Bachao Andolan or Save the Narmada movement, which has been led by Baba Amte and Medha Patikar. The Tehri Bandh Virodhi Sangharsh Samiti, led by Shri Sunder Lal Bahuguna has been protesting against the construction of the Tehri Dam due to its adverse environmental effects.152

Chipko movement, 1973 -The 1980s saw the debate on environment move from just deforestation to the larger issues of depletion of natural resources “In the wake of reckless deforestation, a unique movement has bubbled,” observed India Today in March 1982. The 1980s saw the debate on environment move from just deforestation to the larger issues of depletion of natural resources. “Chipko movement in the

Garhwal Himalayas, shoved aside urban armchair naturalists. Led by Chandni Prasad Bhatt and Sunderlal Bahuguna, it was a people’s revolt against mindless deforestation. And they did it simply. By hugging trees when the woodmen came to axe them,” said India Today in January 1990.153

**The Silent Valley Project, 1978-**The Silent Valley hydroelectric project was to dam the Kunthipuzha River. It was a battlefield of personal agendas, between the then prime minister Morarji Desai, the Kerala government and the environmentalists. The Silent Valley hydroelectric project was to dam the Kunthipuzha River, submerging the entire biosphere reserve and destroying its four-million-year-old rainforests. In 1980, the M.G.K. Menon Committee set up to review the project, came out with a recommendation to scrap it. With 40 per cent of its so-called surplus power being supplied to other parts and many villages of Kerala waiting to be electrified, this grassroots movement became the bedrock of Indian environmental activism (India Today, August 2003). 154

**Jungle Bachao Andolan 1980-**“Most states exist in the bliss of ignorance,” observed India Today in March 1982. It was this observation that led to the birth of the Jungle Bachao Andolan that began in Bihar and later spread to states like Jharkhand and Orissa. The tribals of Singhbhum district of Bihar bubbled up a protest when the government decided to replace the natural sal forests with highly-priced teak, a move that was termed “a greed game, political populism”.155

**Navdanya Movement, 1982-**Whether it’s about empowering women or anti-globalisation campaigns, environmental activist Vandana Shiva has always had an upper hand in her fights against the authorities. Her eco feminist movement reinstated a farming system centered on engaging women, changing the current system. She founded Navdanya in 1982, an organisation promoting biodiversity conservation and

153 Purvi Malhotra, 10 most powerful movements, available on http:// indiatoday.intoday.in/ story/10+most+powerful+movements/1/22812.html (accessed on 29 November 2016).
154 Ibid.
organic farming. The organisation has not only helped create markets for farmers, but also promoted quality food for consumers, connecting the seed to the cooked food.\textsuperscript{156}

\textit{Development Alternatives, 1983}-Labelled the Green Doer (India Today, December 2002), Ashok Khosla empowered people by creating jobs. Through Development Alternatives, an NGO that he found in 1983, he began work towards financial, social and environmental sustainability at the grassroot level. Over the years, his 15 environmentally-sound and commercially-viable technologies have generated more than three lakh jobs across India.\textsuperscript{157}

\textit{Narmada Bachao Andolan, 1985-} Narmada Bachao Andolan announced the arrival of the India Greens, protesting against destructive development. \textsuperscript{158}“One of the largest and most successful environmental campaigns, Narmada Bachao Andolan began with a wide developmental agenda, questioning the very rationale of large dam projects in India” (India Today, December 2007)\textsuperscript{159}

\textbf{2.2.5.(v) Bhopal Tragedy}

On the night of Dec. 2nd and 3rd, 1984, a Union Carbide plant in Bhopal, began leaking. Due to run-away reactions, temperature and pressure rise and the safety valve lifted to the atmosphere. About 25-27 tons of the deadly gas methyl isocyanate spread through the city of Bhopal. Half a million people were exposed to the gas. Protective systems that should have prevented or minimized discharge were out of service.\textsuperscript{160} Refrigeration system to cool the reactor was down. Scrubbing system to absorb the released vapors was not immediately available. Flare system to burn vapours getting past the scrubber was out of service. Within a decade of the accidental gas release at Bhopal in India, at least 4000 people had died as a result of this well known industrial disaster.\textsuperscript{161} However, serious technological accidents happen every day somewhere in

