Conclusion & Suggestions
Conclusion and Suggestions

"Here is your country. Cherish these natural wonders, cherish the natural resources, cherish the history and romance as a sacred heritage, for your children and your children's children. Do not let selfish men or greedy interests skin your country of its beauty, its riches or its romance."

– Theodore Roosevelt

The environmental consequences of the various economic activities in the cities affect the different natural resources, their qualities as well as their amounts. Presently, the conventional economic accounts for a city provide a description of commodities and services in different uses, input in production of goods and services (intermediate uses) and final uses such as private consumption, public consumption, investment and exports. These add up to the city's output and imports. Along with the flows of commodities and services, are the flows of income generated in the process of production as value added in terms of wages, profits and rents and disposal for various final uses. To integrate these accounts with the green accounts, the emissions and effluents associated with the various economic activities of production and consumption should also be considered. Besides this, the preparation of sectoral detailed accounts for the resources of interest should be ensured. The main natural assets at the city level which are of interest are land, water, air, biodiversity and various exhaustible resources such as oil, coal, gas, other minerals and ores, etc. The major steps that are missing in the conventional accounting system and can be useful for preparation of such accounts have been suggested. What qualities of each of these resources have to be included, how to measure them, how to summarize the consequences of change in their qualities, how to value them and their consequences on human welfare are all debatable topics which can either be adapted
from the framework prepared for the national level or derived from extensive debates and discussions at city level forums.

On its onward path to economic development it is inevitable that urbanisation in India should grow. The unintended cost of this is the deterioration of the environment. Degradation of the environment in urban areas is caused in part by changing patterns of lifestyle but more so due to neglect of proper disposal of refuse by households, industry and service providers such as hospitals and water services. Intermittent piped water supply is the main cause for pollution of drinking water. Ineffective treatment of waste water and industrial waste contaminates water bodies and land. Ecology Conservation and Environmental Governance in Urban Areas 83 Our legal framework on air and water pollution needs to be expanded to the community level. Urban local bodies, which are entrusted with the responsibility to protect the environment and provide services are strapped for adequate financial resources as well as knowledge about treatment and disposal of refuse from various sources. Irony of the healthcare industry is that the industry which tries to improve health of an individual is not fully aware of the harm it causes to the environment through the disposal of untreated bio-medical waste. Supreme Court intervention in limiting air pollution generated by public transport and government initiatives in using green fuels have improved air quality perceptibly in some cities. Awareness about sustainable economic development which includes environmental concerns is gaining ground and various tools such as ecological foot printing and green accounting are being developed to ensure that quality of air and water that we leave to our next generation is in a better condition than what we inherited from our past.

Environment is one of the three pillars of sustainable development and is particularly important for the poor, who are more vulnerable to natural resource degradation, pollution and ecological disasters.
Environment is thus crucial for the overall objectives of cooperation: sustainable development and poverty reduction. Both environmental conditions affecting development actions and impacts resulting from them should thus be taken into account in development areas and activities. These include for example health, as many diseases are caused by pollution, and areas directly involved in the use of natural resources, such as fisheries, agriculture and forestry. However, because sectors are interdependent, all are influenced in some way by the environment. This rationale for environmental integration is reflected in the policy and legal framework for EC development co-operation, including Article 6 of the Amsterdam Treaty.

The suggestions in Bijayananda Patra are remarkable. Designing of noise proof machinery and motor vehicles, planting trees on both side of roads and outside factories, placing sound barriers on road sides, constructing tunnels instead of flyovers and restricting noisy traffic are some of them. Flights of aeroplanes are to be planned in order to curb noise.1 The Court asked for a noise code that should aim at strict enforcement of governmental standards and for establishment of noise control courts to dispose of cases quickly.2 Identical suggestions were made by the Delhi High Court in free Legal Aid Cell v Government of NCT of Delhi.3

Sheikh Ikram Sheik Israil v State of Maharashtra4 involves the livelihood of people engaged in their traditional business of manufacturing brass utensils in their houses. That could be the reason

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1 ibid, p 76. The Court said: ‘House of God should be kept peaceful and noise free as it is rightly said that God is not deaf’.
2 AIR 2000 Orl 70, pp 76, 77. The Court was of the view that district magistrate should be empowered under s 144 of the CrPC to the limit the hours of the use of loudspeakers and that pollution control boards and district administration should work out modalities of controlling noise pollution.
3 AIR 2001 Del 455, pp 462, 463. The court suggested that powers of the magistrate under s 144 of the CrPC can be effectively used and that co-operation between pollution control boards and district authorities is necessary in the discharge of these responsibilities.
for the Supreme Court to ask for a concrete proposal, including for alternative sites, despite the fact that state pollution control board found that the business caused noise pollution above the levels laid down in the Noise Pollution Rules.

