CHAPTER 6

CONSTITUTIONAL COMMITMENT TOWARDS ENVIRONMENTAL PROTECTION

6.1 INTRODUCTION

The Constitution of India is an organic document which defines the powers and functions of the various organs of the State and their inter se relationship. It is the lengthiest and the most detailed of all the written constitutions of the world. It consists of 443 Articles divided into 26 Parts and 12 Schedules. It provides for parliamentary democracy with an executive responsible to the legislature. It has armed the judiciary to test the validity of the Parliamentary legislation on the touchstone of the constitutional provisions. The Constitution has the chapter on Fundamental Rights in the model of American Constitution, adopted the Parliamentary System of Government from the United Kingdom, idea of Directive Principles of State Policy from the Constitution of Ireland and providing Emergency powers from German Constitution and Government of India Act, 1935. In the Indian Constitution a successful attempt has been made to bring about a synthesis between the concepts of individual freedom and social justice. It is for this reason that attainment of social, economic and political justice along with the liberty and equality of its citizens is enshrined in the Preamble as the objectives of the Constitution. The Preamble declares India to be a Sovereign, Socialist\(^1\), Secular\(^2\), Democratic, Republic. The Preamble secures to every citizen
JUSTICE social, economic, and political;
LIBERTY of thought, expression, belief, faith and worship;
EQUALITY of status and of opportunity;
and to promote among them all
FRATERNITY assuring the dignity of the individual and the
3 [unity and integrity of the Nation]

The Constitution of India has been regarded as less of a constitutional document and more of a unique charter of human emancipation through economic and social justice. The goal of the Indian Constitution is a "Welfare Idealism" covering a wide range of socio-economic aspirations of its people. The founding fathers believed that the utility of the state would be best judged from its effect on the common man's welfare. They pledged the country to the task of securing "to all its citizens, justice-social, economic and political".

6.2 FUNDAMENTAL RIGHTS

Part III of the Constitution contains Fundamental Rights and is described as Magna Carta of India. The inclusion of a chapter was in accordance with the trend of modern democratic thought which is indispensable condition of a free society. The aim declaring the rights as fundamental is that these elementary rights should be regarded as inviolable under all conditions and that shifting majority in legislature of the country should not have a free hand in interfering with these fundamental rights. These fundamental rights are classified

a) Right to Equality
b) Right to Freedom

c) Right against Exploitation
d) Right to Freedom of Religion

e) Cultural and Educational Rights
f) Right to Constitutional Remedies
The Right to Property as a fundamental right has been abolished.12

These fundamental rights represent the basic values cherished by the people of this country since Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent. They weave 'pattern of guarantee' of the basic structure of human rights and impose negative obligations on the State not to encroach on individual liberty in its various dimensions.13 These rights are considered to be most essential for the attainment by the individual in his full intellectual, moral and spiritual status and the main object behind the inclusion of the Chapter of Fundamental Rights in Indian Constitution is to establish "Government of Law and not of man", a government system where the tyranny of majority does not oppress the minority.

These fundamental rights are not absolute. Constitution permits to impose reasonable restrictions in the interest of society. The possession and enjoyment of all these rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace and general order and moral of the community.14

Clause (4) of the Article 32 the right to move the Supreme Court for the enforcement of the fundamental right cannot be suspended except as otherwise provided by the Constitution. There is only one situation when this right can be suspended. When a proclamation of emergency under Article 352 is declared, the President of India is empowered under Article 359 of the Constitution to declare that the right to move any Court for the enforcement of such right conferred by Part III may remain suspended for the period during which the proclamation of emergency is in operation. Hence, during emergency when the very existence of the State is threatened from internal or external disturbance, the fundamental right may be suspended.
Fundamental rights are available against State and not against private individuals. Private activities sufficiently protected by the ordinary law of the land. The term 'State' used in different Articles of Part III of the Constitution is well defined in Article 12 of the Constitution. With the changing role of the State from Police State to a Welfare State the Supreme Court through its decisions broadened the base of the 'other authorities' mentioned in the Article 12 and liberally interpreted the expression. The scope and ambit of constitutional provisions, which is never a static, ever evolving, particularly the fundamental rights should not be cut down by too astute or restricted approach.15

Articles 32 and 226 of the Constitution provide remedies by way of writs in this country. It is the remedy which makes the fundamental rights real. Article 32 is itself a fundamental right. Article 226 also empowers all the High Courts to issue the writs for the enforcement of fundamental rights.