\begin{itemize}
\item \textsuperscript{156} Purvi Malhotra, Saving the forests of Garhwal by sticking to trees. Fighting a big dam by living in submerged waters. These movements redefined the greening of India.
\item \textsuperscript{157} Kiriti Bhushan Mandal, “\textit{Movements for Environmental Conservation In India}”, 1(IV), Research magma, An International Multidisciplinary Journal (June- 2017) p.4.
\item \textsuperscript{158} Mohammad Naseem, ENVIRONMENTAL LAW IN INDIA, Kulwar Law International The Netherlands (2011) p.53.
\item \textsuperscript{159} Kiriti Bhushan Mandal, “\textit{Movements for Environmental Conservation In India}”, 1(IV), Research magma, An International Multidisciplinary Journal (June- 2017) p.4.
\item \textsuperscript{160} Syan Divan and Armin Rosen, ENVIRONMENTAL LAW AND POLICY IN INDIA CASES MATERIALS STATUTE, 13\textsuperscript{th} edn. Oxford University Press, New Delhi (2012) p.35.
\item \textsuperscript{161} Mohammad Naseem, ENVIRONMENTAL LAW IN INDIA, Kulwar Law International, The Netherlands (2011) p.49.
\end{itemize}
the world, causing deaths, injuries and damage to the environment. In industry, as in other activities, specialists assure us that zero risk will never be attained. It is therefore up to governments and industry to reduce the probability of accidents occurring to a level which is acceptable to society and to prepare populations for emergency response should an accident occur. In short, accident prevention and preparedness are key elements in the promotion of sustainable production patterns. \(^{162}\)

It was in 1988, just a few years after the Bhopal disaster that Industry and Environment last focused on the environmental consequences of major technological accidents. UNEP also launched its Awareness and Preparedness for Emergencies at Local Level (APELL) programme in 1988, in conjunction with governments and the chemical industry. APELL has established itself (within the range of activities of international organizations on accident prevention and preparedness) as a practical programme which assists industry, public authorities and the community at the local level to increase community awareness of technological hazards and to prepare integrated plans for effective response should accidents occur. The quality of response to what might seem a minor incident at a facility or during transport of hazardous materials is often the determining factor in ensuring that such an incident does not become a major disaster. Promotion of the APELL programme as the means to achieve these ends was recommended in 1992 in UNCED’s Agenda 21. \(^{163}\)

### 2.3. International Historical Perspectives of Environmental Protection

The origin and growth of environmental law in India may call for brief historical development of environmental laws at International level. Particularly the ones which have influenced the development of Indian Environmental law in the recent times. International Environmental law, like international law, is a set of rules or norms governing relationship between states with respect to environmental issues and concerns. There were only a few bilateral agreements regarding international environmental matters before the 1900s. They were mostly concern with boundary waters, fishing rights and navigations rights. But these agreements were silent about

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pollution and other ancillary environmental issues.\textsuperscript{164} 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.\textsuperscript{165} 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 \textit{Vellore Citizens Welfare forum v. Union of India}\textsuperscript{166}, 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.\textsuperscript{167} India being


\textsuperscript{165} \textit{Ibid}.

\textsuperscript{166} \textit{AIR 1996 SC 2715}.

a developing nation has obligations under numerous international treaties and agreements that relate to environmental issues. India supported faithfully all international decisions on safeguarding environment. India has carved out its national legislations on the problem to a large extent from international environmental policy guidelines framed by UNO and UNEP. International environmental policies are in the form of treaties, multilateral agreements, conventions and conferences. The treaty shall have force in international law, if it is ratified by requisite number of countries. India is a signatory to a number of multilateral agreements, treaties and conventions related to environment. An overview of some of the major multilateral agreements, treaties and conventions on environment and India’s obligations are discussed in this chapter. The following are the important International Conventions relating to Environment.