LEGAL AND REGULATORY FRAMEWORK FOR HYDRO PROJECTS.

The principal Environmental Regulatory Agency in India is the Ministry of Environment and Forests (MOEF). MOEF formulates environmental policies and accords environmental clearance for the projects. The State Pollution Control Board (SPCB) accords 'No Objection Certificate' (NOC) and 'Consent for Establishment and Operation' for the projects. The project features entail a Environmental Impact Assessment Study to be conducted which is a pre-requisite for obtaining environmental clearance from Ministry of Environment & Forests, Government of India.

Environmental Impact Assessment (EIA) is an important management tool for ensuring optimal use of natural resources for sustainable development, and was introduced in India initially for River Valley Projects in 1978-79. The scope of the EIA has been enhanced to cover other developmental sectors such as industries, mining schemes, energy, etc. To facilitate project proponents in collection of environmental data and formulation of environmental management plans, it is now mandatory under the Environment (Protection) Act, 1986, for different categories of developmental activities involving investment beyond certain thresholds. The notification was issued on 27th January 1994 and was amended on 4th May 1994. This, it is hoped would provide an opportunity both for the project proponents and Government to assess the impact of the concerned project on the environment before it actually comes into play.
The Environmental Impact Assessment (EIA) is a key tool to assess the potential environmental impacts of a project before implementation and identify measures to mitigate negative and enhance positive impacts. An EIA screening warns when an EIA must be undertaken, most likely for large scale infrastructure. An important output of the EIA is an Environmental Management Plan (EMP), which aims at ensuring that the required mitigation and enhancement measures are implemented in an effective way.

The EIA study document fulfills the requirements for environmental clearance from various agencies at the state level. These include State Pollution Control Board and Committee of Experts working under the aegis of Department of Science & Technology, State Governments.

**SJVN'S INITIATIVE:**

The regulatory framework and policy both at the central and state level for environmental and social issues applicable to the HYDRO Power Projects is also application to SJVN. In addition, SJVNL has also taken into consideration the requirements of multilateral funding agencies while finalising the Environment Policy. SJVNL sees its responsibilities under the present legal framework as two fold as under: mandatory requirements under the law and the guidelines of funding agencies; and prescriptive requirements that influence management procedures addressing environmental and social issues.

**SJVNL undertakes all its activities within mandatory requirements under the National law and the guidelines of funding agencies, and prescriptive requirements that determine the management procedures for addressing environmental and social issues.** Mandatory environmental requirements for SJVNL at a national level include: Land Acquisition Procedures under Land Acquisition Act, 1894. Forest clearances under
the Forest (Conservation) Act, 1980; specifically Environmental clearances under Environment (Protection) Act, 1986. During the operations of the projects regulations like Hazardous Wastes (Management and Handling) Amendment Rules, 2003 regarding disposal of used transformer oil and Ozone Depleting Substances (Regulation and Control) rules, 2000 putting restriction on use of ozone depleting substances come into force and require voluntary enforcement and funding agencies requirements some time. The Forest & Environment Clearances procedure have been detailed in the Annexure -I to III of this document.

**Thinking Futuristically**

It may be a solution or at least attention may be focused on four different aspects:

i) Implementation of one global village theory

ii) Introduction of model law, amongst others, on –

a) Preservation of Environment

b) Human Rights and

c) Economic/ Fiscal Laws

iii) Adaptation of Model Law

iv) Introduction of local municipal law in line with the model law that implementation of the model law could be effected as in the model law in the matter of settlement of disputes through arbitration (uncitral model).