In stressing the critical importance of Article 32 Dr.B.R.Ambedkar in his speech at the Constituent Assembly on 9th December 1948 said "If I was asked to name any particular Article in this Constitution as the most important--on Article without which this Constitution would be a nullity--I could not refer to any other Article except this one ... It is the very soul of the Constitution and the very heart of it".

Article 32(1) guarantees the right to move the Supreme Court by "appropriate proceedings" for the enforcement of the fundamental rights conferred by Part III of the Constitution. Clause (2) of Art. 32 confers power on the Supreme Court to issue appropriate directions or orders or writs, including writs in the nature of Habeas corpus, mandamus, prohibition, quo-warranto and certiorari for the enforcement of any of the rights conferred by Part III of the Constitution.
Under clause (3) of Article 32 Parliament may by law empower any other Court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2). Clause (4) says that the right guaranteed by Article 32 shall not be suspended except as otherwise provided for the Constitution. Article 32 thus provides for an expeditious and inexpensive remedy for the protection of fundamental rights from legislative and executive interference.

It is clear from Article 32(1) that whenever there is a violation of a fundamental right any person can move the Court for an appropriate remedy.

The language of Article 32(2) is not restrictive and permits the Court to adopt any procedure which it considers appropriate in the circumstances of a given case for enforcing the fundamental rights.

Article 226 provides that not withstanding any thing in Article 32 every High Court shall have power, throughout the territorial limits in relation to which it exercises jurisdiction to issue to any person or authority including the appropriate cases, any Government, within those territories, directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari or any of them (a) for the enforcement of fundamental rights conferred by Part III and (b) for 'any other purpose'. Thus the jurisdiction of a High Court is not limited to the protection of the fundamental rights but also other legal rights as is clear from the words "any other purpose". These words make the jurisdiction of the High Court more extensive than that of the Supreme Court which is confined to only for the enforcement of fundamental rights.
6.3 DIRECTIVE PRINCIPLES OF STATE POLICY

Part IV of the Constitution Articles 36-51 contain the Directive Principles of State Policy which sets the aims and objectives to be taken up by the States in the governance of the country otherwise they are policy prescriptions that guide the government. Some of them are in the nature of economic rights that India could not guarantee when the Constitution was enacted, but that were expected to be realized in succeeding years. These directives may be classified very broadly.

a) Social and Economic charters
b) Social security charter and
c) Community welfare charter.

Though Directive Principles differ from Fundamental Rights in respect of its non-justiciable, Article 37 insists that it shall be the duty of the State to apply the principles while making law.

In the earlier decisions the Courts paid less regard to the Directive Principles on the ground that they are non-justiciable but in the later decisions the courts have taken the view, that there is no conflict between the Directive Principles and Fundamental Rights and they supplement and complement with each other in aiming at the same goal of bringing a social revolution and establishment of a welfare state. The Courts interpreted the Constitution in such a way, so as to ensure the implementation of the Directive Principles and to harmonize the social objectives underlying the Directives with the individual rights.
6.3.1 Directive Principles of State Policy and Judiciary

Article 37 of the Constitution provides "The provisions contained in this part shall not be enforceable by any Court but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws". In view of this Article the Court may not be able to actively enforce the Directive Principles by compelling State to apply them while enacting laws, but the Court can prevent if the State commits a breach of its duty by acting contrary to these Directive Principles.

The Supreme Court in different cases held that:

In Kesavanand Bharti vs. State of Kerala\textsuperscript{16} it was held that the Directive Principles prescribe the goal to be attained and Fundamental Rights lay down the means by which these goals are to be achieved.

In Randhir Singh vs. Union of India\textsuperscript{17} the Supreme Court held that the principle of "Equal pay for equal work" though not a fundamental right is certainly a constitutional goal and, therefore, capable of enforcement through constitutional remedies under Article 32 of the Constitution.

In the case State of Tamil Nadu etc., (Appellants) vs. Abu Kavur Bai and others (Respondents)\textsuperscript{18} a five judge bench of the Supreme Court held that, although Directive Principles are not enforceable yet the court should make a real attempt to harmonize and reconcile the directive principles and the fundamental rights and any collision between the two should be avoided as far as possible.
In Centre for Legal Research vs. State of Kerala\textsuperscript{19} it has been held that in order to achieve the objectives in Article 39-A, the State must encourage and support the participation of voluntary organizations or social action groups in operating the legal aid programme.