2.3.1. Human Environment Conference, 1972 (Stockholm Conference) - The Stockholm Declaration is a collective document which calls for a balancing process between the need to protect the environment and developmental needs of developing countries. One of most remarkable feature of this conference was that it called upon the industrialized countries to help developing countries in meeting the incremental costs incurred by them in tackling environmental problems.

➢ The Background of the Stockholm Conference 1972

The enthusiasm of the Earth Day encouraged other nations to look for effective ways to handle environmental problems. The UNO took the lead. The General Assembly of the United Nations, way back in 1968, had unanimously agreed to hold a conference in view of the 'continuing and accelerating impairment of the quality of the environment' due to pollution, erosion, wastes and the secondary effects of biocides or substances destructive to organism. The Earth Day provided an added impetus.

Thus, the 'United Nations Conference on Human Environment' took place in Stockholm, Sweden from June 5th to June 16, 1972 to discuss the ways in which

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member nations of the United Nations could work together to protect the environment. Environmental protection had become a significant public and political issue in nearly all developed states (Canada, Sweden, Japan, Great Britain, and United States of America). More emphasis on environmental protection by developed nations gave rise to the suspicion that:

- the environmental movement could be a new and concealed form of neo-imperialism and
- the developed countries of the world wished to keep the developing countries as a subservient supplies of low priced raw materials and consumer of industrial output of the developed countries.

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 behavior of nations.’

The Global interest and concern about the environment pollution has arisen because of the First Conference of human Environment convened by 24th General Assembly of United Nations Organization 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.

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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.\textsuperscript{175}

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.\textsuperscript{176}

\textit{Principles 11, 21 and 22 are also very significant for the perspective of sustainable development.} Principle - 11

The environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries, nor should they hamper the attainment of better living conditions for all, and appropriate steps should be taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures.\textsuperscript{177}

Principle - 21

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.\textsuperscript{178}

Principle - 22

States shall cooperate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by

activities within the jurisdiction or control of such States to areas beyond their jurisdiction.  

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. 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.

It is thus, clear that Stockholm conference is a significant document in so far as international and national environmental movement is concerned. In this direction of environmental management, during this period, a number of international and regional conventions have been made.

2.3.2. **Convention International Trade in Endangered species of Wild flora and fauna (CITES) 1973**- The Conference aims to control or prevent international commercial trade in endangered species or products derived from them. The Convention does not seek to directly protect endangered species, rather it seeks to reduce the economic incentive to poach endangered species and destroy their habitat by closing off the international market. India became a party to the convention in 1976. International trade in all wild flora and fauna in general and species covered under convention is regulated jointly through the provisions of the Wild life

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(protection) Act 1972, the import/export policy of government of India and the Customs Act 1962.\textsuperscript{182}

2.3.3. **Cocoyoc Declaration, 1974**- Two year later; in 1974 an important symposium of expert chaired by the late Barbara Ward was held in Cocoyoc, Mexico. Cocoyoc Declaration equally important in environmental communication at the global arena was the Cocoyoc Declaration. Organized by the United Nations Environment Programme (UNEP) and the United Nations Commission (23\textsuperscript{rd} October 1974) on Trade and Development (UNCTAD).\textsuperscript{183} The five-day UNEP/UNCTAD Symposium on Patterns of Resource Use, Environment and Development strategies was a landmark in the history of the environmental movement.\textsuperscript{184}

Cocoyoc identified the economic and social factors which lead to environmental deterioration. The Cocoyoc Declaration - the formal statement issued by the symposium - was influential in changing environmental attitudes, thought and action. The Declaration calls on political leaders, governments, international organizations and the scientific community to use their imagination and resources to elaborate and implement programmes aimed at satisfying the basic needs of the poorest people throughout the world.\textsuperscript{185}

The following statements in the Cocoyoc Declaration illustrate awareness of the difficulty of meeting human needs sustainably from an environment under pressure:\textsuperscript{186}

- 'The problem today is not one primarily of absolute physical shortage but of economic and social mal-distribution and usage.

