CHAPTER – 6   EFFECT OF OCCUPATION ON ENVIRONMENT

I. Introduction: Effect of Occupation on Environment and Society

The fundamental right to freedom of trade/business or occupation under Article 19(1) (g), despite restrictions on it under Article 19(6) of the Constitution, has resulted in the exploitation of the natural wealth making the environmental quality inferior. The world as such is undergoing an irreversible environmental damage due to widespread land degradation, pollution of air, water, global warming, extinction of numerous animal and plant species, loss of bio-diversity, ozone depletion, mushrooming of ill planned slums and population explosion in turn being caused by modern living technological advancement, industrialization, urbanization. For instance the depletion of ozone layer is causing skin cancer, cataracts, loss of crops productivity upsetting the balance of eco-system. The existing institutional and administrative framework is too feeble and ineffective to handle the environmental protection challenge. The Apex court in India has been forced by the irreversible environmental damage to, play a active role, resulting in the formation of terms as “judicial Activism, Green Bench” to check the environmental damages. And the court has to direct the governments to persuade the person and corporate sector who are behind the degradation of environment and ask them to perform their fundamental duty to save the environment from further degradation by creating mass awareness to harmonizing population for dynamics social and economic development.

It may be emphasized that the right to life conferred by Article 21 of the Constitution of India includes right to livelihood as it is couched in its language which have very wide sweep. Article 39 (9) of the Constitution provides that State shall direct its policy towards securing its citizens to have the right to an adequate means of livelihood. Article 41 provides that the State with its economic capacity shall make effective provision for securing the right to work.

The dictionary meaning of the word ‘environment’ is a surrounding: “Environment” includes water, air, land, and the inter-relationship which exists among and between water, land, air and human beings, other living creatures, plants, micro-organisms and property. Environmental conditions influence development or growth of people, animals or plants’; living or working conditions, etc.

Environment consists of three basic components, viz.

(i) Physical component
(ii) Biotic components and
(iii) Energy components.
Physical or biotic component consist of lithospheres components, hydrosphere component and atmospheric components; biotic consist of plants and animals components and Energy consists of solar and geothermal components.

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The economic activities of the man have brought considerable deteriorating. Changes in the biotic and abiotic environment. The impacts of man on environment fall into two categories (i) direct or intentional impacts and (ii) indirect or unintentional impacts.

Direct or intentional impact of human activities are preplanned and premeditated because man is aware of the consequences, both positive and negative of any programme which is launched to change or modify the natural environment for economic development of the region concerned. The effects of anthropogenic change in the environment are noticeable within short period and these effects are reversible. On the other hand the indirect impacts of human activities on the environment are not premeditated and preplanned and these impacts arise from those human activities which are directed to accelerate the pace of economic growth, especially industrial development. These indirect effects of human economic activities may change the overall natural environment system and the chain-effects sometimes degrade the environment to such an extent that this becomes suicidal for human beings.

II. **Factors Responsible For Deterioration Of The Environment Are:**

II. i. **Pollution:** Our fore fathers regarded elements of nature as manifestation of divinity. The sun, moon, earth, thunder, lightening, clouds, fire, mountains, rivers, lakes, trees are looked upon as god-given gifts. They had good reason for doing so because these sustained life on Earth. They were declared worthy of worship in the hope that the human beings would look after them and preserve their purity.
As centuries passed, we lost the essential message of nature worship, we continued to perform rituals connected with the worship but forgot that we were also duty bound to preserve them from erosion. So gradually our rivers turned into large sewers, our lakes shriveled into ponds overrun with weeds. Our mountains were blasted to extract stones and minerals, our forests cut down to provide timber for buildings, making furniture.

With the installation of a high-monitoring station to detect ozone depletion and monitor air quality, Nairobi has become a key point in a United Nation-backed effort to save the ozone layer and track pollution flows across the globe. The Nairobi validation station, the first of its kind in tropical and subtropical Africa, has been installed within the grounds of the UN Environmental Programme [UNEP] at Gigirl. The agency, which is involved in the work, said the station would detect ozone depletion, gases emitted from the East African part of the tropics and formed from sources such as industry, transport, agriculture, forest fires, and charcoal burning.

Ozone depletion formed by sunlight mixing with human-made pollution from cars, factories, emitting the CFC gas and other sources can be harmful. This smog is a increasingly phenomenon in developing and developed countries. this smog has proved fatal for vulnerable people to those who suffer with heart conditions and asthma, and it can also damage car tires, electricity cables, crops.

UN Environment Programme said that Asia and Pacific “middle to high income” consumers, those who are earning more than $ 60,000 per year more than Western Europe and North America countries are aspiring and raising concerns for further growth may cast a high environment price”.

“It is clear that the Earth’s natural ecosystems will not cope with the style of industrialization and over-consumption seen in Europe and North America” The region’s economic development agendas needs to be coupled with clean production processes and sustainable consumption patterns”

UNEP states that if car consumption in China, India, and Indonesia reached the global average, then 200 million vehicles would be added to the global fleet.

The paper “Forging new Paths Towards sustainable development” shows that the new prosperity in Asia and the Pacific is only enjoyed by 26% of the region’s population and though current consumption pressure per capita is around that of half of Western Europe. UNEP is worried that continued growth could have a devastating impact on the environment.
We have also to pay regard to the modern socio-economic ways and civilized living in which livelihood is earned by different ways and methods. Our primitive means of living are almost banned by a civilized society. Under the circumstances we have to earn our livelihood by the means approved by the society and its laws and in doing so if through some force or agency we are denied the right to livelihood, then we are definitely justified in claiming right to livelihood under Article 21.

However, as far as the judiciary is concerned it has to minutely examine, give directions and ensure their compliance by those forces and agencies which deny the right to livelihood. Gold’s rate has scourge at new height of Rs 23000 per 10 grams.

In order to prevent the smuggling of gold, the gold control order can enforced to regulate the trading in gold in the context with the operative socio-economic conditions, it shall not still mean that the right to livelihood is taken away or restricted though the effect of the order may definitely restrict the trading in gold. In such a situation Article 21 cannot be applied. But if in case the government totally bans goldsmithery, the goldsmiths are bound to be deprived of their livelihood and Article 21 can come to their rescue. However, when imposing the ban the government also provides with an alternative means of livelihood, this very procedure introduced by law will be valid, even while depriving the goldsmiths of earning their livelihood from the original trade.

II. ii  Deforestation:

Deforestation is caused by the loot for energy, wood products, food, fodder, pharmaceutical products and non-wood products as fibers, rubber, gum, resins. Growing population has led to a disastrous overuse of forests for fuel, wood, timber, paper industry.

II. iii  Technological Development

The environmental crisis is closely related to the nature of productive technology. Both are directly proportional to each other. Man, who has ever increasing quest for better quality of life and materialistic comforts’ and a state, which claims sovereignty over its natural resources, in its zeal to develop, have been excessively exploiting and indiscriminately consuming natural resources at their command, which has unfortunately led to a serious ecological crisis. The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) warned early in February, 1985, that the Asian Environment, already in a critical state, is likely to be burdened with additional load resulting from development activities.
Considering technology in the perspective of environment, the man is faced with the crisis- the lack of environment friendly technology, the excess of environment concerns. What is required is economic friendly technology and the same time stopping or at least reducing the use of that technology which are affecting the environment adversely

II. iv Agricultural Development:
The agricultural development degrades the environment in a variety of ways, e.g.
(i) Through the application of chemical fertilizers and pesticides and insecticides,
(ii) Through the increase in irrigational facilities and amount of irrigation.
(iii) By making changes in biological communities etc.

Increase in agricultural land at the cost of destruction of forest leads to soil erosion. Increased use of machines and modern scientific techniques, application of chemical fertilizers, pesticides, insecticides and herbicides, increase in the frequency and area of watering of agricultural Field causes several serious environmental problems But then the root cause of all the problems is the population explosion.

II. v Population Growth:
According to the census of 2011 India’s population is one arab twenty one crores. It is a problem at global level with its alarming proportion in India which represents 16 per cent of human race against the 2.4 percent of global land consequently a heavy demand on the natural resources like water, air, soil and forest etc. According to a study, the tropical forests are shrinking by million hectares a year. Topsoil is being lost at the rate of 26 million tones a year. The problem of deforestation has also got its alarming proportion all over the world

II. vi Industrial Development:
Rapid rate of industrialization led to rapid rate of exploitation of natural resources and increased industrial output. Both the components of industrial development e.g., exploitation of natural resources and industrial production, have created several lethal environmental problems exploitation and ecological imbalance at global, regional and local levels in a variety of ways. Exploitation of natural resources in order to meet the industrial demand of raw materials has resulted into

(i) The reduction of forest covers due to reckless falling of trees,
(ii) Excavation of land for mining purposes,

(iii) Reduction in arable land due to industrial expansion,

(iv) Lowering of groundwater level due to excessive withdrawal of groundwater,

(v) Collapsing of ground surface due to withdrawal of mineral oil and groundwater, etc.

Moreover there are numerous undesired emissions from the factories in the shape of industrial wastes, polluted water, toxic gases, chemical precipitates, aerosol ashes and smokes etc. which degrade the environment. The industrialized countries have increased the concentration of pollutants emitted form the factories in the air, water and land to such an extent that they have graded the to the critical limit and have brought the human society on the brink of its destruction. Release of toxic gases through advertent and inadvertent actions of man causes environmental hazards as The Bhopal gas tragedy. A recent illustration of disastrous effects of modern industrialization. Acid rains, urban smog, nuclear holocaust, etc., are the other forms of environmental hazards emanating from industrialization. Today India has become the 9th largest industrial nation of the World. and simultaneously, it is one of the most polluted countries of the world. The general indifference of industries, on aspects of environmental safety and protection and their unregulated industrial development are the root cause for their industrial effluents are emitted in the aquatic environment. Typical floating materials are oils and gases released from petrochemical and automobile plants. The tanning processes and paper and pulp manufacturing discharge colouring wastes into fresh water. The industrial effluents may contain suspended matters as organic or inorganic form chemical substances present in the industrial wastes cause physical and chemical pollution of the water course. Acids and alkalis discharged from different industrial units disturb the physical composition of water by raising the acidity or alkalinity balance. Soluble salts of heavy metals such as lead, mercury, cadmium, zinc copper, nickel, arsenic released in sufficient quantity are highly toxic and hazardous. Industries extract raw materials form “Nature and discharge polluted Products”. Therefore, attention needs necessarily to be focused not only on the increase in the quantum of production but also on the environmental deterioration as a consequence of industrialization.

II. vii  Urbanization:
Urban centers combined with industrial sectors are hazardous from the standpoint of environmental problems and pollution. Huge quantity of aerosols and gases is emitted from chimneys of factories and vehicles which form “dust domes” causing “pollution domes” over the cities. About 60 percent, of the pollution of Indian capital city of Delhi is contributed by vehicles. Calcutta and Bombay metropolitan areas have also reached at high level of air pollution. Besides industrial wastes from industrial cities, huge quantities of urban solid wastes also disseminate pollutants creating environmental problems.

II. viii Unplanned Urbanization:

The skewed urban development has deteriorated the environment visibly and considerably in the urban and rural areas. The urban areas suffer from their own plight, squatter settlements, lack of sanitation and water supply, overcrowding, congestion and pollution. The cities in India are facing environmental problems like lack of sanitation, chronic shortage of traffic congestion etc. The domestic and industrial waste disposal in the urban areas is assuming serious proportions.

II. ix Modern Productive technology:

Environmental crisis is the inevitable result of a counter ecological pattern of productive growth. The environmental problems are associated with productive submerge vast areas of natural forests during raising of the dams that degrades the environment in the source catchments area of the concerned river. Leakage of toxic gases from chemical plants not only pollutes the air but also causes deaths of human beings, plants and animals and causes impairment of human bodies for several years even for few generations. Synthetic materials and biologically non-degradable materials are the most dangerous aspect of modern technologies. The problem of disposal of toxic chemical, synthetic materials, biologically non-degradable materials and the nuclear wastes coming out of the nuclear plants.

II. x Coal burnt Thermal Power Plants:

Power plants either in public or private sector mainly use coal for generation of electricity. About 62% of the coal produced in our country is utilized for generation of electricity which accounts of 65% of power generation but during the course of this process, there is accumulation of various by-products such as bottom ash, boiler slag and fly ash. 40% fly ash is used in manufacture of cement, brick and as soil conditioner. There is a need to store the rest of fly ash in such a way as to have minimum damage to air, water and soil bodies. A super thermal power plant built on
about 800 acres of land, which has to be away from the human settlements and on waste lands, normally requires 1200 acres for ash disposal. On the basis of the ash production trends the area requirement for dumping of the ash is around 40000 hectares. The population explosion has brought the human settlement/cluster in the close proximity of such thermal plants site. The presence of finer fractions of fly ash in the atmosphere is particularly harmful as it gets deposited in huge/pulmonary issues of respiratory track when inhaled.