In Central Inland Water Transport Corporation vs. Brojo Nath Ganguly\textsuperscript{20} it was held that, non enforceable nature does not preclude the judiciary from declaring any law unconstitutional which is in violation of the Directive Principles.

In the case L.K. Koolwal vs. State of Rajasthan and others\textsuperscript{21} it was that, non enforceable nature does not preclude the right of the citizen to move to the Court to see that other organs (i.e) the legislature and executive perform their duties faithfully in accordance with the law of the land.

In M.C. Mehta vs. State of Tamil Nadu\textsuperscript{22} it has been held that in view of Article 39 the employment of children within the match factories directly connected with the manufacturing process of matches and fireworks cannot be allowed as it is hazardous. Children can, however be employed in the process of packing but it should be done in the area away from the place of manufacturing.

In the case Unnikrishnan vs. State of Andhra Pradesh\textsuperscript{23} the Supreme Court held that, in order to treat a right as a fundamental it is not necessary that it should be explicitly expressed as in the Part III of the Constitution. The provisions of the Part III and IV dealing with Fundamental Rights and Directive Principles of State Policy are supplementary and complementary to each other and that fundamental rights are but a means to achieve the goal indicated in the Part IV of the Constitution.
In *State of Maharashtra vs. Manubhai Bagaju Vashi*\(^{24}\) the Supreme Court held that Article 21 read with Article 39-A casts a duty on the State to afford grants-in-aid to recognized private law colleges, similar to other faculties which qualify for receipt of the grant.

In *All India Statutory Corporation vs. United India Labour Union*\(^{25}\), the Directive Principles have been elevated to inalienable fundamental human rights even they are justiciable by themselves.

As described by Granville Austin, the fundamental rights and the directive principles are the "*Conscience of our Constitution*". There is no antithesis between the Fundamental Rights and the Directive Principles. They are meant to supplement one another. It can well be said that the directive principles prescribed the goal to be attained and the fundamental rights lay down the means by which that goal is to be achieved.\(^{26}\)

### 6.4 CONSTITUTIONAL CONCEPTUS FOR ENVIRONMENT

Indian Constitution is one of the few constitutions in the world that contain specific Articles and provisions for the protection, preservation and conservation of environment. The various judicial interpretations and landmark judgements delivered by the higher judiciary strengthened and reinforced the Constitutional mandate.

#### 6.4.1 Preamble of the Constitution and Environment

The Preamble of the Constitution provides that our country is based on ‘*socialistic*’ pattern of society. It implies that State pays more attention to the social problem than on individual problems. The major aim of any socialism is to provide *"decent standard of life to all"*. This is possible only in a pollution free environment. Pollution is one of the social problems and the ‘*State*’ is required under the Supreme Law to pay more attention to this social problem and march towards the avowed aim of the social
order. This objective of the preamble is very much reflected in specific terms in Part IV of the Constitution, dealing with Directive Principles of State Policy. The preamble declares that India to be a ‘Democratic Republic’. It confers the right to the people to participate in the Government decisions. Also people have the right to know and access to information of Government policies which is very much important for the success of environmental policies.

6.4.2 Fundamental Rights and Environmental Protection

The World Commission on Environment and Development (Our Common Future - 1987) has recognized the Right to an environment adequate for the health and well being of the human beings as a fundamental right.

The Indian judiciary has treated cases involving degradation of environment as a violation of the fundamental right under Article 21 and liberally accepted Public Interest Litigation applications for considering such cases under writ jurisdiction.

The guarantee of protection of life and personal liberty under Article 21, has been interpreted to determine the rights of the tribal communities in Banwasi Seva Ashram vs. State of Uttar Pradesh and others in which the Supreme Court directed the State to properly rehabilitate displaced tribal people on account of the decision to convert the reserve forest areas, in which tribals were inhabited.

In Rural Litigation and Entitlement Kendra, Dehradun and others vs. State of Uttar Pradesh and others the Supreme Court held that, it is impossible to live with dignity in an unhealthy and unbalanced environment and ordered the closure of the limestone quarries in the Himalayan Range of Mussorrie as the mining operations were disturbing the ecological balance and creating problems for the residents.
In Subhash Kumar vs. State of Bihar and others the Supreme Court held that P.I.L is maintainable for ensuring enjoyment of pollution free water and air which is included in the right to life under Article 21 of the Constitution. If anything endangers or impairs the quality of life in violation of laws a citizen has right to have recourse to Article 32 for removing the pollution of water or air which may be detrimental to the quality of life. 