- 'The task of statesmanship is to guide the nations towards a new system more capable of meeting the inner limits of basic human needs for all the world's


\textsuperscript{183} Rajendra Ramlogan, **LEGAL ASPECT OF SUSTAINABLE DEVELOPMENT SUSTAINABLE DEVELOPMENT: TOWARDS A JUDICIAL INTERPRETATION**, Mortinusnijhoff Publishers Boston (2011) p.17


\textsuperscript{185} *Ibid*.

people and of doing so without violating the outer limits of the planet's resources and environment.'

- 'Human beings have basic needs: food, shelter, clothing, health, education. Any process of growth that does not lead to their fulfillment - or, even worse, disrupts them - is a travesty of the idea of development.'

- 'We are all in need of a redefinition of our goals, or new development strategies, or new lifestyles, including more modest patterns of consumption among the rich.'

The Cocoyoc Declaration ends: "The road forward does not lie through the despair of doom watching or through the easy optimism of successive technological fixes. It lies through a careful and dispassionate assessment of the 'outer limits', through cooperative search for ways to achieve the 'inner limits' of fundamental human rights, through the building of social structures to express those rights, and through all the patient work of devising techniques and styles of development which enhance and preserve our planetary inheritance." 187

2.3.4. 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. 188 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. 189 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.\textsuperscript{190}

2.3.5. Delhi International Conference on Environmental Education, 1982 - This, the largest-ever conference held at the Vigyan Bhawan, New Delhi, India (16–20 December, 1981) on the subject in India, was organized by the Indian environmental society and the department of environment, government of India, where the international community called for massive program for environment education, research and monitoring. The conference suggested that environmental education should start from childhood and it should be both formal and informal. The conference also advised that non-governmental and voluntary organizations should encourage people in preserving and protecting their environment. The conference supported the view of late Prime Minister Smt. Indira Gandhi that the poor people would support the environmental program only when they are concerned about the benefits to them.\textsuperscript{191}

2.3.6. 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.

2.3.7. Vienna Convention for the Protection of Ozone Layer (1985) - The convention was adopted on 22nd March, 1985 by the conference of Plenipotentiaries which was organized by the UNEP. The convention came into force on September 22, 1988. The

\textsuperscript{190} Nairobi Declaration, 1982.

main object of the convention was to provide to States the international legal framework for working together to protect the stratospheric ozone layer. The convention defines ozone layer under Article 1 which says that Ozone layer means the layer of atmospheric Ozone above the planetary boundary layer. Article 2 of the convention provides the general obligations of the parties which says that the parties shall take appropriate measures in accordance with the provisions of the convention and of those protocols in force in which they are parts to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer. The Vienna convention of 1985 was the starting point of the global cooperation for protection of ozone layer. Later, adoption of Montreal protocol on substances that deplete ozone layer on 1987, the amendment in Montreal protocol in London (1990) and Vienna (1995).192193

2.3.8. Montreal Protocol, 1987-Montréal protocol on substances that deplete ozone layer. The Protocol came into force in 1989 as amended in 1990, 92 and 95 was adopted and by 2000, 173 states have become parties to Montreal protocol. The protocol set targets for reducing the consumption and production of a range of ozone depleting substances. In a major innovation the protocol recognized that all nations should not be treated equally. The agreement acknowledges that certain countries have contributed to ozone depletion more than others. It also recognizes that a nation’s obligation to reduce current emissions should reflect its technological and financial ability to do so. Because of this, the agreement sets more stringent standards and accelerated phase-out timetables to countries that have contributed most to ozone depletion. India accepted this protocol along with its London Amendment in September 1992. The Ministry of Environment and Forest has established an ozone cell and a steering committee on the protocol to facilitate implementation of the India country program, for phasing out ozone depleting substances production by 2010 to meet the commitments India has also taken policy decisions. The Ozone Depleting Substances (Regulation and Control) Rules 2000 were drafted under Environment (protection) Act, 1986. 194