II. xi Poverty:

The people unremittingly exploit the natural wealth of the country for meeting their basic needs (food, fuel, shelter, employment, cattle fodder). Poverty and need are indeed the greatest polluters as told by late Mrs. Indira Gandhi in her address to the Stockholm Conference.

III. Historical Perspective of Environmental Conferences

I.1.a. Stockholm Conference, 1972:

The U.N. Conference on the Human Environment held at Stockholm from June 5 to June 16, 1972 was the first major attempt to solve the global problems of conservation and regulation of human environment by international agreement on a Universal level, wherein there was

(a) The Declaration on the Human Environment;
(b) The Action Plan for the Human Environment;
(c) Resolution on Designation of a World Environment Day;
(d) Division to refer to Government recommendation for action at the national level. India was also a signatory to the resolutions passed at this conference.

III.1.b. The Declaration on the Human Environment:

Part II of the Declaration contains Principles; main principles are stated as follow,

(a) Principle 1, which is of general nature states that a man has the fundamental right of freedom, equality and adequate conditions of life, environmental quality that permits a well-being life and dignity, and bears a solemn responsibility to protect and improve the environment for present and future generations.4

(b) Principle 2, states that the natural resources of the earth including the air, water, land, flora and fauna and especially representative samples of natural ecosystems must be safeguarded for the present and future generations through
careful planning or management as appropriate. The capacity of the earth to produce vital renewable resources must be maintained and wherever practicable restore or improve these.

(c) Principle 3, the discharge of toxic substances or of other substances and the release of heat, in such quantities or concentration as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon ecosystems. The just struggle of the people of all countries against pollution should be supported.

(d) Principle 6, states shall take all possible steps to prevent pollution of the seas by substances which are liable to create hazards to human health, to harm, living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

(e) Principle 7, economic and social development is essential for ensuring a favourable living and working environment for a man and for creating conditions on earth that are necessary for the improvement of the quality of life.

(f) Principle 21, provides that states have, in accordance with the charter of the United Nation 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 states or of areas beyond the limits of national jurisdiction.

(g) Principle 22, states shall co-operate to develop further the pollution and other environmental damage caused by activities within the jurisdiction or control of such states or areas beyond their jurisdiction.” These two principles. (Principle 21 and 22), represent “the most significant consensus that has been reached in the field of International co-operation among States respecting environmental preservation\(^5\)

### III.1c. Earth Summit, 1992

The Earth Summit or United Nations Conference on Environment and Development (UNCED) held at Rio de Janeiro, Capital of Brazil, from June 3 to June 12, 1992 was the largest International conference in the history of International relations and International Law. More than 2,000 participants representing 178 nations attended it. It was the culmination of series of UN conferences beginning with the Stockholm Conference on Human Environment in 1972. Industrialized countries degrade the environment by insatiable consumption of resources and intense
production of wastes, while high fertility and rapid population growth in many developing countries put damaging pressure on the planet combined, such human demands are undermining the world’s natural resources base, land, water, and air upon which all development depends. These issues are, therefore, not only environmental but also economic.

Some of the main issues confronting the Earth Summit or UNCED were finances (i.e. who will pay for the cleaning of the world); technology transfer, institutional framework, climate change, forests biological diversity and sustainable development. Six issues on which North and South expresses divergent views were greenhouse gas emission, forests population, technology transfer, finance and degradation. Besides the main issue of funding environmental programmers outline in Agenda 21, other major achievements of The UNCED include a convention on biodiversity, a convention on climate change, a convention on forestry, was the Earth Charter or Rio-Declaration.

The more important of the principles of Rio-Declaration are as follows: Human beings are at the centre of concerns for sustainable development. They are entitled to healthy and productive life in harmony with nature.\(^6\) 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 the other States or areas beyond the limits of national jurisdiction.\(^7\) The right to development must be fulfilled as to equality meet and environmental needs of present and future generations.\(^8\) In order to achieve sustainable development, environmental protection, shall constitute an integral part of the development process and cannot be considered in isolation from it.\(^9\) At the national level, each individual shall have appropriate access to information concerning the environment including information on hazardous materials and activities in their communities, and the opportunity to participate in decision making processes. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.\(^10\) States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damages. States shall also co-operate in an expeditious and more determined manner to develop further International Law regarding liability and
compensation for adverse effects of environmental damage caused by activities within the jurisdiction or control to areas beyond their jurisdiction.\textsuperscript{11}

The summit pushed forward the concept of “Sustainable development” as a guiding principle for development of the world. The debate on sustainable development has shifted the focus from “Growth versus Development to one of “Growth and Development,” Thus the road to Rio is pointing in the direction of hope, it is for the nation-both the developed and the developing to bring it to fruition so as to ensure the world, safe for the present and future generations\textsuperscript{12}

\textbf{III.1.d. Johannesburg Summit}

After 12 days of intense negotiation in Johannesburg, the World Summit on Sustainable Development (WSSD) concluded on September 4, 2002, with the adoption of a political declaration and a plan of implementation to fight poverty and preserve the environment. Over 100 Heads of State and Government attended the summit and adopted the final documents, which focused the attention of the world on five priority areas: water, energy, health, agriculture and biodiversity. Progress in these areas was essential as it was consented for halving severe poverty by 2015 and achieving the other Millennium Development Goals (MDGs). The summit represents a major leap forward in the development of partnerships, with the UN, Governments, business and civil society coming together to increase the pool of resources to tackle global problems on a global scale.

\textbf{III.1.e. COPENHAGEN AND BONN SUMMITS.}

A world summit on climate change held in December 2009 in Copenhagen and sequel to Copenhagen another meeting was held at Bonn. In these summits they took forward the unfinished work of climate change, and also prepared the ground for completion of global comprehensive agreement for Cancun, Mexico conference which was held in December 2010.

To save the earth against environment hazard was the main focus of Bonn meetings. A new draft text of working group that exist under UN frame work of climate negotiation was discussed and renamed it Ad-hoc Working Group on Long term Cooperative action (AWG-LCA). The AWG-LCA is tasked with the responsibility of finalizing the long terms response of the world to the effects of climate change. This AWG-LCA has to decide the actions that need to be taken for a particular desirable out come by the year 2050 or even later by 2080 or 2100. The new draft text has been the result of inputs given by many countries including India.
The terms of agreement are incorporated with the provisions of the Copenhagen accord.

To pool a climate finance was also in the agenda at Bonn conference because the primary responsibility for accumulation of green house gases in the atmosphere toll now has been that of the rich industrialized countries and the worst suffers of the impacts of climate change are poorer countries of Asia and Africa. The developed countries had promised to provide US $ 300 billion, funding to the worst affected countries in the three years period 2010-2012 and USA has promised additional funding of US $ 100 billion every year from 2020 onwards. In addition, two standing committees under the UN Climate frame work, the Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary for Implementation (SBI) also discussed problems of climate

III.2 INDIAN CONSTITUTION AND OTHER LEGISLATIVE MEASURES ON ENVIRONMENT.

Till 1986, the implementation of environment laws was the exclusive responsibility or specialty constituted State agencies which presented violators in ordinary criminal courts. New enforcement techniques have been strengthened. These laws now permit private prosecutions and more significantly, empower those agencies to shut down polluting industries or to stop their supply of water and power. This method promises quick results because it combines in single State agency, the old divided enforcement scheme that required both administrative and judicial stress to discipline violators

III.2.a. Constitutional Provision:

The Indian Constitution is amongst the few in the world that contains specific provisions on environment protection. The directive principles of State policy and the fundamental duties chapters explicitly enunciate the national commitment to protect and improve the environment.¹² Supreme Court held in a case of Forum, Prevention of Environment and Sound Pollution v. Union of India and another¹³ that right to life includes freedom from voice pollution i.e. free environment from health hazards.

The present work also discusses at length how over the years the Court has been trying to balance the Interest of Individual citizens as their Right under Article 19 (1) (g) and that of the Right of health of the Community trying to ensure Clean peaceful Environment. The Constitution being Supreme Law of the land shall be binding not only on the citizens and non-citizens but also on the State itself. The
constitution (Forty-second Amendment) Act, 1976 inserted in the Constitution for the first time made specific provisions to protect and improve the environment. In India 42nd Amendment to the Indian Constitution inserted Part IV-A of the constitution which enumerates certain fundamental duties under Articles 48-A and 51-A (g). Under Article 48-A, the State may not only adapt the protectionist policy but also provide for the improvement of polluted environment. Article 48-A also provides for the safeguards of forest and wildlife, as the forests maintain balance between the oxygen and carbon dioxide in the atmosphere which constitutes an important safeguard against air pollution. The Constitution (42nd Amendment) Act, 1976 was a turning point and gave the Centre also the power to legislate on forests.

III.2.b. Legislative Power under Constitution:

The 42nd Amendment to the Indian Constitution also made certain changes in the Seventh Schedule to the Constitution. Originally forests were a subject included in list II. Entry 19, since no uniform policy was being followed by the State in respect of protection of forests, now this subject has been transferred to List III and hence, now the Parliament and State Legislature both may pass legislations.

Protection of wild animals and birds has also been transferred from time inserted Entry 20-A in List III which deals with population control and family planning as enormous increase in population is main cause for environmental problems. Neither the Constituent Assembly nor the Constitution gives any specific place to either the environment or environmental pollution in the distribution of legislative powers under the Seventh Schedule. Parliament, realizing its inability and different approaches of States requested some States to move under Article 252.

III.2.c. Ancient Conduct and Other Legislative Measures:

III.2.c.i. Ancient Laws:

In ancient days, the knowledge, the motivation, and the sanction were the basic postulates which regulated the ecosystem in the ancient times. It was the dharma of each individual in the society to protect the nature. In fact the nature was worshipped in the form of the trees, water, land and animals. Inflicting injury to plants invited different punishments. Govindraja ancient saint makes a distinction between injury to shade-giving plants, flower-bearing plants and fruit bearing plants and he prescribes the lowest middle and highest punishments respectively. Kautiliya went a step further and fixed the punishment on the basic importance of the part of the tree.
Some of the important like Pipal (banyan tree) and other such trees were even elevated to the position of God. Manu imposes duty on mankind to protect the forests.

III.2.c.ii  Environment Law during British Raj:

The Indian Penal Code, 1860 dealt with water and atmosphere pollution was an attempt to made first time to control the environmental pollution. Spoiling of water and degradation of atmosphere were made punishable through criminal sanction. In Indian Penal Code (I.P.C.), 1860 the problem of water pollution has been dealt with in the chapter on “Public Health and Safety”. As regards water pollution, it provides that “whoever voluntarily corrupts of fouls the water of any public spring or reservoir so as to render it less fit for the purpose, for which it is ordinarily used, shall be punished with simple or rigorous imprisonment for a term extending to three months or fine of five hundred rupees or with both.” The water of public spring or reservoir belongs to every member of the public in common and if any person voluntarily fouls it, he commits public nuisance. The courts, in India have given very restrictive guidelines as not to pollute the flowing waters of rivers, canal and streams. The definition of the offence under Section 277 of I.P.C. is confined to voluntary act and acts 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. A more beneficial construction ought to have been given for the tern public spring and reservoirs so as to include water in running streams, canals and rivers.

Section 269 of I.P.C. also could be invoked against a water polluter. The water polluter could also be punished under Section 425 of I.P.C. for mischief if his act causes wrongful loss or damage to public or to any person or if his act causes the destruction of any property or diminishes its value of utility. Attempt to commit act of water pollution could be brought under Section 511 of Indian Penal Code. Section 290 of IPC provide punishment for public nuisance (which includes pollution cases also) in cases not otherwise provided for. The gravity of the punishments prescribed under Code, relating to various types of pollution were only minor punishments through revision, by way of enhancement of the fine and period of imprisonment so very essential and desirable.

III.2.c.iii  Indian Easements Act, 1882:

Section 28(d) of the Easement Act, 1882 on one hand allowed a prescriptive right to pollution of the water but it was not an absolute right. The illustrations (f) (h)
and (j) of Section 7\textsuperscript{20} limited this prescriptive right not to unreasonably cause material injury to the other.

**III.2.c.iv Factories Act, 1948:**

Section 12 required all factories to make “effective arrangements” for waste disposal and empowered State Governments to frame rules implementing the said directive. Section 92 of the Act provided for the general penalty for non-observance with the requirements.