Mainstreaming environment in development co-operation activities may also contribute to stability and peace. There is a clear link between environment and security, and more precisely between the management of scarce or abundant natural resources and conflict. Stress and
competing demands on scarce environmental resources (e.g. drinking water, fertile soil - essential for food production and basic livelihood for large segments of the population), and the fight for access to and control over abundant and financially valuable environmental resources (e.g. timber, gum arabic) may lead to tensions, instability, and violent conflict. Stress on such resources (brought about by pasture and soil degradation, drought, or population growth and migration) can exacerbate tensions over access and lead to violent conflicts (e.g. second civil war 1983-2004 in Sudan which was fuelled by the dispute between the South and the North over oil and water; tension on water issues between India and Bangladesh). Migration is a natural consequence of environmental stress: people are forced to leave their homelands because of the degradation or lack of environmental resources needed for their survival. It is estimated 34 that up to 50 million people will be displaced due to environmental degradation by 2010 and the effects of global warming (floods, droughts and expansion of desertification), and this figure could rise to 200 million by 2050. Environmental refugees can have an important impact on security and on the environment in the host areas. Refugee camps often create environmental problems and disputes between the refugees and the local population related to access to, control over and management of resources, which can lead to civil disorder, insecurity and violent conflict. It is crucial that environmental considerations are taken into account during post-conflict reconstruction processes, both to ensure that these efforts do not adversely impact the environment and that environmental pressures do not fuel renewed conflict. On the other hand, it is important to note that environmental co-operation can be an extraordinary element of stability and peace and even of reconciliation. It is therefore essential to promote sustainable development and sustainable shared management of natural resources with the objective to protect the environment and at the same time to
Contribute to poverty reduction and stability. An interesting example comes from confidence building activities when two or more parties seek cooperative solutions to manage shared natural resources (e.g. water) that could otherwise become sources of conflict. Another instrument is the establishment of trans-frontier conservation areas, sometimes known as “Peace Parks” which promote regional co-operation and biodiversity conservation. These usually extend far beyond designated protected areas and can incorporate a wide range of community-based natural resource management programmes.

**Recent Developments and the Need for Legislative Coordination**

The partial implementation of the Supreme Court’s orders to convert Delhi buses to CNG suggests that there are practical limits to the exercise of judicial power in India. A recent spate of fires on CNG-powered buses has raised questions about the safety of CNG as a fuel source. Long queues at refuelling stations have curtailed bus services by reducing the number of active buses in the already depleted fleet. Public opinion seems to be moving away from CNG conversion and in favour of the recently opened Delhi subway system, where 62 miles of track will soon connect 90 stations throughout the city. Some of the roadblocks to CNG implementation could have been avoided, or at least minimized, had the conversion been originally mandated through the normal legislative process. In the haste to accommodate the Court’s orders and convert existing buses to CNG, safety considerations seem to have been overlooked, resulting in frequent gas leaks and fires at refuelling stations, as mentioned earlier. Legislative and executive intervention is now needed to establish safety protocols and manufacturing standards that will ensure a smooth and safe transition. Furthermore, the Court cannot coordinate the installation of dozens of CNG fuelling stations, a task that might have been accomplished had the conversion been originally planned and overseen by the Delhi Transport Corporation.
(DTC) in conjunction with Indraprastha Gas Limited (IGL). While the DTC and IGL have finally begun to work together, the Court’s pressing time frame has prevented them from converting to CNG cost-effectively and with minimum congestion at refuelling stations. The Supreme Court should also take notice of the opening of the Delhi subway system, reportedly one of the most advanced in the world. In contrast to the Delhi Pollution Case, which has resulted in a clumsy and partial conversion to CNG after 18 years of litigation, construction of the multi-billion dollar Delhi subway system remains on schedule and on budget. By subcontracting most of the work to private firms and relying heavily on bilateral (Japanese) aid money, major civil projects can apparently be completed efficiently.

In the end, the Supreme Court’s ruling to mandate the conversion of the Delhi bus fleet to CNG was strongly backed by scientific research that proved not only the dangers of diesel air pollution, but also the economic potential and environmental safety of compressed natural gas. Furthermore, the Court fulfilled its promise as the protector of the people by refusing to yield to the Delhi government’s objections and by pressing the view that economic concerns must not outweigh the protection of fundamental rights. In this capacity, it has succeeded in raising awareness of the air pollution problem. On 22 October 2002, the Delhi government announced a plan to introduce 4000 CNG-powered buses, and to spend 25 per cent of its state budget, amounting to 54 billion rupees (US $1.3 billion) on transport and related infrastructure over the next five years. But the Supreme Court’s activism in the Delhi Pollution Case shows how difficult it is for a court – even the Supreme Court – to manage the environment for a nation of one billion people. Environmentalists can’t help but praise the Court for its defence of the environment and human rights, but they must see the harmful institutional and constitutional consequences of the Court’s ruling. In
the Delhi Pollution Case, the Court's action seems likely to impede capacity building in the pollution control agencies, and thereby to compromise the development of sustained environmental management in India. Since many developing countries look to India as a country whose human rights are championed by an independent judiciary, it would be enormously discouraging to see the Indian Supreme Court brought low. US President Andrew Jackson reportedly once observed, "[US Supreme Court Chief Justice] John Marshall has made his decision. Now let him enforce it." If the other branches of the Indian government withdraw their support, and if people refuse to obey the Court's orders, the Supreme Court of India would be severely weakened. Indian civil society groups must recognize what is at stake here. They cannot afford to win this case at the cost of a discredited Supreme Court.