2.3.10. Basel convention on transboundary movement of hazardous wastes, 1989 - The Convention came into force in 1992. The objectives of the convention are to reduce transboundary movements of hazardous wastes, to minimize the creation of such wastes and to prohibit their shipment to countries lacking the capacity to dispose hazardous wastes in an environmentally sound manner. India ratified the convention and enacted Hazardous Wastes Management Rules Act 1989, encompasses some of the Basal provisions related to the notification of import and export of hazardous wastes, illegal traffic and liability.195

2.3.11. U.N. Frame Work Convention on Climate Change (UNFCCC), 1992 - The primary goals of the UNFCCC was to stabilize green house gas emissions at levels that would prevent dangerous anthropogenic interference with the global climate. The convention embraced the principle of common but differentiated responsibilities which has guided the adoption of a regulatory structure. India signed the agreement in June 1992 which was ratified in November 1993. As per the convention the reduction/limitation requirements apply only to developed countries. The only reporting obligation for developing countries relates to the construction of a GHG inventory.196

2.3.12. Convention on Biological Diversity, 1992- This convention is a legally binding framework treaty that has been ratified by 180 countries. The areas that are dealt by convention are conservation of biodiversity, sustainable use of biological resources and equitable sharing of benefits arising from their sustainable use. The convention came into force in 1993. Many biodiversity issues are addressed including habitat preservation, intellectual property rights, biosafety and indigenous people's rights. India's initiative under the convention on biodiversity includes the promulgation of the Wild life (protection) Act of 1972, amended in 1991 and participation in several international conventions.197

197 Ibid. at pp.435 and 453.
2.3.13. *Rio Earth 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 behavior 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. 198 The ‘Earth Summit’ ended on June 14, 1992 after adopting the Rio Declaration. Agenda 21 is on the problems of green house 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. 199 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 its 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. 200

2.3.14. SAARC Conference of 1995, 1997 and 2002 - Hand in hand with global efforts, there have been regional efforts also to improve and protect the environment at regional level. Thus a conference of the eighth SAARC summit was held in New Delhi from 2 to 4 May 199 and was inaugurated by India's Prime Minister, P. V. Narasimha Rao. The declaration focused on protection and preservation of environment and prevention of its degradation. The Conference of 2002 the SAARC countries were held in Kathmandu from 4 to 6 January 2002, on the need for protecting environment within the framework of regional levels. 201

2.3.15. The Kyoto Protocol- The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change, which commits its Parties by setting internationally binding emission reduction targets. Recognizing that developed countries are principally responsible for the current high levels of GHG emissions in the atmosphere as a result of more than 150 years of industrial activity, the Protocol places a heavier burden on developed nations under the principle of "common but differentiated responsibilities."

The Kyoto Protocol was adopted in Kyoto, Japan, on 11 December 1997 and 159 nations attending the world climate conference reached a historic accord calling for mandatory cuts in emission of green-house gases by industrialized nations in the next

millennium to help save the planet from potentially devastating global warming\textsuperscript{202} and entered into force on 16 February 2005. The detailed rules for the implementation of the Protocol were adopted at COP 7 in Marrakesh, Morocco, in 2001, and are referred to as the "Marrakesh Accords." Its first commitment period started in 2008 and ended in 2012.\textsuperscript{203}

Under the Protocol, countries must meet their targets primarily through national measures. However, the Protocol also offers them an additional means to meet their targets by way of three market-based mechanisms: (i) International Emissions Trading (IET); (ii) Clean Development Mechanism (CDM); and (iii) Joint implementation (JI). The mechanisms help to stimulate green investment and help Parties meet their emission targets in a cost-effective way. In Doha, Qatar, on 8 December 2012, the "Doha Amendment to the Kyoto Protocol" was adopted.\textsuperscript{204}

\textbf{2.3.16. Aarhus Convention, 1998–}\textsuperscript{1998} The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters was adopted on 25 June 1998 in the Danish city of Aarhus at the Fourth Ministerial Conference as part of the "Environment for Europe" process. It entered into force on 30 October 2001. The Aarhus Convention establishes a number of rights of the public (individuals and their associations) with regard to the environment.\textsuperscript{205} The Parties to the Convention are required to make the necessary provisions so that public authorities (at national, regional or local level) will contribute to these rights to become effective. The Convention provides for:

- the right of everyone to receive environmental information that is held by public authorities ("access to environmental information"). This can include information on the state of the environment, but also on policies or measures taken, or on the state of human health and safety where this can be affected by the state of the environment. Applicants are entitled to obtain this information within one month of the request and without having to say why they require it.