**III.2.c.v Civil Liability for Nuclear Damage Act 2010.**

Leakage from chemical factory at Bhopal occurred on 3\textsuperscript{rd} Dec. 1984 in Midnight and punishment to the defaulters is announced on 8\textsuperscript{th} June 2010, In that more than 15000 people were killed, lakhs were maimed and generations suffered form genetic deformity due to Bhopal gas tragedy. Almost 26 years later seven former officials of union Carbide India ltd. were convicted and given two years jail term. But the main accused former Union Carbide Corporation chief Warren Anderson virtually went Scot free. What if a nuclear disaster happens? Government of India has passed the Civil Liability for Nuclear Damage Act 2010. India is expected to grow at 8.5% in 2011-12 and a faster growing economy will need more power. At present the Nuclear power plants and facilities are owned by the centre or PSUs and if an accident happens, liability is the responsibility of the centre. India is not a party to any nuclear liability convention and the Indian nuclear industry has been developed in a domestic framework without any provisions about liability for nuclear damage. The Act proposes to address both these concerns by providing for nuclear liability in the case of a nuclear incident and also the necessity of joining an appropriate international liability regime.

Will India be able to manage the Japan type Tsunami that hit in Pacific Ocean in early 2011? The Act provides that in the case of an accident the Bill proposes to enforce strict liability. It would not matter who was at fault, the victims would get paid. The nuclear power corporation would have to shall out Rs. 500 crore. If the liability exceeds the amount to be paid by the operator or where such nuclear damage occurs in a nuclear installation owned by it or where it occurs due to a natural disaster, armed conflict, civil war of terrorism, the Act makes the centre liable to pay.

It also sets up claims commission to dispose of compensation claims within three months.
But comparing with American standard compensation for claim is not enough. Oil spilled in May 2010 by British petroleum (BP) in the Gulf of Mexico affecting the American economy and environment and 11 persons have died and some damage has been caused to marine life. President Obama had taken strong stand on it. BP as a foreign company there in US is being asked to pay $ 1.5 Billion as compensation where for disaster. Where as Bhopal Gas tragedy victims got only $ 470 Million and nuclear damage Act would have to shall out Rs. 500 core only.

In the systematic attempt at Central level in the field of environment, came the Water (Prevention and Control of Pollution) Act 1974, Air (Prevention and Control Pollution) Act, 1981 and Environment (Protection) Act 1986

IV. Environmental Concepts

The continuing deterioration of earth’s ecological reserves poses a grave threat to sustainable economic development. One of the most pressing and complex challenges facing generation is to develop a workable synergy between economic and environmental realities.’ Sustainable development’ means economic development and improvement in standards of living which do not impair the future ability of the environment to provide sustenance and life support for the economic well being of the present and future generation and to maintain a healthy environment and life support system.’ Sustainable development’ and Economic Protection’ both go hand in hand.

Two salutary principles governing environment are

(i) Principle of sustainable development and

(ii) Precautionary principle.

It has been held that the Government is also expected to keep in view the international obligations while exercising its discretionary powers under Forest (Conversation) Act, as Convention on Biological Diversity has been acceded to by India.21

IV.1. Maximum Sustainable Yield:

Maximum Sustainable Yield can be defined as the amount of sustainable yield corresponding to the greatest overall long term benefits to the Nation in Environmental, biological, social and economic terms. Its value depends on the relative weights attached to the sometimes conflicting objectives concerning food, revenues, employment, recreation, etc., and to the bio-ecological conservation constraints (e.g., spawning stock size, environmental impact). It also depends on discount rates.
It can also be defined as the highest theoretical equilibrium yield that can be continuously taken (on average) from a stock under existing (Average) environmental conditions without affection significantly the reproduction process. It is also referred to as potential yield. It is also the largest average yield that can continuously be taken from a stock under existing environmental conditions. For species with fluctuating recruitment the maximum might be obtained by taking fewer fish in some years than in others. It is also known as maximum equilibrium catch, sustainable catch, and potential yield.

**IV.2. Optimum Sustainable Yield:**

Optimum Sustainable yield is the level of effort that maximizes the difference total revenue and total cost or where marginal revenue equals marginal cost. This level of effort maximizes the economic profit, or rent, of the resource being utilized. It usually corresponds to an effort level lower than that of maximum sustainable yield. Also, it can be defined as the best sustainable yield for the combined purpose of the fishing industry, of conservation, and of the nation as a whole.

**V. Right To Livelihood**

Unlike the Fifth and Fourteenth Amendments of the United States Constitution, Indian Constitution gives certain specific freedoms under Articles 19 and 21. Though today these Articles are given liberal interpretation by the Supreme Court of India to help the citizens to avail all aspects of individual freedom which is greatly valued in modern civilization. In fact all the rights which are not specifically enumerated in Part III of the Constitution can be read with in the purview of Article 21 of the Constitution as per the trend of the Supreme Court decision. Even doctors are also liable for medical negligence in a case The Collector of North Arcot Ambedkar District & Anr. v. K. Mani and Anr. tubectomy operation performed by employees doctor of state Govt Hospital. Deceased died of cerebral vein thrombosis, non product of medical record by doctors and state Govt it is no ground to draw inference of medical negligence.

In fact it is not necessary that right to be recognized as Fundamental Right has to be specifically mentioned in Part III of the Constitution of India. But the new rights are being read into and inferred from; the rights stated in Part III of the Constitution as freedom of press had been read into the freedom of Speech and expression. In fact from Article 21 have sprung up a whole lot of human rights viz., the right to means of livelihood, right to health, right to pollution free environment.
The word ‘life’ in Article 21 of the Constitution has also been given a very wide interpretation along with the words ‘personal liberty’ by our Supreme Court and different High Courts. It includes life in all its expressions – physical, intellectual, moral, spiritual and cultural. Life also includes personality and whatever is reasonable required to give expression to life, its, fulfillment and its achievements.

Whether right to life should include livelihood or the right to livelihood had been a complex question vexing our judiciary whenever confronted to adjudicate upon. Prima facie the right to live cannot be enjoyed unless there is right to livelihood. The means of living are as much important as oxygen is to biological life and since in our norms of human dignity we have valued life as much more than mere biological existence, the importance of the means of living cannot be over emphasized.

In Olga Tellis case\textsuperscript{30} for the first time our Supreme Court interpreted the right to livelihood under Article 21. Olga Tellis had on behalf of pavement and slum dwellers filed a petition against Bombay Municipal Corporation towards its plan to demolish huts on pavements of Bombay and in some of its slums and to deport back the inhabitants to their original places. The petitioner’s contention was based on an erroneous plea that the eviction of pavement and slum dwellers will lead to deprivation of their employment and thereby their livelihood and therefore their right of life. In its judgment the Supreme Court observed:

“The sweep of the right to life conferred by Article 21 is wide and far reaching. It does not mean merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of the death sentence except life. An equally important facet of the right is the right of livelihood because; no person can live without the means of living, that is, the means of livelihood. If the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of the effective content and meaning fullness, but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, right of livelihood is not regarded as a part the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an integral component of the right to life. Deprive a person of his right to livelihood and you shall have deprived him of his life.”\textsuperscript{31}
The Research Scholar opines that the plea of the petitioner was too much stressed and irrelevant to the due process of law and the Supreme Court displayed an exaggerated though exasperating activism. The roads and pavements in any town or city are the approved legal schemes for definite purposes and they are to be used for locomotion and ambulatory use only. Any person encroaching upon the roads and pavements and putting them to uses not permitted by law cannot claim any immunity for living and Article 21 in its real sense and purposes cannot have any such misuse.

The chief arguments generally used in such cases are:

(i) Any major city holding great potential for trade and employment is bound to attract people and if for living they take law in their hands and create unauthorized shelters or pavement shops, that can be legalized by means of Article 21 though the sanctification of the Supreme Court.

(ii) Another stretching argument generally put forward is that by shifting the people to remote places from where their locomotion becomes difficult can also have the effect of depriving a person of his livelihood. But this could not be the acceptable ground although it may have the effect on one’s earning of the livelihood. There are people who serve in Bombay and daily commute from Pune, Gujarat and other adjoining areas. There are certain Legislations which have sprung not form Article 21, Directive Principles or any other part of the Constitution. They have sprung politically and out of greed for votes.

In Re: Sant Ram’s case\textsuperscript{32} Article 21 was interpreted as not to include the right to livelihood. The Registrar under Rule 24 of the Supreme Court Rules is empowered to publish lists of persons habitually acting as touts. The Registrar issued a notice to the appellant to show cause why his name should not be included in the list of touts. The notice was challenged by the appellant on the ground that inclusion of his name in the list of touts would deprive him of his right to livelihood and thereby the right to life, contravening Article 21. The Supreme Court had held that the language of Article 21 cannot be pressed in aid of the argument that the word ‘life’ in Article 21 includes ‘livelihood’ also. The Court said: “the argument that the word ‘life’ in Article 21 of the Constitution includes livelihood has only to be stated to be rejected\textsuperscript{33}.”

In another case of Begulla Bapi Raj\textsuperscript{34} the Supreme Court had again rejected the contention that ‘life’ in Article 21 includes the right to livelihood. The contention of the petitioner that under the provisions of Andhra Pradesh Land Reforms (Ceiling) Act, they have been deprived of a substantial portion of their holding in the form of
surplus land and there by they have been deprived of their livelihood affecting their
right to life, which is violative of articles 21 is not sustainable, because the word ‘life’
has not been used in this sense in Article 21 as interpreted by the counsel for the
petitioner. The Supreme Court in Begula’s case negatives the contention on the
strength of earlier two decisions of the court that is, in re, Sant Ram and A.V.
Nachane’s case.\textsuperscript{35} The court took the view that the petitioners had been deprived of
their holding in the form of surplus land, but it was only for the purpose of giving
relief to the downtrodden and the poor agricultural laborers. The surplus land would
vest in the state and the state in its turn would give it to the poor and downtrodden and
thus such a deprivation will be protected under Article 39 of the Directive Principles
of State Policy. There was thus no question of deprivation of livelihood.

The same view was also expressed by the supreme court in A.V. Nachane’s
case\textsuperscript{36}In that case the validity of the life Insurance Corporation (Amendment) Act,
1981 and the Life Insurance Corporation of India Class III and Class IV Employee’s
(Bonus and Dearness Allowance) Rules, 1981 were challenged on several grounds
including Article 21 of the Constitution and the court dealing with this aspect of the
matter quoted with approval the case of Sant Ram case.\textsuperscript{37}

In the case of Board of Trustees of the port of Bombay v. Dilipl Kumar
Raghavendranath Nadkami\textsuperscript{38} dealt with the question of fairness of departmental
inquiry where permission sought by a delinquent to be represented through a lawyer
was rejected even though the employer was represented by a legally trained
representative. In the context it was held that life in Article 21 includes livelihood.
The court made the following observations:

“The expression ‘Life’ does not merely connote animal existence or continued
drudgery through life. The expression ‘Life’ has a much wider meaning. Where
therefore the outcome of a departmental enquiry is likely to adversely affect
reputation or livelihood of a person, some of the finer grace of human civilization
which make life worth living would be jeopardized and the same can be put in
jeopardy only by law, which inheres fair procedure.\textsuperscript{39}

In State of Maharashtra v. Chandrabhan Tale\textsuperscript{40} the constitutionality of the
second proviso to Rule 151 (i) and (ii) (b) of the Bombay Civil Services Rules, 1959
was questioned on the ground that it violates Article 21.Government servant were
kept under suspension pending trial and were paid normal subsistence allowance. But
from the date of their conviction the subsistence allowance of Re. 1 per month was to
be paid and there was prohibition from engaging them selves in any other avocation also. The only logical and possible result would be the death of the civil servant and the members of his family due to starvation. While Justice Chinnappa Reddy clearly held the provision to be violative of Articles 14, 16 and 21 and struck down the proviso. Justice Varadarajan also held it to be unfair and unconstitutional.

In yet another case of State of Himachal Pradesh v. Umed Ram Sharma the Supreme Court has interpreted the right to life as not only the right to livelihood but also as the right to means of livelihood. In this case mostly poor harijan residents of the villages of Bhainkhal, Buladi and Bhukho in Shimla District addressed a letter to the Chief justice of the Himachal Pradesh High Court complaining about the lack of a proper road in their area. This, they said not only affected their livelihood, but also their development. The court held that the entire State of Himachal Pradesh is in hills and without workable roads, no communication is possible. Every person is entitled to life as enjoined in Article 21 of the Constitution and on the facts of this case read in conjunction with Article 19 (1) (d) of the Constitution and in the background of Article 38(2) of the Constitution every person has right under Article 19 (1)(d) to move freely through out the territory of India and he has also the right under Article 21 to his life and that right embraces not only physical existence of life but the quality of life and for residents of hilly areas, access to road is access to life itself. The court accordingly directed the Superintending Engineer of the Public Works Department to proceed with the construction of the road and complete the assigned work during the course of the financial year. It also directed the Engineer to make an application to the state government for an additional sum of Rs. 50,000/- for the purpose and to report the progress in construction with regard to the case. The State of Himachal Pradesh filed a special leave petition before the Supreme Court asking whether in view of Articles 202 to 207, the High Court had power to issue prerogative writs under Articles 226 to regulate financial matters in the state. The Supreme Court upheld the directions given by the High Court and also wide interpretation given to the word ‘life’.