In T. Damodhar Rao and others vs. The Special Officer, Municipal Corporation of Hyderabad and others the Andhra Pradesh High Court held that, the acquisition for a housing colony a part of the land already earmarked for recreational purposes in the development plan is contrary to the vigorously growing law of environment and to the enjoyment of life and its attainment guaranteed under the Constitution.

The Kerala High Court held that, right to clean water is an attribute of the right to life in Article 21 in the case Attakoya Thangal vs. Union of India and others.

In Chhetriya Pardushan Mukti Sangharsh Samiti vs. State of Uttar Pradesh and others the Supreme Court said that every citizen has a fundamental right to have the enjoyment of quality of life and living as contemplated in Article 21 of the Constitution of India.

The Supreme Court in the case Andhra Pradesh Pollution Control Board (Appellant) vs. Prof. M.V. Nayudu (Retd.) and others, etc., (Respondents) said that, environmental cases arising under writ jurisdiction under Article 32, 226 or 136 are of equal importance as Human Rights concerns and the Environmental Rights and human rights are to be treated under Article 21 which deals with fundamental right 'Right to Life'. Environmental aspects concern life and human rights aspects concern liberty and in this context emerging jurisprudence relating to environmental matters as it is the case in matter relating to human rights.
Principle 36 of the Stockholm Declaration (1972) finds a good reflection in the Constitution - Right to Equality, Right to freedom and Right to Protection of Life and Personal Liberty.

6.4.3 Forty Second Constitutional Amendment Act (1976)

Protection and improvement of environment and safeguarding forests and wild life were explicitly incorporated into the Constitution by the Constitution (42nd Amendment) Act 1976 Section 9 w.e.f. 3.1.1977.

6.4.3.1 Obligation of the State

Article 48-A was added to the Directive Principles of State Policy by the Constitution 42nd Amendment Act 1976, Section 10, w.e.f. 3.1.1977. It declares:

"The State shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country".

6.4.3.2 Obligation of the Citizens

Article 51-A (g) was also incorporated by the Constitution 42nd Amendment Act 1976, Section 11, w.e.f. 3.1.1977. It imposes a 'fundamental duty' to 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.

Thus a dual duty is imposed on every citizen, not only to 'protect' the environment from any kind of pollution but also to 'improve' the environment quality if it has been polluted. This provision highlight the national consensus on the importance of Environmental Protection and Improvement.
Again under Article 51-A (g) only 'citizens' are under the obligation of fundamental duties. The Parliament used the word 'citizen' instead 'subjects' to create a patriotic feeling and citizenship amongst masses and also feel that they are no more subjects as we have been treated by erstwhile British regime.

The requirement of the time is that, we should be real citizens of the country towards excellence in all spheres of individual and collective activity including the protection of environment. Eventhough fundamental duties are in the Constitution it could not be directly enforced. Now in the recent times Judicial Activism provided an impetus to achieve the underlined objectives of the fundamental duties particularly 51-A (g) relating to the environment.

6.4.4 Directive Principles of State Policy on Environmental Protection and Judiciary

Article 51-A (g) the fundamental duty of the citizens to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures has been interpreted by the Supreme Court in the Rural Litigation case to include the State. Following the case the State was directed to stop quarrying activity which affect adversely the environment.

In Shri. Sachidanand Pandey and another (Appellants) vs. The State of West Bengal and others (Respondents) the Supreme Court pointed out that whenever a problem of ecology is brought before the Court, the Court is bound to bear in mind Articles 48-A and 51-A (g) of the Constitution.
In T. Damodhar Rao and another vs. The Special Officer, Municipal Corporation of Hyderabad and others the Andhra Pradesh High Court pointed out that in view of Articles 48-A and 51-A (g) it is clear that protection of environment is not only the duty of the citizens but it is also the 'obligation' of the State and all other State organs including Courts.

In D.D. Vyas and others vs. Ghaziabad Development Authority, Ghaziabad and another the Allahabad High Court held that failure to develop public parks earmarked in the development plan amounts to failure in discharging its (G.D.As) responsibility under clauses (g) and (j) of Article 51-A.