Although, Government of India has enacted Factory Act, 1948, Industrial Disputes Act, 1947, Minimum Wages Act, 1948 and Workmen Compensation Act, 1923 etc. for the welfare of labours and a Parliamentary legislation on environment namely. The Air (Prevention and Control of Pollution) Act, 1981 has also been enacted. Besides it, various rules by Union and States Governments have also been applied. But the application of such enactments and rules is not so strict as it ought to be. The medium path of such is searched for the benefit of industrialist and the officials are also benefited indirect thereby. In composing various provisions of various Acts, they adopt tolerant attitude prejudicial to the public and environment. The thing to be noted here that it is not sufficient to make the law but it should be enforced properly. It is the implementation of law, which vitiate the very object of it by a implementation of a lesser degree. Our State is welfare state not a bureaucratic
and autocratic State which requires several specific standards which may be more or less than the other countries. The basic principle of honesty and truthfulness should be kept in mind by those who are the framer and administrator of law. A small benefit to any person may cause a biggest destruction. For granting the licence in any factory authority concerned therein must consider all the actions and consequence thereof which is or likely to be born out by such activities. The inspecting staff who have to give the report, must be serious and not corrupt because it is his report on which an industry is to be set up. So anything which causes such a type of accident, must not be tackled unseriously. Hence, they have a moral duty as well as legal obligation to report to the Government. A personal liability should be imposed on their inspectors and if they are facing any supervision by their immediate bosses or superior official authority. They must forward a confidential report to the ministry for the purpose. If the ministry does not take proper action, the Government shall beheld responsible for any accident which take place by the establishment of such a industry.

India has got a complex culture which is based on our surroundings and which is not ready to loose our cultural inheritance. The forests and fresh atmosphere is our heritage which have bestowed us with a definite standard of physical and mental status. Thus, it is clearly by losing a signal point the safety-measures regarding the industry; It affects loose each and everything; like fresh atmosphere the possibility of life; vegetables and other edible materials, it also effects on psychological and metaphysical aptitude, thus it is degraded and degenerated in every sphere of social as well as biological
activities. Therefore, a single drop of poison make cause the death of the healthy person. The industries are producing and manufacturing dangerous things, or keeping which is dangerous per-se for its use in any manufacture must also be serious for safety measures. It is not only the duty of the Government but of industrialist also to have sufficient means and alternatives to avoid all sought of accidents which is or likely to take place in future. If such a type of accident take place except by the Act of God, the liability should be imposed on those industrialists who are setting the industries.

Although the laws have been made for the preservence and maintenance of atmosphere yet that is not being properly obeyed. The fluctuations are there in observance in India, a large number of industries do not have reprocessing plant for their wastage. They throw the slag on the roads and on lands. They often make to pass their wastage through drainage system to rivers. They cause to leave their gaseous waste product in atmosphere which increases the potential of harmful gas in atmosphere. By inhalation those enter in body and cause damage to body cells and bio-chemical reactions in body. Thereby producing several diseases for human beings. For instance a place where atomic plant is installed, covers a vast area for epidemic disease as skin disease, cancer and T.B. etc. Now it is the duty of Government, people and person concerned to take effective measures and to be serious for the benefit of our healthy environment.

It is not sufficient to take an alternative device to negate the adverse effect of any reaction or any danger which is in due course of that arises but they must have at least three devices must be always ready to meet any
challenge those persons who are to handle and to operate these devices or instruments, should be well equipped as it requires in Section 36(1) of the Factory Act 1948.

When the liabilities have been fixed, there arises no question of escaping from the liability. The person liable whether industrialist, or officer concerned, or the Government, the penalty must be imposed there very extensive and elaborate penal laws must be enacted to meet all the contingencies in such cases. Besides it, those who are victims of any such incident whether worker or other persons must be provided with adequate and meaningful relief. Although we know one who dies, may not be brought again in the world by any process but it is duty of the State to provide to the survivor of deceased person all facilities and other psychological relief which were to be provided to them by the deceased person, as far as practicable. In case of those injuries which are other than death of victims should be provided with medical relief besides it with the maintenance for the period as long as his inability to follow his daily pursuits exists. The effective steps should be taken by the Government in this respect.