In Rashtriya Mill Mazdoor Sangh, Nagpur v. State of Maharashtra the provision of Central India Spinning, Weaving and Manufacturing Company Ltd., the Empress Mills, Nagpur (Acquisition and Transfer of Undertaking) Act (46 of 1986) were challenged as volatile of Articles 14, 19(I) (g) and 21. The impugned Act deals with vital rights of the workers whose livelihood depends upon the service and
condition of service. The court found the provision of the Act to be reasonable and the object of the Act was to give effect to the policy of the state towards securing the Directive Principles of the state Policy specified in Article 39(b) of the Constitution which is as under, “That the ownership and control of the material resources of the community are so distributed as best to sub serve the common good.”

The court observed that there is a clear trend in favor of extending the width of article 21 to human rights including livelihood but on the facts and circumstances of this particular case there is no violation of Article 21 as procedure of livelihood is just, fair and reasonable and, therefore, not violative of right to life in Article 21. It is, therefore, certitude that livelihood has to be interpreted under article 21 as an important right, but the whole nexus will depend on minute analysis of the merits and demerits of any case and no thumb rule can be applied. A categorical view that livelihood is interpreted as one of the fundamental rights under Article 21 in some cases, and therefore it should be granted in other cases too out of an apparent or plausible relationship to livelihood does not seem to be reasonable. There cannot be any scope for a far fetched argument which may be establishing in ultimate analysis a remote relationship to livelihood.

In this connection it will be of interest to note the observation made by Supreme Court in State of Maharashtra v. Basantibai Mohanlal Khetan in which case the validity of provisions of Maharashtra Housing and Development Act, (28 of 1977) were challenged. Justice Venkataramiah observed as under. “Article 21 essentially deals with personal liberty. It has little to do with the right to own property as such. Have we are not concerned with a case where the deprivation of property would lead to deprivation of life or liberty or livelihood. On the other hand land is being acquired to improve the living conditions of a large number of people. To rely upon Article 21 of the Constitution for striking down the provisions of the Act amounts to a clear misapplication of the great doctrine enshrined in Article 21. We have no hesitation in rejecting the argument. Land Ceiling laws, laws providing for acquisition of land, for providing housing accommodation, laws imposing ceiling on urban property etc. cannot be struck down by invoking Article 21 of the Constitution.”

In the above paragraph, justice Venkataramiah has rightly pointed out the significance of Article 21 of our Constitution. A wide interpretation can no doubt be given to the Articles of our Constitution, but it has to be done in such a manner that its
true meaning, its true impact is not lost, If every law is tested on the touchstone or executive act, which will not come within the purview of Article 21. There are other provisions of the Constitution which may be made use by the courts uniformly interpreting laws or for striking down unreasonable laws. This proposition has been highlighted by Chhatrapati Singh in this Article in the following words:

Is enforcing the wider interpretation of Article 21, the only legal way to obtain the minimum need for the deprived people? Moreover is it the legally most efficacious way to achieve what is desired? Neither the judgments nor the literature around the cases have gone into these two basic questions. They have naively claimed that such ‘judicial activism’ through new interpretations of the Article has brought about a major change in our colonial legal heritage. Assertions or vainglorious proclamations are one thing, actual change another. There are two basic reasons why this type of ‘judicial activism’ is not as active as it is prima facie made out to be. First, there are problems emerging from the theory of precedent as to what type of judgments can really qualify as precedent in the law making process. Second, there are issues relating to the constitutional aspirations vis-à-vis judicial activism viz.. Does the constitution itself envisage an active role for the judiciary? If so, is it rightly reflected in what has been achieved through reinterpretation of Article 21? Professor T.D. Patel opines that though the initiative taken by the Supreme Court judges had made our legal system more human and consistent with the aspirations of the common man, The Court has proved its dynamism by projecting itself as an activist institution but has this role of the judiciary really helped in bringing about a major change in our colonial legal heritage?

Vi. Relation Of Article 19 (I) (G) And 21 And Environment

Right to life would include the right to live a healthy life. The Andhra Pradesh High Court has also given a wide interpretation of word ‘life’ in T. Damodhar Rao and other v. The special officer, Municipal Corporation of Hyderabad The enjoyment of life and its attainment and fulfillments guaranteed by Article 21 of the Constitution embraces the protection and preservation of nature’s gifts without which life cannot be enjoyed. There can be no reason why practice of violent extinguishment of life alone should be regarded as violative of Article 21 of the Constitution. The slow poisoning by the polluted atmosphere caused by environmental pollution and spoliation should also be regarded as amounting to violation of Article 21 of the Constitution.
In L. K. Koolwal v. State of Rajasthan\textsuperscript{50} in a Public interest litigation, the Rajasthan High Court has made an observation that maintenance of health, preservation and environment falls within the purview of Article 21 of the Constitution as it adversely affects the life of the citizen and it amounts to slow poisoning and reducing the life of the citizen because of the hazards created, if not checked, Right to life includes freedom from noise pollution. Freedom of Speech and expression is not absolute right and Article 19(I)(g) cannot be pressed to defend the Article as also held in the following cases In rural Entitlement Litigation Kendra v. state of U.P.\textsuperscript{51} the Supreme Court has entertained environmental complaints alleging that the operations of lime stone quarries in the Himalayan range of Mussoorie resulted in depredation of environment affecting ecological balance. In this case, the Supreme Court on an application under Article 32 has ordered the closure of these quarries on the ground that their operations were upsetting ecological balance. Although Article 21 was not referred to in this judgment of the Supreme Court, those judgments environmental complaints under Article 32 of the constitution as involving violation of Article 21 and specifically right to life.

In yet another case of Sarkar Banerjee v. Durgapur Projects Limited\textsuperscript{52} Calcutta High Court has observed that the sweep of the right to life conferred by Article 21 of the Constitution is wide and far reaching and should therefore include such minimum living conditions without which a human being ceases to be one of the said species. The court observed as, to ask a person to live in sub-human conditions by depriving him even of the benefit of two small rooms which is the minimum requirement for a family to live and compelling him to live in one single room with his wife and children and to share the bath, toilet and kitchen with another family, if it connotes anything, is mere animal existence and nothing more.

An equally important facet of that right is the right to live like a human being, which conform to much lesser degree, the state’s obligation to ensure a decent, standard of life and full enjoyment of leisure to all its workmen as provided by Article 43 of the Constitution. Compelling a person to live in sub-human conditions also amounts to taking away of his life, not by execution of a death sentence, but by a slow and gradual process by robbing him of all his human qualities and grace; a process which is much more cruel than sending a man to the gallows. To convert human existence into animal existence no doubt amounts to taking away human life, because a man lives not by his mere physical existence or by bread alone but by this human
The Court cited with approval Oiga Tellis case and elaborated the right to life further. The court also held that respondent may not be compelled to provide a decent standard of life to the petitioner. But the petitioner having been deprived of his right to a decent living which actually threatens his human existence and which possibly is more valuable than life itself, he is entitled to challenge the said deprivation as offending the right to life conferred by Article 21.

Article 19 (1)(g) of the Constitution confers Fundamental Right on every citizen to practice any profession or to carry on any trade, business, industry or service subject to the reasonable restrictions as already discussed above for instance to control effluent discharge standards prescribed by the pollution Control Boards. Article 19 (1)(g) when read along with Article 21 leads to the irrefutable conclusion that a citizen cannot carry on business if it is health hazard to the society or general public. Today even the period of carrying out the business activity is not considered a relevant factor.

Supreme Court in Consumer Education & Research Centre v. Union of India expanded the scope of Fundamental Right under Article 21 of the Constitution when held that right to health, medical aid to protect the health and vigor to worker while in service or in post-retirement is part of life as Fundamental Right under Article 21 read with Article 39 (e). 41, 43 and 48-A of the Indian Constitution.

Mr. Justice K. Ramaswamy and Mr. A.M. Ahmadi, CJI, speaking for the apex Court held: “The Right to health to a worker is an integral facet of meaningful right to life to have not only a meaningful existence but also robust health and vigor without which worker would lead life of misery. Lack of health denudes his livelihood. Compelling economic necessity to work in an industry exposed to health hazards due to indigence to bread winning to him and his dependents should not be at the cost of the health and vigour to workman.” The Court made it clear that all authorities or even private persons or an industry are bound by the directions issued by the Court in this regard under Article 32 and 142 of the Constitution.

The Court, accordingly, laid down the following guidelines to be followed by asbestos industries:

1. All asbestos industries must make health insurance of worker employed in industry.
2. Every worker suffering from occupational health hazards would be entitled for compensation of Rs. 1 lakh.
(3) All asbestos industries must maintain the health record of every worker up to a minimum period of 40 years from the beginning of the employment or 15 years after retirement or cessation of the employment whichever was later.

(4) “Membrane filter test” to detect asbestos fiber should be adopted by all the factories at par with Metalliferrous Mines Regulations, 1961, and Vienna Convention.

(5) All the factories whether covered by the Employees state Insurance Act or workmen’s Compensation Act or otherwise, should insure health coverage to every worker.

The Court further directed the Centre and all the State Governments to review after every 10 years or when the international Labour Organization gives direction in this regard, standards of permissible exposure limit value of fiber in tune with the international standard.

The Court also directed the authorities to consider inclusion of such of those small industries, factories to protect health hazards of worker engaged in the manufacture of asbestos or its ancillary products.

In Kirloskar Brothers Ltd v. Employees, State Insurance Corporation the Supreme Court, following the Consumer Education & Research Centre’s case, has held that ‘right to health’ is a fundamental right of the workmen. The Court also held that this right is not only available against the state and its instrumentalities but even private industries to ensure to the workmen to provide facilities and opportunities for health and vigour of the workman assured in the Provision of Part IV of the Constitution which are integral part of right to equality under Article 14 and right to invigorated life under Article 21 which are fundamental rights to the workmen.

In Paschim Banga Khet Mazdoor Samiti v. State of West Bangal the petitioner Hakim Singh, who was a member of Paschim Bang Khet Mazdoor Samiti fell of a train and suffered serious head injuries and suffered hemorrhage. He was taken to various government hospitals in the city of Calcutta but was not admitted because of non availability of beds. Ultimately he was admitted in a private hospital where he had to incur an expenditure of Rs. 17,000. The Supreme Court held that failure to provide of medical assistance to the petitioner by the state hospitals amounted to violation of right to life under Article 21 of the Constitution and directed the government to pay Rs. 25,000 to the petitioner as compensation. The Court said
that in welfare State the primary duty of the government is to secure the welfare of the people. Providing medical facilities for the people is an essential obligation of the government. Article 21 imposes an obligation on the state to safeguard the right to life of every person.

In state of Punjab v. Mohinder Singh Chawla\textsuperscript{59} the court has held that the right to life in Article 21 of the constitution includes the right to health and, therefore, the State employees are entitled to medical reimbursement of expenses for treatment and room rent charges both in approved specialized hospitals outside the Government hospitals, in this case the respondent a state employee had heart ailment which required replacement of two valves in the heart. Since the facility of the treatment was not available in the state, Hospitals of Punjab. Permission was given by the Director, with the approval of the medical Boards to get the treatment outside the state, he was sent for treatment in the AIIMS at New Delhi. When the bill for expenses incurred towards room was submitted the Government rejected it. It was held that the employee was entitled to reimbursement of actual room rent charges paid by him. The Court held that right to health is an integral part to right to life and the Government has constitutional obligation to provide the health facilities, consequently, the state as to bear the expenses for the Government servant’s treatment which in service or after retirement from service.

In Sushila Saw Mill v. State of Orissa\textsuperscript{60} the Supreme Court upheld the validity of the Orissa Saw Mills and Saw pit (Control) Act, 1991 under which a total ban was imposed on the right to carry on trade or business in saw milling operation or sawing operation within the prohibited area. The Court held that it was a settled law that in the public interest, restriction under Article 19 (1) (g) might in certain rare cases include total prohibition. The preservation of forest being a great matter of public interest was one of the rare cases that demanded total ban. The question as to whether reasonable restriction could include total prohibition depends on the nature of the mischief which the Legislature seeks to remedy.