\textsuperscript{202} PS Jaswal and Nistha Jaswal, ENVIRONMENTAL LAW, 3rd edn. Allahabad Law Agency Haryana (2011) p.\textsuperscript{..}
\textsuperscript{203} JJR Upadhya, ENVIRONMENTAL LAW,4\textsuperscript{th} edn. Central Law Agency Allahabad (2015) p.111.
\textsuperscript{204} Philippe Sands and Jacqueline Peel, PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW, 3\textsuperscript{rd} edn. Cambridge University Press, United Kingdom (2012) p.283.
\textsuperscript{205} \textit{Ibid.} at p.652.
In addition, public authorities are obliged, under the Convention, to actively disseminate environmental information in their possession;

- the right to participate in environmental decision-making. Arrangements are to be made by public authorities to enable the public affected and environmental non-governmental organizations to comment on, for example, proposals for projects affecting the environment, or plans and programmes relating to the environment, these comments to be taken into due account in decision-making, and information to be provided on the final decisions and the reasons for it ("public participation in environmental decision-making");
- the right to review procedures to challenge public decisions that have been made without respecting the two aforementioned rights or environmental law in general ("access to justice")\(^{206}\).

2.3.17. **Johannesburg Summit 2002**-The World Summit on Sustainable Development will set the agenda for the coming decade on improving people's lives, conserving our natural resources and safeguarding our common future. The achievement of sustainable development, in its environmental, social, and economic dimensions, is fundamental to improving health and well-being, and requires new levels of cooperation between health and various development sectors. Of key importance is to strengthen the evidence-base regarding the health impacts of development sectors, ensuring a sound basis for the formulation of integrated and holistic policies and plans in all sectors that contribute to health and development. Agenda 21, the global programme of action on sustainable development, forms an overall framework for the programmatic area of work, providing an entry point into a number of development sectors. The work is carried out along two dimensions, institutional and technical, both of which are closely interlinked and complementary. The work is done through close collaboration with a range of clusters and departments at headquarters and regional offices, and partners such as NGOs, the private sector, collaborating centers, research and academic institutions, and other UN agencies/bodies. In respect of its institutional role in particular, emphasis is placed on ensuring that the health objectives of Agenda 21 (the global programme of action on sustainable development), are adequately addressed in the work of WHO, and that health features

centrally on the agenda of the upcoming World Summit on Sustainable Development (WSSD). Activities contribute to strengthening the role of health in the work of the Commission on Sustainable Development (responsible for overseeing implementation of Agenda 21), and to achieving the health goals of Agenda 21.\textsuperscript{207} The follow-up process for WSSD involves analyses of critical health, environment and development trends, identifying new and emerging key health and development issues, and assessing the implications for future policy development and implementation strategies.\textsuperscript{208}

\textbf{2.4. Protection of Environment- Role of United Nations Organisation}

International concern for environment had made and is making the planet earth livable. U.N.O had taken lead and drives itself towards the universalization. It brought co-ordination between law of nature and human activities which are regulated with in nations by local statutes. Internationally UNO has been working on environment to ensure a good quality of life to everyone in the world. A global policy requires consideration by all and for all. Thus with the co-operation of the states many conventions and conferences was adopted. These conventions have influenced all the states directly or indirectly. The resolutions under taken has been influenced the states to implement in their policies and programmes. The first international instrument which influenced the whole world which has been a land mark, the Stockholm conference has traced the origin of relationship between the man and nature and brought a worldwide evolution with a manifesto protect environment to save mankind.