There are many multinational companies, which are engaged in various activities are in India. In its object of speedy developments and upliftments of the standard of life India requires foreign aid as well foreign investment in India. It is also the per-se of Indian Government of investing its currency and installing its projects in various other third world countries. Our philosophy of brotherhood that is of "BASUDHEIV KUTUMBCUM." Our motto is to live and let live we do not want enrichment and prosperity for ourselves but
want to distribute and disperse its fruits to every one in the world.

The effect of Gas-Catastrophe on the public as well as workers is the most regretful and the steps for their relief have been taken by Government is commendable. The Government is sincere about the amendment of safety provisions under the Factory Act 1948 specially for the Chemical Industries so that such catastrophe may not again happen. The Government is also serious for framing the code of conduct for multinational corporations. The effect of the leakage is still continuous because the victim people have suffering from many serious diseases. The Government’s step to shut the plant at Bhopal is regretful one because the employees and workers of the plant become unemployed. It means that their families may ruin. For the solving of this problem, the Government should take steps for their rehabilitation for such employees and workers. But on the other hand this declaration for shutting is a matter of happiness because there would be surety of life for the residents of Bhopal. The licensing policy for such factory must be strict or if such factory is set up, it should be much faraway from the residents area. The steps taken by the Government for the recovery of compensation from multinational Union Carbide is adequate one but it is the necessity of time to disseminate and distribute the compensation to the victims in a proper ratio of injury sustained by them.
Guidelines on Conflict, Peace and Development Cooperation:

To improve donors’ development efforts, the OECD Development Assistance Committee (DAC) issued a policy statement in May 1997 to provide “Guidelines on Conflict, Peace and Development Cooperation on the threshold of the 21st Century”.

The key points include basic principles:

➢ Humanitarian assistance is not a substitute for sustained political commitment in support of peace. This commitment requires the application of all instruments open to the international community-economic, social, legal environment and military. Coordinated coherent responses between governments, inter-and non-governmental bodies are also necessary.

➢ Developing countries, even in crises, are responsible for their own development, and the task of international assistance is to strengthen indigenous capacities.

➢ Development assistance should seek to address the root causes of conflict.

➢ Development cooperation should recognise the important role played by women.

The primary objective of development cooperation is to enhance the rule of law and promote popular participation, but specific roles are assigned for different stages of a conflict:

➢ In open conflict, development agencies should seize opportunities to contribute to conflict resolution, and plan
and prepare for post-conflict reconstruction as well as providing short-term emergency relief.

➢ In fragile transitional situations, the emphasis should be on saving livelihoods, increasing incentives for peace and promoting reconciliation.

Some key actions for development cooperation are:

➢ To recognise structural stability as a foundation for sustainable development and advance public understanding of conflict prevention.

➢ To ensure that all policies, including security, political security, political and economic relations, human rights, environment and development cooperation, are fostering structural stability, including support for cease-fires.

➢ To reduce budgetary and functional barriers between relief, rehabilitation and development cooperation; reform of the social and economic sectors of the UN system to strengthen synergies in international responses.

The enhanced pace of developmental activities and rapid urbanization have resulted in stress on natural resources and quality of life. The trend of increasing pollution in various environmental media is evident from the deteriorating air and water quality, higher noise levels, increasing vehicular emission etc. Realising the escalated condition of the environment urgent need for arresting the pollution must be taken. In order to control the pollution the existing legislations in the field of environmental welfare must be enforced with high hand. There is urgent need to establish meaningful mechanisms to involve the public in decision-making as an instrumental tool to achieve better and more efficient decisions and better implementation of environmental law. The Government may
must consider the advisability of strengthening the environment protection machinery both at the center and the States and provide them more teeth. The heads of several units and agencies should be made personally accountable for any lapses and/or negligence on the part of their units and agencies. The environmental audit by specialist bodies must be made on permanent basis with power to inspect, check and take necessary action not only against erring industries but also against erring officers may be considered. There requires to integrate and balance the concern for environment with the need for industrialisation and technological progress.

Non-point source controls washed off fields is the largest source of agricultural pollution in. Farmers must utilize to reduce runoff flows and retain soil on their fields. Common techniques include contour plowing, crop mulching, crop rotation, planting perennial crops and installing riparian buffers. Materials such as paper, some kinds of plastics and glass can and are being recycled. This decreases the volume of refuse and helps in the conservation of natural resources. For example, recovery of one tonne of paper can save 17 trees. Control of land loss and soil erosion can be attempted through restoring forest and grass cover to check wastelands, soil erosion and floods. Crop rotation or mixed cropping can improve the fertility of the land.