\textbf{Vii. Enviro-Judicial Remedies}

In early 1980: instead of being asked to resolve private disputes Supreme Court and H.C. Judges were asked to deal with public grievances over flagrant human right violation by state or to vindicate the public policies embodied in statutes of constitutional provisions.
The Supreme Court relaxed the traditional rule of locus standi in Ratlam Municipality case\textsuperscript{61} paved the way for the NGO’s and public spirited people to move the Courts for the redressed of grievances, connected with environmental hazards under Article 32 and 226 of the Constitution.

\textbf{VII.i International law and the constitution,}

it was observed in people’s union of Civil Liberties v Union of India\textsuperscript{62} that Article 17 of the International Covenant does not go contrary to Article 21 of the Constitution of India, and therefore, been interpreted in conformity with the international law. Our Supreme Court is the guardian of the Constitution. As a guardian, the Supreme Court has the inherent power to protect, preserve and regularize the Constitution. Article 32 (1) creates the right to move the Supreme Court for the enforcement of fundamental rights and Article 32 (2) empowers the Supreme Court to issue appropriate writs, orders or directions for the enforcement or fundamental rights, Article 226 (4) implies within the Supreme Court all the powers granted under Article 226

Thus the role of the Supreme Court not only complements the weaker sections, but also supplements the objectives of the Constitution. The most dazzling instance of it is the new jurisprudential chapter evolving the doctrine of public interest litigations. It is introduced in India through Hussainara Khatoon’s case.\textsuperscript{63}

In the Indian context though bearing similarity with the American public interest litigation system, it is considered more appropriate to call our system social action litigation as it seeks to bring about enforcement of the right and entitlements of the poor and disadvantaged sections of the community to enable them to end exploitation and injustice which also indirectly helps to realize the constitutional objectives of the Directive Principles of State Policy which in the political forum remain neglected despite the state capabilities.\textsuperscript{64} a role of the judge where he ceases to be an umpire between two litigants and assumes the role of statesmen judge making his court room a parliament for participating in democratic decision and law making persons process where different interests clash in their expectations\textsuperscript{65}

The doctrine of standing has acquired a new dimension on account of the construction placed by the Supreme Court on the Provisions of Article 21 in the fair name of social justice a new crop of litigation has developed and it is known as “public interest Litigation”\textsuperscript{66} The Supreme Court and High Courts have entertained a number of petitions under Article 32 and 226 complaining of infraction of
fundamental rights of individuals or of weak or of oppressed people who are unable
themselves to take initiative to vindicate their own rights. The Supreme Court in one
of the cases has explained the philosophy underlying public interest litigation as
follows:

Where a person or class of persons to whom legal injury is caused by reason
of violation of a fundamental right is unable to approach the Court for judicial redress
on account of poverty, disability or socially disadvantaged position, any member of
the public acting bonfires can move the Court for relief under Article 32 and a for
certiorari under Article 226, so that the fundamental rights may become meaningful
not only for the rich and the well to do who have the means to approach the Court but
also for the large masses of people who are living a life of want and destitution and
who are by reasons of lack of awareness, assertiveness and resources unable to seek
judicial redress.\textsuperscript{67}

Although PIL began from Hussainara, Khatoon case’s\textsuperscript{68} but the turning point
was sometimes in 1978 when the Supreme Court took cognizance of letter written
from prison by Charles Sobraj and Sunil Batra complaining about his torture which
they and their fellow prisoners were subjected to. The court on perceiving violations
of fundamental rights treated the letters as writ petitions. The court also became
actively involved in the problems of violation of fundamental rights and started taking
cognizance of newspaper articles, complaints from social organizations and also from
third party informants.\textsuperscript{69}The initiative on the part of the Supreme Court resulted
mainly from the impact of Article 21.

In S.P. Gupta v. Union of India\textsuperscript{70} Justice Bhagwati has fully legitimizied and
conceptualized the liberalized rule of locus-standi in public interest litigation. He
observes that to insist on traditional rule of locus standi would, in effect, mean denial
of justice to the poor masses. There is an urgent need “to innovate new methods and
devise the new strategies for the purpose of providing access to justice to large masses
of people who are denied their basic human rights and to whom freedom and liberty
have no meaning.

The Courts have, therefore, a duty to utilize the initiative and zeal of public
minded persons or organizations by allowing them to move the court and act for
general or group interest even though, they, may not be directly injured in their own
right. If no one can maintain an action for redress of such public wrong or public
injury it would be disastrous for rule of law for it would be open to the state or a
public authority to act with impunity beyond the scope of its powers or in breach of a public duty owed by it. It is absolutely essential that the rule of law must wean the people away from the lawless street and win them for court of law. The justice system has hitherto been inaccessible to the poor and the down-trodden due to terribly cumbersome, expensive, dilatory and cumulatively disastrous legal process. These people can never reach the shrines of justice because of heavy court fees and mystiques of legalize.

An eminent jurist Upendra Baxi has aptly remarked that justice Bhagwati has generalized the techniques of liberalized rule of locus standi, so radically that it could justly be said-that he made a momentous social invention namely, “epistolary jurisdiction” by accepting even letters from public spirited citizens and converting them into writ petitions. In Hussainara Khatoon’s case a public spirited advocate exposed the plight of Bihar’s under trial prisoners who were languishing in jails for years together. The Supreme Court through several interim directions ordered the release of the under trials.

In Upendra Baxi’s case two professors of Law through a letter brought to the notice of the court the barbaric conditions of the inmates in the Agra Protective Home for Women. The court treated the letter as a writ-petition and directed the U.P. Government to ameliorate the condition of the inmates of the Home. Similar complaints were made against Delhi Women’s Home and the Court again provided relief to the inmates.

In Kamla case three journalists brought to the notice of the court the tale of the victims of flesh trade who were lured and then sold as chattels in certain particles of Madhya Pradesh. The Court provided relief by ordering the payment of compensation to them. These victims were later rehabilitated. Here it would be appropriate to quote an eminent journalist and parliamentarian, Shri Arun Shourie:

“We deliberately chose not to make Kamla one of the petitioners, as we wanted among other things, to obtain the rights of the citizen to move the Courts on matters of public concern. As is well known several High Courts-for instance those of Gujarat, Maharashtra and Karnataka as well as the Supreme have been tending towards liberalized locus standi. But some of the ruling has been ambiguous, some have been contradictory and in the eyes of many whether a matter would be admitted or not has too often depended on whether a case lands before some judges rather than others. While several pronouncements of the Court have been for-reaching others
have been unduly conservative in the sense that in these cases the judiciary has appeared unable to free itself from the roots of such litigation in private law.”

Our Supreme Court deserves all praise and credit for its role as constitutional interpreter and by liberalizing the concept of locus standi, the court has proved its dynamism by catering to the changing needs of the people in changed circumstances of time. It will be appropriate to cite here the case of Sudipt Mazumdar v. State of Maharashtra in which case 10 questions were referred to the Constitution Bench for getting proper guidance on the procedure to be adopted in cases of public interest. Because once if the matter is finally settled it would become the law of the land setting at rest all the doubts raised about public interest litigation. Hon’ble justice R.S. Pathak has highlighted in a precise way the crux of the public interest litigation in the following words:

There has been a compulsion to enter upon new areas of curial jurisdiction by reason of the increasing demand for justice by sections of our population whose right to remedy was not so far sufficiently acknowledged. It is for this reason that the Supreme Court of India has found it necessary to affirm that in appropriate cases the procedural requirement of filling a formal petition may be waived and even a letter or a newspaper article may be accepted as an originating proceeding. There are bound to be cases where a citizen seeking justice cannot be reason of financial disability or other equally serious handicap. Find it impossible to approach the Court through a regular petition. He specifically observed: “There has been a compulsion to enter upon new areas of curial jurisdiction by reason of the increasing demand for justice by sections of our population whose right to remedy was not so far sufficiently acknowledged”

“Public interest litigation has come to stay a conviction expressed some years ago in the Bandhua Mukti Morcha case. With the benefit of the experience the Court have had since, lay down some broad norms and principles which without adversely affecting the flexibility necessary to the proper consideration and disposal of such matters, may provide some guidance in their task. The need arises because a mystique appears to have surrounded this jurisdiction. It is desirable to analyze the concept, to evaluate its degree of success and to put it on a firmer constitutional footing. Public interest litigation cannot be put into a strait-jacket, but it is certainly amenable, as all judicial proceedings should be to the observance or certain principles-principles which will promote and guarantee its healthy development without retarding its
effectiveness as a vehicle of justice. It is only proper to dispel the misgivings of those who feel that the public interest litigation is the unruly horse which will unsettle public faith in the administration of justice, as well as to remove the fears of those who apprehend that this chapter in the Court’s jurisdiction is drawing to a close.  

In the above paragraph, Justice Pathak has very clearly stated the danger of interpreting public interest litigation without any laid down norms. In his opinion, it is pertinent to mention that public interest litigation should be there but with some established norms or set of rules. In fact indirectly he has started that it is the duty of the courts to interpret public interest litigation with due caution. In yet another case of Veena Sethi v. State of Bihar, justice Bhagwati and justice Desai defend the legitimacy of public interest litigation in following words:

There are some people who are critical of the practice adopted by this court of taking judicial action on letter addressed by public spirited individuals and organizations of enforcement of basic human rights of the weaker section of the community. This criticism is based on a highly elitist approach and proceeds from a blind obsession with the rites and rituals sanctified by an outmoded Anglo-Saxon Jurisprudence. The most complete refutations of this criticism is provided by the action taken by the court in this case. It was letter dated January 15, 1982 addressed by the free legal Aid committee, Hazaribagh to one of us which set the judicial process in motion and but for this letter which drew the attention of the court to the atrociously illegal detention of certain prisoners in the Hazaribagh Central jail for almost two or three decades without any justification whatsoever.

There have been numerous cases where false complaints have been made to the courts in guise of public interest litigation. This can be further elaborated by citing the case of Mukesh Advani v. State of Madhya Pradesh. In this case Supreme Court treated a letter along with a cutting from Indian Express as a writ petition under Article 32 it referred to the horrid plight of the bonded labour, naked and unabashed exploitation of workman in stone quarries in Raisen in Madhya Pradesh. However, after an enquiry the District Judge reported that all allegations were false and there was no bonded labour working in flagstone mines. Mr. Advani, an Advocate, who had addressed the letter to the Court, was not present at the time of arguments.

In Rural Litigation and Entitlement Kendra, Dehra Dun and others v. State of Uttar Pradesh, Supreme Court decided a case under Article 21, for the pollution caused by lime stone queries, In fact it was he first case in the country involving
issues relating to environmental and first case in the country involving issues relating to environmental and ecological balance. In this case reports of expert committee were considered by the court and having regard to adverse impact of mining operations quarries were divided into three categories. Category C quarries having serious deficiencies regarding safety and hazards were directed to be closed down permanently. Category A quarries where adverse impact of mining operations was relatively less pronounced and which were outside city limits were allowed to be operated subject to observance of Mines Act, 1952 and Metalliferous Mines Regulations, 1961.

In Rural Litigation and Entitlement Kendra, Dehra Dun (No.2) case83 justice Bhagwati concluded his judgment by making the following observations. We must place on record our appreciation of the steps taken by the Rural Litigation and Entitlement Kendra. But for this move, all that has happened perhaps may not have come to pass. Preservation of the environmental and keeping the ecological balance unaffected is a task which not only Governments but also every citizen must undertake. It is a social obligation and let us remind, every Indian citizen that it is his fundamental duty as enshrined in Article 51 A (g) of the constitution.

Court also directed the Government to pay Rs. 10,000/- as costs to the Kendra. In Rural Litigation and Entitlement Kendra, Dehra Dun (No.3) case84 the Supreme Court reiterated the earlier judgments, but observed that mining activity has to be permitted to the extent it is necessary in the interests of the defense of the country or to conserve foreign exchange. Court gave directions to government to file an affidavit setting out minimum requirements of the grade of the lime stone available in Doon Valley area, other sources in India, and stating whether, considering ecological and environmental factors mining in this valley should be permitted. The court would then decide whether and to what extent the quarries would be allowed to be operated. From all the above cases a threat of new litigation can be seen whether the courts have become the courts for poor, downtrodden and suppressed people. It was only after Maneka Gandhi’s case that courts are evolving new judicial trends whereby they can give relief to poor masses. In a system of justice operating in our country, it is the elite who seek justice and is given justice, though after a long waiting and at a very high cost. But there are millions of people, who do not have access to justice, mainly because of weak socio-economic position, because of ignorance and illegal illiteracy and to a certain extent even the doctrine of locus standi, was a major impediment. It is
in the background and enunciated so that justice may not be denied to the destitute and the under privileged and they should have access to the apex court with least cost.