The mandate under the Article 48-A namely protection and improvement of the environment and safeguarding forests and wild life in the country has been linked by the Supreme Court to the Precautionary Principle in the M.C. Mehta case. Therefore the legal basis for protection and conservation laws can be structured on provisions such as Article 48-A.

6.4.5 Constitution and Management of Resources

In the Federal form of Government the power of law making is shared by Central and State Governments. Article 245 empowers the Parliament to make laws for the whole country whereas the state legislature have the power to legislate for their respective states. Article 246 of the Constitution demarks the subject areas of legislation between Union and States. The division is based on three lists (i.e.) Union list, State list and Concurrent list given in the VIIth Schedule of the Constitution. The Union list contains 97 subjects over which the Parliament alone has the power of legislation. The State list contains 66 subjects over which the State Legislatures of different states have the exclusive power of legislation subject to their territorial limitation. The Concurrent list contains 52 subject
areas over which both Parliament and State Legislatures of different states have the jurisdiction to make laws. In addition to that Parliament has the ‘residual power’ of legislation on any matter which is not covered by any of the three lists. When a Central law conflicts with the State law on a subject mentioned in the Concurrent list the Central law shall prevail over the State law. However a State law passed subsequent to the Central law will prevail if it has received the assent of the President.

Parliament is also empowered to legislate in the ‘national interest’ on matters enumerated in the State list under Article 249. In addition Parliament may enact laws on state subjects for states whose legislatures have consented to central legislation.

The management of resources is done not only by Central but also by State Government. In the Resources Management sector monopoly is not advocated and private sectors are duly encouraged. The Constitution insists the States to secure social order for the promotion of welfare of the people and certain principles of policy to be followed by the State. One of the principles of the policy to be followed by the State as directed by the Constitution is that the ownership and control of the material resources of the community are so distributed as best to subserve the common good and the operation of the economic system should not result in the concentration of wealth and means of production to common detriment. Thus the Constitution stresses that the resources should be used in such a way in the interest of all, and not in the interest of few, otherwise principle of Equity is very much stressed.

Schedule V and VI of the Constitution stresses the importance of administration of scheduled areas and tribal areas and management of the Resources by community.
Under the Sixth Schedule of the Constitution read with Articles 244 (2) and Article 275 (1), provisions have been made for the administration of tribal areas in the North Eastern Region by the creation of autonomous districts and autonomous regions.

Under the Fifth Schedule of the Constitution read with Article 244 (1) provisions have been made for the administration and control of Scheduled areas by entrusting such functions to a Tribal Advisory Council. The community control, administration, facilitating application of indigenous wisdom and ensuring grass root governance can be discovered in these schemes. Such a management model got a wider expression through two major amendments to the Constitution namely 73rd and 74th amendments made in the year 1992. These amendments ushered the process of democratic decentralization of power by facilitating installation of local self government bodies at village, taluk, district levels and municipal bodies in town and city levels. Constitutional recognition of administration of local resources by the panchayat institutions and the municipalities is clearly discernible in this development.

6.4.6 Article 47 & 49 and Environment

Article 47 makes a reference to the improvement of public health as one of the primary duties of the State. This infact envisages a pollution free environment for all the people.

Article 47 states : "The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavor to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health".
Article 49 imposes an obligation on the State to protect every monument or place or objects of artistic or historic interest to be of national importance from spoliation, disfigurement, destruction, removal, disposal or export as the case may be.

Article 49 states: "It shall be obligation of the State to protect every monument or place or object to artistic or historic interest,\textsuperscript{54} [declared by or under law made by Parliament] to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be".

6.4.7 Seventh schedule of the Constitution and Environment

In order to accelerate the pace of environmental protection the Government of India further amended the constitutional text and inserted the following:

1. In the Seventh schedule of the Constitution in the Concurrent list - Entry 17-A providing for Forests\textsuperscript{55} was inserted.

2. Entry 17-B providing for the Protection of wild animals and birds.\textsuperscript{56}

3. Entry 20-A providing for Population control and family planning.\textsuperscript{57}

The Constitutional changes effected in the VII\textsuperscript{th} Schedule by the Forty-second Amendment Act 1976 was a milestone in the direction of the protection of environment. Forest which was originally in the State List (Entry No.19) resulted no uniform policy by the states so as to protect the forests. By placing it in the concurrent list by entry 17-A Parliament acquired a law making power. In order to have uniform policy in the forest

6.4.8 Eleventh schedule of the Constitution and Environment

A new schedule under Article 243-G was added to the Constitution in the year 1992\(^5\)\(^8\).