Proper methods should be adopted for management of solid waste disposal. Industrial wastes can be treated physically, chemically and biologically until they are less hazardous. Acidic and alkaline wastes should be first neutralized; the insoluble material if biodegradable should be allowed to degrade under controlled conditions before being disposed. As a last resort, new areas for storage of hazardous waste should be investigated such as deep well injection and more secure landfills.
Burying the waste in locations situated away from residential areas is the simplest and most widely used technique of solid waste management. Environmental and aesthetic considerations must be taken into consideration before selecting the dumping sites. Incineration of other wastes is expensive and leaves a huge residue and adds to air pollution. Pyrolysis is a process of combustion in absence of oxygen or the material burnt under controlled atmosphere of oxygen. It is an alternative to incineration. The gas and liquid thus obtained can be used as fuels. Pyrolysis of carbonaceous wastes like firewood, coconut, palm waste, corn combs, cashew shell, rice husk paddy straw and saw dust, yields charcoal along with products like tar, methyl alcohol, acetic acid, acetone and a fuel gas. Some industrial facilities generate ordinary domestic sewage that can be treated by municipal facilities. Industries that generate waste water with high concentrations of conventional pollutants (e.g. oil and grease), toxic pollutants (e.g. heavy metals, volatile organic compounds) or other non conventional pollutants such as ammonia, need specialized treatment systems. Some of these facilities can install a pre-treatment system to remove the toxic components, and then send the partially-treated waste water to the municipal system. Industries generating large volumes of waste water typically operate their own complete on-site treatment systems.

While the Court has spoken that the community would be the warden against environmental violations and provided legal sanction to this process, currently no LAEC is functional. It may not be appropriate to conclude that the LAEC was a full-blown success. Instead it must be viewed as a brief period when the SPCB's machinery was oiled and geared towards enforcement but did not eventually fulfil the objective of improving mitigation. It instilled a kind of fear amongst regulators and industry and created a system of accountability for regulators. The
functioning of the LAEC brought a sense of fear of unpredictability and a kind of "rogue" or militant element in execution keeping the SPCB on its toes as the LAEC was creating tremendous countervailing pressure to take hard decisions. It proved that Committees with the involvement of the citizens could not be dismissible as one possessing lay expertise but instead can be far superior to scientific expertise. Overall, there were several merits to the LAEC model and reviving, refining and sustaining this model through a formal institutional process within a larger context of progressive environmental governance processes would be ideal and necessary to realize the benefits of greater enforcement of Indian environmental regulation.

The Taj Mahal Case: MC Mehta v Union of India, WP(C) 13381/1984

In 1984, the Taj Mahal case was brought by MC Mehta, a leading environmental activist, to protect India's Taj Mahal from air pollution, alleging that industrial emissions were causing the white marble to blacken in places and fungus to grow inside the monument. Mehta requested the implementation of anti-pollution measures or the closure of the pollution causing industries. Over the course of litigation, the Supreme Court passed many orders directing the central, state and local authorities to undertake developmental and regulatory measures for the improvement of the environment and the protection of the Taj Mahal. However, it was not until 1996 that the Court, finding that industries in the area were actively contributing to air pollution, finally ordered 292 coal-based industries to either switch to the use of natural gas or relocate their businesses outside the protected area, with job security or compensatory measures required for employees. While a number of factories complied with the order, many others ignored the order, claiming the cost of such action was prohibitive. Thus, in 1999, the Court ordered 160 factories closed for failure to comply with the order.
Suggestions:

No doubt, the aforesaid discussion covers major aspects of government policy and the law about the hazardous industries in the country but still there are various important measures that still need to be included therein. Such measures would not only be effective in controlling the activities of hazardous industries but also be helpful in reducing the chances of causing any damage to environment, property and the person. In this context, the following suggestions are made:

➤ **Need to Introduce Some Methodology to Study Environmental Impact Assessment (EIA) for the Person Seeking to Locate the Hazardous Industry:** No doubt, the central government has been empowered under part (VII) of rule 5 of the Environment (Protection) Rules 1986 to take into consideration net adverse environmental impact likely to be caused by the operation of any industry while to prohibit and restrict the location of industry. But as per opinion of Supreme Court the burden of proof to identify risk of the harm to the environment also lies on the person or entity proposing the activity (i.e., the person seeking to establish or operate industry), But in the absence of any methodology or procedure suggested therein to carry out the study for EIA, it is very difficult to have any clear picture about the after effects of any hazardous industry proposed to be established. In these circumstances, it is essential that some methodology to conduct the study of EIA must be suggested and the inclusion of public opinion living around the industry proposed to be
established should be made an integral part of such methodology. For this purpose environmental legislations should accordingly be amended.