In Doon valley case[^85] the Supreme court order to close lime quarries, due to grave ecological imbalance and reckless destruction of inhabitant, in the area justified the need to protect people’s right to pollution free air, water and space(environment) though a lot of inconvenience was caused to the lessee of such quarries. But according to the court, it is a price that has to be paid to protect and safeguard the right of the people to live in health environment.

In MC Mehta v. UOI[^86] the suggestion of the Supreme Court to protect and promote environment are appreciable. It suggested setting up a high powered authority by Central Government in consultation with Central pollution board, to ensure that design, structure or quality of their pant and machinery are free from defect or deficiencies. The Court also suggested for setting up of environment courts on regional basis. But closing of hazardous industries or caustic chlorine plant would throw the workers out of employment and thus it will deprive the workers of their means and livelihood. The court could not provided for rehabilitation of displaced workers, instead, it suggested a national policy for locations of chemical and other industries in areas where population is scarce.

In MC Mehta v. UOI[^87] before issuance of license to new establishment it should be ensured that adequate provisions are made for treatment of trade effluents flowing out of factories, otherwise license will be refused till it is complied with. Though the Court was also aware of the need to recognize the danger in order to strike a balance between the quality of life to be preserved and the economic development to be increased.

In Chhethriya Pardushan Mukti Sangharsh Samiti v. State of UP[^88] the Supreme Court again affirmed the fundament right of each citizen to enjoy quality of life and living as contemplated by Art 21 of the Constitution of India Anything which endangers or impairs, by conduct of any body either in violation or in derogation of laws, that quality of life and living by the people is entitled to be taken recourse of Art 32 of the Constitution The traditional rule of locus-standi is that a person whose legal rights are directly and substantially affected can directly file a petition in their own name and seek appropriate remedy from a court of law, but now courts do not insist on a regular writ petition and even a letter written or addressed by a public spirited individual or social action group, or even a report in a news paper is sufficient to
ignite the jurisdiction of the courts and it is called social action litigation. This PIL is essentially a strategy for realization of the constitutional goals and objectives. The PIL as an instrument of social change promises to dispense justice to the untouchables, downtrodden, women in protective homes\textsuperscript{89}, destitute children\textsuperscript{90} people in wrongful, confinement or illegal detention\textsuperscript{91} ill paid migrants, construction works the victims of flesh trade, the slum Dwellers\textsuperscript{92} and even in cases of gas leak\textsuperscript{93} cases of pollution and ecological imbalances\textsuperscript{94}, maintenance of public health\textsuperscript{95}, construction of roads\textsuperscript{96}, and numerous other cases\textsuperscript{97} But the year 1990-91 witnessed an increasing trend where public interest litigation was abused and misused by people in power. Numerous petitions were filed which involved private interest\textsuperscript{98} in such cases courts should be extra vigilant and they should not allow such petitions in the name of public interest litigation.

The courts have been the guardian of the Constitution and sentiments of the rights and liberties of the people and they have been protecting the same through judicial process. They have looked to the interest of the people even if there is no specific provision for the same as it is apparent from the cases decided by the Supreme Court and High Courts from time to time. They have tried to protect the interest of the society as the aim of law is to harmonize the social interest and that is why courts have administered justice even without law, but on other considerations quite within the ambit of law and constitution.

Individual liberty is a cherished right. It is one of the most valuable fundamental rights guaranteed by our constitution to the people. The word liberty is capable of being interpreted in a very wide manner. Liberty runs through length and breadth of a person’s life. Every facet or activity of a person’s life which helps in developing the full personality of an individual can be covered under it. If the right is invaded, excepting strictly in accordance with the law, the aggrieved party is entitled to approach the court for relief. The present trend, as it appears, is to invoke article 21 for any breach or violation of a right of an individual. This tendency has to be curbed somewhere because otherwise the true purport and concept of that Article would be lost. It is relevant here to add that attempts have been made to include the property right in Article 21. Earlier the right to property was a fundamental right under 31 and 19 (1) (f) of the constitution but by the Forty-Forth Amendment this right was deleted from Part III and Article 300 A was added. The result was that the right to property ceased to be a fundamental right and, therefore, attempts were made after Maneka
Gandhi’s case to bring this right also under article 21. In Ambika Prasad’s case it was stressed that propriety personality was integral part of personal liberty and mayhem inflicted on a man’s property was an amputation of his personal liberty. But this argument was not accepted by justice Krishna Iyer. It was observed by him that there might be cases where a penniless proletarian was free in his movements and had nothing to lose except his chains, but a distinction was required to be maintained between property and personal liberty jurisprudence. Maneka Gandhi’s case is applicable only when personal liberty is curtailed and not when state takes away the property in the words of justice Krishna Iyer “Maneka is universal nostrum or cure-all, when all other arguments fail.” In another case of Mustafa Hussein, the Andhra Pradesh High Court did not allow the plea that the order which required lessors to enter into a fresh lease affected personal liberty of the lessors. It was observed by the Court that the expression personal liberty is a bundle of many other rights, but it did not include the lessor’s right to get a fresh lease or to put these plots of land to whatever use they like.

Thus from the two cases cited above it could be seen that the courts were reluctant to include the property right within the purview of Article 21. The Courts were right in interpreting that liberty and property should be dealt with separately. Yet, operationally and in actual practice, priorities are inevitable and it is not diabolical to suggest that there should be a greater emphasis on basic human rights which are crucial for human survival.

Which are these rights? First and foremost, the basic human rights which derive from basic human needs essential for sustaining life, specifically, the right of food, clothing, shelter and medical care, these subsistence rights are those that every human being may reasonably demand from the rest of mankind as the moral, minimum line beneath which no one is to be allowed to sink, without destroying human dignity. They reveal a single thread and add up to a single right: the right to survive without which the possession of other human rights, such as freedom of speech or franchise, becomes a cruel joke. Let us not forget that the right to survival has little currency in many particles of the world including our own country.

Viii. Articles 21, 48-A, 47 & 51g

In Bangalore Medical Trust v. B.S. Muddappa an open space which was reserved for Public Park was allotted to a private person for the purpose of construction a hospital by the Bangalore, Development Authority. The residents of the
locality challenged the allotment on the ground that it was contrary to the object of the Act. It was held that the residents of the locality have locus standi to challenge the allotment under Articles 32 and 226 of the Constitution. A private nursing home could neither be considered to be an amenity nor could it be considered improvement over necessity like a public park. A park is a necessity not a mere amenity, for maintaining ecology in urban areas opens space and park in necessary.

In Vellore Citizens Welfare Forum v. Union of India a public interest petition under Article 32 of the constitution of India was filed by Vellore Citizen Welfare Forum and is directed against the pollution which is being caused by enormous discharge of untreated effluent by the tanneries and other industries in the State of Tamil Nadu. It was stated that the tanneries were discharging untreated effluents into agricultural fields, road sides, water ways and open lands. The untreated effluents were mainly discharged in the river Palar which is the main source of water supply to the residents of the area. It was stated that the tanneries in the State of Tamil Nadu had caused environmental degradation in that area. Nearly 35,000 hectares of agricultural land in the tanneries belt had become either partially or totally unfit for cultivation. It had been further stated in the petition that the tanneries use about 170 types of chemicals in the chrome tanning processes. The effluents had spoiled the physical chemical properties of the soil and had contaminated ground water by percolation. According to the petitioner an independent survey conducted by peace Members, a Non-Government Organization covering 30 Villages of Dindigal and Peddiar-Chatram Panchayat Unions, had been polluted. The entire Ambur Town and the villages situated nearby do not have good drinking water. During rainy seasons through floods, the chemical deposited into the rivers and land spread out quickly to other lands, the effluents thus let out, affect cultivation, either crop do not come at all or if produced the yield is reduced abnormally too low. The Ambur Municipality, which can exercise its power as per the provisions of Madras District Municipality Act, 1920 seems to be silent spectator probably it does not want to antagonize the highly influential and stupendously rich tanners. The powers given under Section 63 of the water (Prevention and Control pollution) Act, 1974, have not been exercised in the case of tanneries in Ambur and surrounding areas.

The Supreme Court held that in view of the Article 21, Article 47, Article 48-A and Article 51-A (g) of the constitution of India and other statutory provisions e.g., water Act, Air Act, and Environment (Protection) Act, we have no hesitation in
holding that the precautionary principle and the polluter pays principle are part of the environmental law of the country. Moreover, the following directions were made by the supreme Court. The Central Government shall constitute an authority under Section 3 (3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the power necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The Authority so constituted by the Central Government shall implement, the “precautionary principle and the polluter pays: principle. The Authority shall direct the closure of the industry owned and managed by polluter in case he evades or refuses to pay the compensation awarded against him.

The Supreme Court imposed pollution fine of Rs. 10,000 each, on all tanneries in the districts of North Arcot, Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai. The money shall be deposited, along with the compensation amount recovered from the polluters, under a separate head called “Environment protection fund” and shall be utilized for compensating the affected persons as identified by the authorities and also for restoring the damaged environment. Supreme Court also directed the Superintendent of Police and the D.M. of the districts concerned to close all those tanneries with immediate effect who fail to obtain the consent from the Board.

Then Supreme Court finally said “We have issued comprehensive directions for achieving the end result in this case. It is not necessary for this court to monitor these matters any further. We, are of the view that the Madras High Court would be in a better position to monitor these matters hereinafter. We therefore, request the Chief justice of the Madras High Court to constitute a special Bench, ‘Green Bench’ to deal with these case and other environmental matters. We also make it clear that it would be open to Bench to pass any appropriate order keeping in view the direction issued by us.”

The procedure in regard to acquisition of right in and over the land to be included in a Sanctuary or National Park has to be followed before a final notification under Section 26-A or Section 35 of Wild life (Protection) Act 1972, is issued by the State Government. In the instant case, since the procedure for the acquisition of rights in or over the land of those living in the vicinity of the areas proposed to be declared as sanctuaries and National Parks under Sections 26-A and 35 of the Act has not been undertaken and the final notification under Sections 26-A and 35 had not been made,
the State Government was not in a position to bar the entry of villagers living in around the sanctuaries and the National Parks. The order of State Government permitting the villagers to enter the parks and sanctuaries and collect tendu leaves could not therefore be said to violative any provision of the Act.

In our country the total forest is far less than the ideal minimum of one third of the total land. We cannot therefore afford any further shrinkage in the forest cover in the country. One of the reason for this shrinkage is the entry of villagers and tribals living in and around the sanctuaries and parks, there can be no doubt that urgent steps must be taken to prevent any destruction or damage to the environment, the flora and fauna and wildlife in those areas.

In Indian Council for Environment-Legal Action v. Union of India the Supreme Court has held that if by the action of private corporate bodies a person’s fundamental right is violated the court would not accept the argument that it is not ‘State’ within the meaning of Article 12 and therefore action cannot be taken against it. If the court finds that the Government or authorities concerned have not taken the action required of them by law and this has resulted in violation of case an environmentalist organization filed a writ petition under Article 32 before the court complaining the plight of the people living in the vicinity of chemical industrial plants in India and requesting for appropriate remedial measures. The fact was that in a village Bichari in Udaipur district of Rajasthan an industrial complex had been developed and respondent have established their energy industries therein. Some of the industries were producing chemicals like oleum and single phosphate. The respondent had not obtained the requisite licenses and nor did install any equipment for treatment of highly toxic effluents discharged by them. As a result of this the water in the wells became unfit for human consumption. It spread diseases, death and disaster in the village and surrounding areas. The villagers revolted against all this resulting in stoppage of manufacturing ‘H” acid and ultimately these industries were closed. But the consequences of their action remained in existence causing damage to the village. The court requested the National Environment Engineering Research Institute to study the situation and to submit their report, in the technical report; it was found that out 2440 tones of sludge, about 720 tones were still there. With a view to conceal it from the eyes of the inspection teams the respondents had dispersed it all over the area and covered it with earth. In spite of the court’s order they did not remove the sludge. The Supreme Court held that the writ was maintainable and
directed the Government and the authorities concerned to perform their statutory duties under various Acts including Wild Life (Protection) Act, 1972. Court further asserted that this is a social action litigation on behalf of the villagers whose right to life is invaded and infringed by the respondents as is established by the various reports of the experts. The Court held that the respondents were responsible for all the damage to the soil, to the underground water and to the village in general. Regarding the determination of cost of remedial measures, the Court held that the Central Government had power to decide it. The Principle on which the liability of the respondents so defray the costs of remedial measures will be determined is, the polluter pays that is, the responsibility for “repairing damage is that of the offending industry. In another case in M.C. Mehta v. Union of India\textsuperscript{105} the Supreme Court had ordered the shifting of 168 hazardous industries operating in Delhi as they were causing danger to the ecology and directed that they be reallocated lands to the National Capital Region as provided in the Master Plan for Delhi. The Court directed these industries to close down w.e.f.30.11.1996. The Court gave necessary specific directions for the protection of the rights and benefits of the workmen employed in these industries. Likewise in Council for Environmental Action v. Union of India\textsuperscript{106} the Court issued appropriate orders and directions for implementing and enforcing the laws to protect ecology. The petition was filed by a registered voluntary organization working for the cause of environment protection in India as a public interest litigation complaining ecological degradation in coastal areas. It was contended that the government was not implementing its own notification which was issued to regulate activities in the said zones. It was said that there was blatant violation of this notification and industries were being set up causing serious damage to the environment and ecology of that area. It was held that the matter be raised before the concerned State High Courts which shall issue necessary orders or directions.