The U.N General Assembly on October 1982. World Charter for Nature was reiterated the entire humanity is a part of nature, life depends on Nature. The UN charter proclaims that Nature shall be respected and must maintain the stability and quality of nature. The Rio Summit significantly determined that we cannot keep on developing unless we save the environment. Thus the Stockholm conference, Habitat conference, conference on desertification, Rio and Johannesburg conferences and several other conferences and conventions relating to environment as referred not

\textsuperscript{207} Philippe Sands and Jacqueline Peel, PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW, 3\textsuperscript{rd} edn. Cambridge University Press, United kingdom (2012)p.436.

only provide foundation for the development of international environmental law but a beginning also made to wards in the management of the world in which all of us would live happily in conducive environment.

The objectives of international environmental agreements it implemented successfully and the goal of development would be achieved effectively. The relevant states become parties to them and rigorous implementation including monitoring of compliance could be ensured. India is one of the states which have been greatly influenced by international conferences and conventions. India is a signatory to many of the international conventions relating to environmental issues. From Stockholm to Johannesburg conferences India has played leading a role and so it is under obligation to contribute towards the realization of the goal has appealed to every nation to adopt measures constitutionally and legislatively to take adequate care for tackling environmental problems. Under Article 368, Indian constitution confers powers on the parliament to amend by way of addition, variation or repeal any provision of India constitution and also Art 51 (C).

Thus to implement the decision of the Stockholm declaration and to capture the wave of the declaration. The Parliament resorted to Art 368 and introduced, 44th Constitutional Amendment Bill, 1976. The bill added Art 48-A to protect and improve environment as a constitutional obligation for the state and citizens. Art 48-A provides for protection and improvement of environment and to safeguard the forests and wild life of the country. In Act 48A it is used as the state shall endeavor, which is a wider connotation from any other term like to pass legislation which is also another effort of the government. The amendment further added a clause of fundamental duty on every citizen to however it may not be enforceable through court of law. The 42nd Amendment Act, 1976 added part IV A dealing with fundamental duties. This part was added on the recommendations of the Swarn Singh committee bringing the constitution of India in line with Art 29 (1) of the universal declaration of Human Rights.


\[210\] Article 51(c) provides that the state shall endeavor to faster respect for international law and treaty obligations in the dealings of organist peoples with one another.

\[211\] Article 48A of Indian Constitution that the state shall endeavor to protect and improve the environment and to safeguard the forests and world life of the country.

Art 51A (g) specifically deals with fundamental duty with respect to environment. Art 253 of the constitution specifically empowers the parliament to make any law. Entries No.13 and 1 of the Union list includes the subject matters over which the parliament can make laws.

Thus Indian parliament can pass any law including law on environment protection and the same cannot be questioned and so parliament has made use of this power to enact Air (prevention and control of pollution) Act of 1981 and the Environment (protection) Act of 1986. The preambles, of both these Acts were enacted to implement the decisions reached at the United Nations conference on human environment held at Stockholm in 1972.

2.5. Conclusion

The Indian society has, since time immemorial, been conscious of the necessity of protecting environment and ecology. The main motto of social life has been “to live in harmony with the nature.” Sages and saints of India lived in forests. Their preaching contained in Vedas Upanishads, Smrities, etc. are ample evidence of the society’s respects for plants, trees, earth, sky, air, water and every form of life. It was regarded as a sacred duty of every one to protect them. The Children were educated by their parents and grandparents about the necessity of keeping the environment clean and protecting earth, rivers, sea, forests, trees flora, fauna and every species of life.

In recent times, India became signatory of so many conventions, treaties and declarations at International level on Environment Protection. Indian Legislature also enacted several laws for protection of all the aspects of Environment. Indian Judiciary, as being guardian of Fundamental Rights took tough stand on so many

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213 Article 29(1) of UDHR provides: Everyone has duties to the community in which alone the free and full development of his personality is possible.
214 Article 51 A (g) of Indian Constitution, it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.
215 Article 253 of Constitution of India provides to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.
216 Entry No. 13 of the Union list in the VII schedule to the constitution provides participation in international conferences, associations and other bodies and implementing of decisions made there at.
217 Ibid.
environment related issues through several of decisions and evolved so many
principles for Environment Protection. Despite of all these cumulative efforts, a lot
many things are required to be done on sustainable development for the benefit of
future generations.