Need to Change the Cognizance Power of the Court under Environmental Legislations: The critical aspect of cognizance power of the court under different legislations is that it will not take cognisance on any private complaint unless a person duly serves a notice of 60 days to the board about his intention to file the suit. Thus, it precludes the effected persons from seeking remedy for a considerable time. Since the boards are already under mandatory duty to monitor the activities of the industries, hence there is no justification to restrain any effected person from seeking any remedy for such a long time. Thus, there is need to set aside such restriction of 60 days to enable the court to take quick action and provide immediate relief to the complainant. In these circumstances, appropriate amendments should, accordingly, be made under aforesaid provisions of environmental legislations.

Need to Create Public Awareness About Legal Procedure: In fact, it is the awareness of people that plays a decisive role behind the success of any legislation or national policy. But generally people are not well acquainted with the legal procedures as to enable them to seek relief under environmental legislations. Hence there is need to educate people about such legal procedures. This can easily be done by state pollution control boards in exercise of their functions respectively under section 17 of Water (Prevention and Control of
Pollution) Act (WPA) and section 17 of Air (Prevention and Control of Pollution) Act (APA) by organizing legal camps, seminars or distributing leaflets among the people and specially in areas around the hazardous industries.

Need to Create Some Specific Liability of State Board Under Environmental Legislations: No doubt, it is due to the activities of the hazardous industries not being carried out in accordance with the provisions of the environmental legislations for a considerable period that ultimately cause disaster situation of natural environment (as happened in cases of Vellore and Bichheri's cases). Such situations clearly relates to monitoring system, which needs to be carried out by the state boards in exercise of their functions as mentioned under environmental legislations. In these circumstances, the question arises, if somewhere, any negligence lies on the part of the boards, why should they not be held responsible for their conduct along with the industries which are held mainly responsible for causing disastrous situation due to their irresponsible activities. In these circumstances, there is a need to create some specific liability of the state boards also to meet such situation. For this purpose, section 62 of WPA and section 47 of APA should accordingly be amended.

While the challenges are formidable, there are a number of positives, which provide the Ministry an opportunity to take forward the environmental agenda, building on the strengths and the experience of implementation accumulated over the last two and a half decades. The opportunities are mainly the following:
Conclusion and Suggestions

- Increased public awareness and civil society pressure
- Improved economic status
- Need to align with global standards and practices
- Strong technology base
- Optimum utilisation of Centres of Excellence and other attached institutions

**Strengths**

- A robust regulatory framework
- Institutional Structure
- Mainstreaming of Sustainability Concerns
- Creation of Conservation and Pollution Abatement Infrastructure
- Successful implementation in certain areas
- Increased Environmental Awareness, civil society involvement and transparency

**Opportunities**

- Increased public awareness and civil society pressure
- Improved economic status
- Need to align with global standards and practices
- Strong technology base
- Optimum utilization of Centres of Excellence and other attached Institutions

**Core Learning Agenda for Environmental Concerns**

- Guidelines for support to environmental research for environmental management and natural resources. Strengthening
of scientific manpower and arranging multi disciplinary infrastructural facilities for environmental research.

- Sensitizing schools/colleges/universities, professional and management institutions, corporate sectors about environmental issues. Organising National Environmental Awareness Campaign and National Green Corps.

- Preparing State Level Action Plans for climate change (SLAPCC) consistent with the strategy outlined in the National Action Plan on Climate Change (NAPCC). Reduce carbon sustainable by 20 to 25 percent by 2020 in comparison to the 2005 level as a objective of NAPCC.


- Ensure timeline for environmental clearances.

- Consultation with stakeholders while formulating standards as well as policy, involvement in decision making apart from formulation of Legislations, Regulations and Guidelines for control on pollution.

- Use of international best practices and their adoption on pollution. Indigenized wherever possible depending on the techno-economic feasibility while formulating standards. Promotions of GIS/GPS is also being emphasized.

- Implementation and monitoring of standards, setting up of network of water, air and noise monitoring stations, identification of critically polluted areas and pollutants, preparation of plans, programmes, scientific inventorization, studies and projects.

- Capacity building programmes which inter-alia includes national and international exposure. Technical strengthening like new
parameters for National Ambient Air Quality Standards and lidar based forecasting of air quality.

- Enhancement of delivery services like computerization, fixing timelines, digitalization of data, promotion of ITC etc.
- Conservation activities for rivers on a river basin approach. Prioritizing and implementing action for the tackling pollution in major towns of Ganga. Adoption of new sewage treatment technology.