In another case in M.C. Mehta v. Union of India\textsuperscript{107} (Pollution of Taj Mahal) the petitioner Mr. M.C. Mehta filed a public interest litigation in the court drawing the attention of the Court towards the degradation of the Taj Mahal due to the atmospheric pollution caused by a number of foundries, chemically hazardous industries established and functioning around the Taj Mahal and requested the court to issue appropriate directions to the authorities concerned to take immediate steps to stop air pollution in the Taj Trapezium (TTZ). Mr. Justice Kuldip Singh, who is known as a green judge for his decisions on pollution. Delivering the judgment held
that the 292 polluting industries locally operating in the area are the main source of pollution and directed them to change over within fixed time schedule to natural gas as industrial fuel, and if they could not do so they must stop functioning beyond 31st Dec. 1997. And violative industries be reallocated alternatives plots in the Industrial estate outside Taj Trapezium (TTZ). The corporation/Government shall provide alternative plots to such industries for relocation. The closure by Dec. 31, 1997 is unconditional and applicable to new and old both units. The Deputy Commissioner, Agra and the Superintendent of Police shall affect the closure of industries. The U.P. State Government shall render all assistance to the industries in the process of relocation. The Court also took care of rights and benefits of the workers employed in these industries and issued necessary directions. They shall be entitled to following rights and benefits:-

(a) The workmen shall have continuity of employment in the relocated industries with same terms and conditions.
(b) The period between the closure and its restart shall be treated as active employment and shall be paid to their full wages.
(c) The workmen who agree to shift with the industry shall be given one year’s wages as shifting bonus to help them settle at the new location. The said bonus shall be paid before Jan. 31, 1998
(d) The workmen who opt for closure shall be deemed to have been retrenched by May 31, 1997 and shall be paid compensation in terms of Section 25-F (b) of industrial Disputes act. These workmen shall also be paid in addition six year’s wages as additional compensation.
(e) The compensation payable to the workmen in terms of this judgment shall be paid by the management within two months of the retrenchment.
(f) The gratuity amount payable to any workmen shall be paid in addition.

In Sachindanand Panday v. State of W.B. the appellants through a public interest writ petition challenged the Government of West Bengal’s decision to allot a land for the construction of a five star hotel in the vicinity of the Zoological garden of Calcutta. It was argued that multi-stories building in the vicinity of the Zoo would disturb the animals and the ecological balance and would affect the bird migration which was a great attraction. The decision was thus taken without considering its impact on the Zoo. The court held that although in view of the Article 48-A and 51-A (g) whenever a problem of ecology is brought before the Court it would not refuse to
interfuse only on the ground that priorities are matter of policy and so it is a matter for
the policy making authority. At least the Court may examine whether appropriate
considerations are borne in mind and irrelevancies excluded. The court has always the
power to give necessary directions. In the present case, however, it was held that the
interference of the court was not called for. It was held that the decision to allot the
land for the construction of hotel was taken openly by the Government after taking
into consideration all facts and considerations including ecology. Its action was
neither against the interest of the Zoo nor against the financial interest of the state.
The Government had acted bona fide in allotting the land to the Taj Group of Hotels
for the constructions of a five star hotel at the vicinity of the zoo.

IX. CONCLUSION:

It may be started that the Superior Courts of India expanded the scope of
Fundamental Rights enshrined in Part III of the Constitution. Particularly Right to
Life and personal liberty guaranteed under Article 21 was expanded to include the
environmental protection. The Apex court has widened the scope of Article 21 of the
Constitution in two ways. First it required the laws affecting adversely the personal
liberty to pass the legality under Article 14, 19 and 21 of the constitution thus
ensuring that the procedure depriving of his/her personal liberty should be just, fair
and reasonable. Secondly the Court recognized several articulated liberties which
were implied in Article 21 like the right to free legal assistance and the right of a
prisoner to be treated with dignity was recognized as part of Fundamental Right. It is
by the second method that the Supreme Court interpreted the right to life and personal
liberty to include the right to wholesome environment in Subhash Kumar vs. State
of Bihar the Supreme Court speaking through Justice Mr. K.N. Singh held: “Right
to live as a Fundamental Right under Article 21 of the Constitution and it includes the
right to enjoyment of pollution free water and air for full enjoyment of life. If
anything endangers or impairs that quality of life in derogation of laws. A citizen has
right to have recourse to Article 32 of the constitution for removing the pollution of
water or air which may be detrimental to the quality of life”

As regards the Indian Constitution, it is submitted that there was no need to
incorporate a separate chapter on fundamental duties because limitations on the
fundamental rights and the provision of detailed directive principles are sufficient in
this direction Article 51-A (g) uses the words “Natural Environment” but in the
modern industrialized civilization such a concept is misnomer. Today the polluted
environment has taken the place of natural environment which has become a part of life.

The right to life litigations’ has provided the judges an opportunity to go through different laws, which causes the loss of life and livelihood to the poor people. The recent tendency which is noticed is that the people rush to the courts as a last resort for getting the necessities of life. In fact the courts deserve all praise and credit for their role as constitutional interpreters but there are limits as to what the law can achieve and the courts must exercise judicial self-restraint. The fundamental rights of the people in general cannot be subservient to the claim of fundamental right of an individual or only a section of the people.

The balance between Article 19 (1) (g) and Article 21 has to be provided initially by the legislature and ultimately by the judiciary because the verdict of the legislature is not final. After all the Indians are governed by the supremacy of the constitution and not by the supremacy of parliament unlike in Britain.

It is further to be noted that environment concerns arising in the Supreme Court under Article 32 or under Article 136 of the constitution or under Article 226 in the High Court are, of equal importance as the Human rights concern. In fact both are to be traced to Article 21 which deals with Fundamental Right to life and personal liberty, while environment aspects concern “liberty” in the context of emerging jurisprudence relating to environment matters, as it is in matters relating to human rights-it is the duty of court to render justice by taking all aspects into consideration.

Section 19 of the Environment (pollution) Act, 1986 weakens the implementation machinery. It bars the individual complaints to the courts unless the complainant has given sixty days notice to the central Government or the authority or authorized officers. Section 24 (2) of the Act dilutes the sanctions by providing that when an Act or omission constitutes as an offence punishable under any other Act, the offender found guilty of such offence shall be liable to be punished under the other Act and not under the Environment Act. This section/provision therefore weaken the rigorous punitive machinery of the Act. Though section 5 of the Environment (Protection) Act empowers the central Government to direct the closure of industry, it does not take into consideration an account the hardships to laborers due to closure of the unit. So it remains a problem as whether the community continues facing grave hazards or to deprive the laborers off their jobs.
In Ganga pollution case\textsuperscript{115} the Supreme Court observed that it is unfortunate that although parliament and State legislature have enacted aforesaid laws imposing duties on the central and state Boards and the Municipalities for prevention and control of pollution of water, many of these provisions have just remained on paper without any adequate action being taken pursuant there to. The fact is that pollution in Ganga is increasing day by day which clearly indicates negligent attitude of the Government machinery.

Even the court’s directions to install primary treatment plants were not complied with and the tanneries are still discharging the industrial affluent without treating the same. Even if one has installed the primary plants, these are not being maintained and operate properly. Some plants are not in working conditions.\textsuperscript{116} The SC observed that some of the relevant rules which could contribute to making the control effective to minimize pollution due to increase in number of vehicles in Delhi were not brought into force.\textsuperscript{117}

In MC Mehta v UO\textsuperscript{118} Supreme court opined that “we are conscious that environmental changes are the inevitable consequences of industrial development but at the same time the quality of environment cannot be permitted to be damaged by polluting the air, water and land as such an extent that it becomes health hazard for residents of the area are constrained to record that DDA,MCD have been wholly remiss in the performance of their statutory duties and have failed to protect environment and air pollution in the union territory of Delhi. The court recorded that local bodies and agencies meant to control pollution are lacking in performing their statutory duties and fail to protect environment and control air pollution.” Thus it is clear that the role the enforcement machinery to control pollution is not satisfactory. Even the polluters are finding loopholes in pollution control laws.

Undoubtedly the government is the real polluter as out of the fifty highly polluting industrial units 26 of them are from the public sector that have failed to install pollution abatement measure and these industries have been let off the hook after a cabinet meeting presided over by the prime mister.\textsuperscript{119}

The state pollution board has been asked to prosecute these units under the Environment protection act 1986 for not complying with standards set. Ironically the penalty will not be for failing to install pollution control measures but for not complying with standards prescribed for emissions. The sentence could be five year imprisonment or a fine of Rs 1 lakh or both. The research scholar does not recall the
successful prosecution of any such individual units. Even the industries which do not have funds to install pollution control equipments do manage to raise resources to fight the litigation\textsuperscript{120}

Manufacturing bottled water is a flourishing industry today. Its’ worth is over Rs 10000 crore p.a. and it is growing at the rate of 40\% every year. The CSE (Centre for Science and Environment) has said that samples of almost all water bottles available in Delhi except one imported from France contained 36.4 times more pesticides levels stipulated by the EEC (European Economic Commission). The study is based on a survey of 17 brand of packaged drinking water bottle around Delhi and 13 brands from Mumbai region between December 2009 and March 2011. This reinforces general apprehension on the safety of bottled water; even the best selling Bisleri has pesticide concentration levels 79 times higher that stipulated limit is amazing. Equal distressing is the fact that the sample of No.1 McDowell (this water is supplied free of cost to passengers in super fast trains) contain pesticides 370 times the permissible limit. Not long ago a report in the tribune exposed how a bottle water manufacturing plant in Ludhiana was illegally running with the help of tap water connected to an industry. CSE warns that consuming water of this kind will be deleterious to human life. It will affect the body’s immune system that can cause liver cancer and kidney damage or can disturb the nervous system and can cause the birth defects.

In view of the harmful effects of consuming bottled water the need for making the water testing standards more fool proof the stringent legislation to enforce the prescribed limits has become greater. The CSE study confirms the fact that the regulations framed by the BIS for packaged water are weak and vague. The reason that’s why the manufacturers have been flouting the BIS standards with impunity. There is also need to strengthen the monitoring mechanism. Official statement on the lack of adequate manpower in the BIS and health department to supervise the water testing standards in the respective manufacturing plants do not hold water as it is a question of human safety.

Thus it is necessary for the authorities concerned to enforce prescribed standards on bottled water scrupulously. NGOs like CSE and the research institution should also continue exposing the loopholes in the water testing standards to act as a deterrent and spread general awareness on this critical problem.
The attempts made since 1990s to clean the polluted rivers have not shown any positive signs despite shifting of industries from cities as Delhi closing down of tanneries, the house are not in order. What do the authorities implementing the SC direction? The aim is doing nothing and perhaps the will factor to implement direction is also missing. A ten year clean up effort started in 1993 seems to have literally flowed down the drain in case of Yamuna. Additional Director CPCB comments Yamuna River is dead after it crosses Delhi. Aquatic life has perished in the Yamuna River as the oxygen supply for organic matter has reduced so the fishermen are helpless. Experts realize that the reason for the pollution remaining same in Yamuna is the large amounts of waste let out into the river by the city resident. 

“" The city generates 2700 million of sewage from household’s every-day while 3000 million liters are discharged into the river by the industries.” said Manoj Nadkarni a river pollution expert at CSE. There is no clean water that joins Yamuna, the river flows 22 kms along the Delhi. There is total inflow of the densely polluted sewage in the river. Only half of the sewage falling in the river is treated by the inadequate mini sewage treatment plants. The first phase of the plan has gone haywire with little planning and even lesser clean up action. Environmentalists believe that no body ever thought of cleaning the river by attacking the problem at the roots. Only symbolic shramdaans won’t do. A planning with a bigger picture in mind is the key to do the work. State government could not give any positive result despite having spent sums of crore on setting up plant to treat effluents from industries before discharging them into river. The 12 CETPs constructed after 1996 order of Supreme Court are not functioning. EPA stumbled to the fact that during their surprise visit to the CETPs they found them looked. While most CETPs were non-functional; due lack of funds, a few were out of order due to technical snags. The team members of EPA noted that not only there is a complete and total waste of fund (running into hundreds of crores of rupees) but also the purpose which these plants were ordered has been negated. The expenditure incurred on preventing pollution in the river, seems to have achieved little. Several crore of rupees are spent to clean the Indian River but nothing is achieved effectively to save the river.