In the new Schedule the following eight entries provide for Environmental protection and conservation.

<table>
<thead>
<tr>
<th>Entry No.</th>
<th>Subjects</th>
</tr>
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<tbody>
<tr>
<td>2.</td>
<td>Land improvement, implementation of land reforms, land consolidation and soil conservation.</td>
</tr>
<tr>
<td>3.</td>
<td>Minor irrigation water management and watershed development.</td>
</tr>
<tr>
<td>6.</td>
<td>Social forestry and farm forestry</td>
</tr>
<tr>
<td>7.</td>
<td>Minor forest produce</td>
</tr>
<tr>
<td>11.</td>
<td>Drinking water</td>
</tr>
<tr>
<td>12.</td>
<td>Fuel and fodder</td>
</tr>
<tr>
<td>15.</td>
<td>Non-conventional energy sources</td>
</tr>
<tr>
<td>29.</td>
<td>Maintenance of community assets</td>
</tr>
</tbody>
</table>

The Eleventh schedule also assign the functions of soil conservation, water management, social and farm forestry, drinking water, fuel and fodder etc., to the panchayats with a view to have an effective environmental management at the local level.
6.4.9 Twelfth schedule of the Constitution and Environment

In the twelfth schedule\(^9\) under Article 243-W the Entry No.8 provides for Urban forestry, protection of the environment and promotion of ecological aspects.

The XII\(^{th}\) Schedule commands the urban local bodies such as Municipalities to perform the functions of protection of environment and promotion of ecological aspects.

The Constituent Assembly that framed India's Constitution did not specifically consider the question of whether Parliament or the State legislatures should regulate environmental matters. Instead the distribution of environmental subjects within the three lists was influenced by the Government of India Act of 1935 and by the conflict between those who wished to create a strong centre and others who preferred to secure more powers for the states.\(^60\)

6.5 CONSTITUTIONAL OBLIGATION TO INTERNATIONAL AGREEMENTS

At the global level several conventions, declarations, protocols and agreements have been made between countries since 1870 covering several environmental subjects of shared concern viz: acid rain, ocean pollution protection of endangered species, conservation of bio-diversity, climate change, hazardous waste management, protection of Antarctica, Ozone depletion, conservation of wetlands etc.

India is a contracting party for several International treaties. In the field of environment, India has played a leading role in the United Nations Conference on the Human Environment at Stockholm (1972), United Nations Conference on Environment and Development at Rio (1992), Earth
Summit Rio plus 5 at New York (1997) and several others. The objectives of International environmental agreements would be effectively achieved provided all relevant States become parties to them and rigorous implementation including monitoring of compliance was ensured. Thus India is under an obligation to translate the contents and decisions of international agreements, treaties into the stream of Municipal law.

Article 253 of the Constitution empowers the Parliament 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 or association or any body.

6.5.1 Powers of the Parliament in enacting laws

Entries 13 and 14 of the Union list which include the subject matters over which parliament can make laws provides, "participation in international conferences, associations and other bodies and implementing decisions made thereat" and "entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries".

It is needless to say that the Supreme Court and High Courts have the power of judicial review under Article 32 and 226 respectively to issue writs and strike down any parliamentary legislation if it is enacted without any legislative competence. The Supreme Court has nullified constitutional amendments which sought to diminish judicial power directly or indirectly as in Kesavanand Bharati vs. State of Kerala, Indira Nehru Gandhi vs. Raj Narain cases.
The broad language used in the Article 253 and the Entries 13 and 14 of the Union list under Article 246 serves as an adequate handle for the Court to uphold parliament power to enact sufficient pollution control related laws due to international commitment. The parliament has a very wide power of legislation including the subjects mentioned in the State list provided those issues addressed at any international associations, conferences or any other body or it is the implementation of any international treaty, agreement or convention.

6.5.2 Environmental legislations enacted under International obligation

Parliament used the Article 253 to enact Water (Prevention and Control of Pollution) Act in the year 1974, Air (Prevention and Control of Pollution) Act in the year 1981, Environmental (Protection) Act in the year 1986 etc. The preamble of these Acts state that they were enacted to implement the decisions reached at the United Nations Conference on Human Environment, Stockholm (1972).