**The Core Learning Agenda for Forestry and Wildlife Concerns**

- Consultation with public/academicians/NGOs/ Practitioners for improvement of ongoing activities on afforestation. Capacity building through scientific/extension institutions.
- Strengthening of integrated development of wildlife habitats and providing adequate funds and training to forest personnel.
- Consultation with Gram Sabha for constituting the buffer or peripheral area of tiger reserves which aims at promoting coexistence between wildlife and human activity.
- Global Tiger Initiative of World Bank for capacity building to improve the field delivery through exchange of good practices.
- Participation in the International Conventions. Attempts to internalize the international best practices in the ongoing programmes.
- Ensure timeline for forestry clearances.

The inclusion of aforesaid suggestions under different environmental legislations may be quite helpful in making policy on hazardous industries quite effective and useful. Moreover, it may provide better opportunity for the people to participate along with the boards in monitoring the activities of hazardous industries. It would not only put a substantial pressure on hazardous industries to carry on their activities in accordance with rules and the prescribed standards but also enable
the people to protect their life, property and the environment more effectively in the present era of hazardous industries in the country.

The fact that the victims of Bhopal tragedy have not been able to pay any substantial relief, rehabilitation, proper medical facilities and compensation over many years after the accident shows that the administrative and legal system in India has miserably failed in catering to the enormous problems. Was it not the duty of the State to identify the victims and their problems, without waiting for the settlement in February, 1989? Has the State taken adequate effective steps even after the Settlement to look from the point of view of the gas victims and expedite the matters? If the State could bring a representative action to claim compensation on behalf of the gas victims, did not it have a corresponding obligation, particularly as a Welfare State, to handle the things expeditiously, on a war footing?

This is clear from the fact that on 30th April, 1993 the Supreme Court had to give a direction that the settlement amount of 470 million dollars and the interest accruing from it should be utilised only for payment of compensation to about 6 lakh victims, and under no circumstances, the same should be utilised for payment of interim relief to the gas victims.

The examination of the implications of Supreme Court's innovations for environmental jurisprudence reveals that the application of innovative methods to resolve environmental disputes and implement Court orders is certainly a deviation from the usual adjudication function of the Court. While the procedural innovations have widened the scope for environmental justice through recognition of citizens' right to healthy environment, entertaining petitions on behalf of
affected people and inanimate objects and creative thinking of judges to arrive at a decision by making spot visit, substantive innovations have redefined the role of Court in the decision-making process through application of environmental principles and expanding the scope of environmental jurisprudence. Given the crisis within the executive and legislature in discharging their Constitutional duties, the Supreme Court's innovative methods have attempted to arrest the dysfunctional trend of other organs and enable the effective enforcement of environmental laws. However, in reminding other organs about their Constitutional duties and enforcing fundamental right of citizens, the Supreme Court has at times, crossed its boundaries and started interfering in the very basic affairs of environmental management. In resolving more than 100 environmental cases since 1980, the Supreme Court has continuously engaged itself in the management and resolution of environmental conflicts and thereby increased the country's dependence on the Court for environmental protection. This dependence on a judicial institution that has already exceeded the boundaries of its responsibilities has been further complicated by the lack of monitoring of the Supreme Court's orders and the vagueness of the legislative and executive roles regarding environmental issues. With its intervention in the interpretation of environmental policy and implementation process, the potential for resolving environmental conflict is hardly over. The review of environmental cases shows that there has been no uniform cooperation from the implementing agencies to effectively implement the Court directions. It is also observed that most of the innovative methods introduced by the Court have neither been followed consistently nor been
institutionalised to make a long term impact for the environmental jurisprudence process. In such a situation, how long will the Supreme Court monitor the implementation of its decisions? As the opposition to judicial intervention in the affairs of other organs increase, what will happen if the implementing agencies and people disobey Court decision for the protection of environment? It remains to be seen whether the Court can protect the environment through innovations if there is steadfast resistance from implementing agency or whether it can continue to intervene in the absence of public support. More importantly, it remains to be seen whether peoples' faith in the Court's attempts to protect environment through innovative methods will be belied.

After "Bhopal Gas Leak Disaster's Case" we can say that a new concept of civil liability has been come before us whether it is the concept of absolute liability or principle of polluter pays. Because of these principles, if any industrial establishment pollutes the atmosphere, they will have to pay the compensation to the Government. By these principles we can prevent the people to pollute our environment. Because, without healthy atmosphere none can survive in the world. So, at last I would like to say that we should have to think about our health, but without healthy, neat and clean environment, we cannot imagine about better health.