This shows that the perception of the Delhi ties that shifting the industries out of Delhi will clean the river Yamuna has been belied for. The cure did not lie in shifting the industry but treating the waste discharge by the city residents into
Yamuna on the lines adopted by London for River Thames and other European countries.

Adding fuel to the jute versus plastic bags controversy, II study has given green signal to plastic bags saying their use as packing material was safer and more economical than jute packaging. Analysis shows that though jute is a natural product, its cultivation requires fertilizers, insecticides, and chemicals which leads to health hazards. However, it is indeed worth pondering as to which cultivation does not require these things today. At present 100% food grain has too be compulsorily packed in jute bags under the jute packaging Act. But high use of chemicals in making jute bags has a detrimental effect on the water systems. Water from the production of jute bags is highly polluted and the plastic bags choke the sewerage. The question Researcher puts is if the farmers are required to stop the cultivation of jute, opium, etc., and further sunflower yield is destroyed as there are no takers, potatoes crops have no takers- resulting in the waste of their hard work stretched over a period of many months. This happens repeatedly in a considerable portion of India every year leaving the farmers with no alternative but to resort to committing suicides.

Sustainable development framework or policy concept entails thinking far into the future and how our present actions might affect our ability to live a wholesome and fulfilling life. Sustainable development can be looked into at global, regional, national, state, local and even individual scale.

Human actions must be guided in an enhanced understanding of how the world works and how we can work with world. Ecological and ecosystem concepts should be an integral part of the decision making. Sustainable development occurs within a dynamic and evolving set of interlocking system: ecosystems and economic and social system.

The role of government in developing and adopting technology for sustainable development is crucial. Regulatory requirements can produce innovative solution to environmental problem, such as labeling of major appliances for every efficiency. Product labeling can increase public understanding and may direct market forces towards environmentally friendly technologies and products. Positive government policies and embracing of new environmental friendly ethics will bring about a higher quality of life, a healthier environment and a more vibrant economy for all.
To conclude, it is important to realize that “sustainability” from the standpoint of either the availability of natural resources to meet the need of the world’s population in an equitable manner or from the standpoint of environmental protection is really two sides of the same coin, i.e., an integral part of the solution to both involves finding ways to limit per capita natural resources consumption in both developed and developing nations and ways to substitute renewable resources and “waste products”.

Environmental law is an instrument to protect and improve the environment and to control or prevent any act or omission polluting or likely to pollute the environment. In view of the enormous challenges thrown by the industrial revolution, the legislatures throughout the world are busy in this exercise. Many have enacted laws long back and they are busy in remodeling the environmental law. The problem of lawmaking and amending is a difficult task in this area. There are a variety of colours to this problem. In this whole gamut of problems, the Tiwari Committee came out with the data that we have in India, “nearly five hundred environmental laws” and that no systematic study has been undertaken to evaluate those legislative developments.

Apart from the direct cost to business of complying with stricter regulatory controls, the potential liabilities for non-complying are also increasing. These liabilities fall into five categories:

(a) Criminal liabilities,
(b) Administrative liabilities,
(c) Clean-up costs
(d) Civil liability
(e) Advises publicity

Construction and maintenance of slaughter house and regulation thereof—direction to MCD to file affidavit in regard to manner in which it proposes to carry out its obligation with respect to the modern slaughterhouses proposed to be constructed as well as those which would be operating during the interregnum.

The environment today is endangered from industrial pollutants indiscriminate deforestation vehicular emissions noise etc. Environment pollution has attracted global attention to combat pollution through legislative measures at national level while the international agencies are working for the prevention and control of pollution. Today is the need for global environment movement, the World
Meteorological Organization by co-ordination of its meteorological studies with health studies conducted by WHO can evolve some standards for stratosphere, with cooperation of International Civil Aviations Organization.

The control of the use of oceans for the deliberate waste disposal could be best negotiated by framing regulation by international/ intergovernmental maritime consultative organization in consultation with WHO, FAO to guide it regarding health and food aspects. These two though are recommendatory bodies can evaluate environment periodically and influence public opinion in favour of the required action. There is much to be gained by exchanging information, experience, practically with respect to environmental control measures. We need to go back to the Asian way of living with nature as against the European or American way of exploiting the environment.

The steps to check the river pollution can create more occupation employment e.g. instead of fencing of river Yamuna to save the river from getting polluted which involves high cost, government should motivate the people through a specially launched campaign to submit all Puja offerings at specially set up collection centers.

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3. 3-4 December, 1984, India.


6. Principle 1

7. Principle 2

8. Principle 3

9. Principle 4

10. Principle 10

11. Principle 13

12. As the key UN forum bringing countries together to consider ways to integrate the three dimensions of sustainable development-economic growth, social development, and environmental protection -the Commission approved a multi-year programme of work featuring different thematic clusters of issues for each cycle. The addresses in 2004, 2005, has included water, sanitation, human settlements. The second cycle addressed in 2009 focused on energy, industrial development, air pollution, climatic change. Later in this year the third would be devoted to agriculture, rural development, droughts, desertification and the fourth cluster would be devoted to waste management, the fifth involved forests, bio diversity, biotechnology, tourism, mountains and the sixth to be discusses in 2014, 2015 comprised oceans, small island developing States [SIDS]. The years 2016 and 2017 would be devoted to an overall appraisal of implementation of goals laid down in "Agenda 21" - a blueprint for sustainable development agreed upon at 1992 UN Conference for Environment and Development at Rio de Janerio, Brazil-and the Plan of Implementation adopted at the 2002 World Summit on Sustainable Development [WSSD] in Johannesburg, South Africa.


15. "The State shall Endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country." This directive principle required that the State shall endeavour to protect and improve the environment and "to safeguard the forests and wildlife of the country.

16. "It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."

17. Seventh Schedule, List III item 17-A "Forest was deleted from the State List and included in the Concurrent list

18. If it appears to the Legislature of two or more States to be desirable that Parliament may pass law on the subject and if the State Legislature pass resolution to the effect then Parliament may pass law on the subject. It further allows other states by resolution to adopt parliamentary
legislation.

19. "Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extent to six months, or with fine, or with both."

20. Illustration (1) to Section 7 deals with the right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not before so passing or percolation be unreasonably polluted by other persons. The illustration necessarily contemplates the rights of riparian owners. But the illustration seems to accept by implication "reasonable pollution" what is reasonable pollution has not been clarified and it is more a matter of interpretation under the particular circumstances.

24. No person shall be deprived of his life or personal liberty except according to procedure established by law.
25. AIR NOC Mad 606.
26. Express Newspaper Vs UOI; AIR 1958 SC 578
27. Olga Tellis; AIR 1986 SC 180
28. Vincent vs UOI (1987) 2 SCR 468
29. M.C. Mehta; (1988) 1 SCR 279
31. State of Mizoram & Ors v. Sh. Hrangdowal & Anr. AIR 2010 Gau 84, upheld the decision of Olga Tellis
   Case in which a Bench of Five Judges was constituted C.J. Chandrachud, Murtaza Fazil Ali, Tuljapurkar & O. Chinnappa Reddy. JJ, Also see: Delhi Transport Corporation v. D.T.C Mazdoor Congress; AIR 1991 SC 101
32. AIR 1960 SC 932 (A Bench of Five judges decided the case)
33. Ibid. at P935
35. A. V. Nachane v. Union of India; AIR 1982 SC 1126 (A Bench of three Judges decided the case)
36. Ibid.
37. AIR 1960 SC 932.
CHAPTER – 6
EFFECT OF OCCUPATION ON ENVIRONMENT

38. (1983) 1 SCC 124
39. Ibid. at p. 134
40. (1983) 3 SCC 387
41. AIR 1986 SC 847
42. 1987 Mh. L.J. 955.
44. AIR 1986 SC 1466; Also see: Ramsharan Autyanuprasi v. Union of India; AIR 1989 SC 519 (para 13)
45. Ibid. at pp. 1476-1477
47. Ibid. at p. 251
48. Dr. T. D. Patel: Personal Liberty; 1993
50. AIR 1988 Raj. 2.
52. AIR 1988 Cal. 136.
53. Ibid. at p. 141; Prabhakaran Nair v. State of Tamil Nadu; AIR 1987 SC 2117; O.P. Gupta v. Union of India; AIR 1987 SC 2257
54. See Supra Note 71.
56. (1995) 3 SCC 42
57. 1996 2 SCC 682
58. 1996 4 SCC 37
59. AIR 1997 SC 1225
60. (1995) 6 SCC 615
61. Rattlam Municipality v. Vardichand; AIR 1980 SC 1622
62. AIR 1982 SC 149
64. Dr. Thirty Patel - Personal Liberty under the constitution of India in the year 1993
65. By Dr. Thirty Patel - Personal Liberty under the constitution of India in the year 1993

67. Bandhua Mukti Morcha v. Union of India AIR 1984 SC 802 on p. 813
70. AIR 1982 SC 149
72. AIR 1979 SC 1360; Also See: Kandra Pabadiya v. State of Bihar; AIR 1981 SC 939
74. Chinnamma Sivdas v. Delhi Administration, Writ Petition No. 252 of 1982 (Unreported)
76. (1983) 2 SCC 258
77. Justice R.S. Pathak, 'Public Interest Litigation, has come to stay' Full text published in the Lawyers Collective of January 1987 on p. 10
78. Ibid
80. Ibid.
81. AIR 1985 SC 1363. AIR 1985 SC 652. The Judgment was given by J. Bhagwati for himself, A.N. Sen and Rangnath Mishra JJ.
82. AIR 1985 SC 152.
83. AIR 1987 SC 359
84. (1987) 4 J 122
86. AIR 1987 SC 981
87. 1988 (1) SCC 471
88. (1990) 4 SCC 44
90. Sheela Barse-1 v union of India (1986) 3 SCC 596, 632; Sheela Barse-1 v Union of India. (1987) 1 SCC 76; Sheela Barse-1 v The Secretary, Children Aid Society (1987) 3 SCC
CHAPTER – 6
EFFECT OF OCCUPATION ON ENVIRONMENT

50/Air 1987 SC 656


93. M.C. Mehta v. Union of India; AIR 1987 SC 965 (Oleum Gas Leak Case), M.C. Mehta v. Union of India; AIR 1987 SC 1086


96. State of Bihar; AIR 1987 SC 579 Kishan Pattanayak & Others. V. State of Bihar, and Indian Peoples' Front v. State of Orissa AIR 1989 SC 677. (This was a case in which matters concerning the poorest of poor sections belonging to most ignored region of rural India was raised). State of Himachal Pradesh v. Umed Ram Sharma; AIR 1986 SC 847.


98. Bofors Investigation. Benani Litigation was filed on behalf of Ambani's in the SC to quash pending criminal proceeding against them; A PIL was filed to ask the election Commissioner to derecognize communal prates; Also see: Subhash Kumar v. State of Bihar; AIR 1991 SC 420

99. Please see the comment on an eminent Jurist T.K. Tope in his Article Judicial Activism and the Right to Life and Personal Liberty' AIR 1979 (Journal section) 89

100. Ambica Prasad v. State of Uttar Pradesh; AIR 1980 SC 1762

101. Mustafa Hussain v. Union Of India; AIR 1981 A.P. 283

102. (1991) 4 SCC 54

103. (1996) 5 SCC 650

104. (1996) 3 SCC 212

105. (1996) 4 SCC 750

106. (1996) 5 SCC 281

107. AIR 1997 SC 735


109. Menaka Gandhi vs UOI; AIR 1978 SC 597

110. Francis Coralie Mullin vs The Administrator, UT of Delhi; AIR 1981 SC 746

111. M.H. Hoskot vs State of Maharashtra; AIR 1978 SC 1548

112. M.C. Mehta vs UOI; AIR 1988 SC 1037

113. AIR 1991 SC 420


115. MC Mehta v, UOI; AIR 1988 SC 1115 at 1121
116. MC Mehta vs UOI; AIR 1990 (2) SCALE 609
117. MC Mehta vs UOI; (1991) 2 SCC 137
118. (1992) 3 SCC 256
119. Environmental Pollution and Judicial Activism in India by P S Lathwal, Lecturer. Law M.D. University, Rohtak, Haryana.
120. Usha Rai-Polluting Industries to be let off the hook' Indian Express, New Delhi (March 3. 1994)
121. T.N. Godavarnam Thirumblapad v. UOI; (2002) 10 SCC 606