

# Environmental Pollution and Judicial Control

Sairam Patro

## How to cite this article:

Sairam Patro/Environmental Pollution and Judicial Control/Indian J Law Hum Behav 2022;8(2):65-73.

## Abstract

Environment pollution is a core issue involved in protection of environment highly developed countries. The growth of skill and machinery has no doubt brought about a radical change in individual livelihood leading to developed and developing countries where there is communication and transport plays vital role have provided an increase to trade and commerce on the global level. Human activities, such as deforestation and modernization, are affecting the natural habitat necessary for human survival. Environmentalists have recommended on various ways of controlling overpopulation and other means of getting alternative sources of energy, such as solar and wind power. Article 51(A)-(g) and 48-A of the Indian constitution enables right to life and has been interpreted by the courts in legally binding in all respects. The role played by higher judiciary regarding the cases related with violation of environment and human rights has acquired. The Supreme Court has not only played a crucial role in the implementation of environmental laws but also interpreted the right to life. Mismanagement in appropriate dumping of liquid, gas and solid wastes and hazardous remaining substances from industries and factories is until now another point for polluting the environment and damaging the ecosystem.

**Keywords:** Environment pollution; Mismanagement; Dumping of liquid, Gas and solid wastes and hazardous remaining substances; Pollution; Environment.

## INTRODUCTION

One of the biggest problems is constitute environmental pollution for the human survival as the nature is the gifts. Environment pollution is a core issue involved in protection of environment advanced countries as well as underprivileged countries. The right to health

constitute plays a vital role which is accepted as essential right therefore it attracts attention of human beings. The quality of the environment has been declined due to foul gases, vapours, fumes smoke, effluents, chemical wastes and other hazardous substances, loss of soil fertility excessive use of pesticides, chemical fertilizers etc. are the main contributors creates hindrances to ecological balance.

The role played by science and technology gives enormous amount of change for human have accepted as improve the trade and commerce on the universal level. The adverse effects either it may be direct or indirect which helped the climate change. Environmental pollution is classified according to the nature of pollutant and environmental mechanism. Thus it includes (a) Air Pollution (b) Water Pollution (c) Soil/Land Pollution (d) Noise

**Author Affiliation:** Member Faculty, Department of Law, Lingaraj Law College, Odisha 760010, India.

**Corresponding Author:** Sairam Patro, Member Faculty, Department of Law, Lingaraj Law College, Berhampur, Odisha 760010, India.

**Email:** [drsairampatro@gmail.com](mailto:drsairampatro@gmail.com)

**Received on** 20-01-2022

**Accepted on** 26-02-2022



Pollution (e) Radioactive Pollution (f) Thermal Pollution.

Human beings are the one of the fatalities of environmental harm. Though there is no consensus at the international level regarding securing a right to environment as a fundamental human right, yet every effort have been made in some national jurisdiction for such a right. Thus right to environment fundamentally emanate from the right to life, which is the core issue of all fundamental human rights. The parameters of this right in the mixture of jurisdiction may be place in a different way, even as the right itself is still in development. The endowed right to Environment to be protected is likely to be frowned upon in developed societies, as those looking for it may be unconstrained development. The invoking and enforcement of this right has regularly become disreputable and complex, as existing mechanisms and legal responses are dominant factors.

Environment has multifaceted problem. It is not only a global phenomenon, but also many sided complex problem with inter locking financial, technological and legal response. It requires not a solitary confinement for short term action but a continuous and permanent process. Land, water, air, human beings, plants and animals are some of the mechanism which will be conserved and protected from deprivation for the continuance of the environmental equilibrium. Agriculture, industry, science or technology, their conservation, both quantitatively and qualitatively are some of the factors which make environment importance. Some of the dilapidation of the environment is resulting in ecological imbalances and loss of normal resources which is seriously affecting the flora and fauna of the planet, resulting in Global Warming, Climate Change etc.

The conservation of surrounding is a universal issue and it is not an inaccessible problem of any area or nation. The difficulty of ecological pollution in more and more in little world concerns all countries irrespective of their size, level of development or ideology.

Despite the uniformity of approach among different communities in India regarding need for conservation of natural forces of environment is exploiting possessions indiscreetly that they are quick attainment direct of extinction and the prospect production would nuisance us for mishandling the environmental difficulty. Thus management of natural resources results to grave environmental problems like water scarcity, air pollution, dangerous gas emissions, deforestations

etc. Mismanagement in appropriate dumping of liquid, gas and solid wastes and hazardous remaining substances from industries and factories is until now another point for polluting the environment and damaging the ecosystem. During the earlier period of time, six decades have tremendously passed for increasing the touchstone of public health, human development, sanitation, agricultural yield; protection to public property etc. has remained a deserted area with the consequence India has made development in financial and industrial sectors.

Growth throughout technical advances and expansion of developed has got to be accelerated for general monetary growth and enhancement of quality of human life for the well-being of society as a complete, but it should not be at the cost of ecological reduction. The necessity of the time, therefore, is on sustainable progress which implies that the procedure of socio-economic and engineering development may be sustained without compromising the skill of prospect production to assemble their own needs, and this is promising by negligible interfering with the expected resources and their safeguarding for the approaching generation as far as potential.<sup>1</sup> The legal creativity enough to protect the environment is an important question, in reply to offence that courts plays a vital role in the environment protection and has been able to assurance the citizens the right to live in a uncontaminated environment on account of Fundamental Right under Article 21.

Pollution occurs when there is the possible for damage. Destruction of man is not only confined to physical injury but it encompasses as a crime caused to any of his sanity or harm to his property, therefore smells and sound not only for damage can make up pollution. Damage to living organisms can be incorporated to their health or intrusion with the ecological systems.

## SIGNIFICANCE OF THE STUDY

There are several reasons that impelled the researcher to undertake this present study. Global warming explores the resulted of worldwide warming, researching detailed belongings and countries where average temperature has transformed by the exaggerated biodiversity and accepted resources. Thus it represents the principal confront opposite to the contemporary earth from the soil, water to air pollution. Examine how skill and factories are detrimental our globe, foremost to diminish in accepted property after investigation recommends some possible solutions to the trouble.

In today's globe, numerous of the class features disappearance due to poaching and hunting, or even average temperature altered. Many countries are flatterer conscious of this danger are making efforts either through laws, activism, or creating accepted uncertainties to defend these scarce species.

It has been recommended that the earth was overpopulated since its formation decades ago, and this has led to increased pollution, soil degradation, and a decrease in natural resources. Human actions, viz., deforestation and modernization, are affecting the ordinary surroundings essential for individual continued existence. One of the way for controlling overpopulation and other means of getting alternative sources of energy, i.e., solar and wind power.

Environmental population is research topic that investigates the pros and cons of recycling as well as a description of the recycling process for

different materials such as cans, plastics, glass, and cardboard. When adequate protection is given, the exploitation of nature by present generation is alienable.

## ROLE IN NATIONAL AND INTERNATIONAL CONCERN

Environmental pollution has become an acknowledged impression fundamental environmental policies in Organisation for Economic Co-operation and Development (OECD) associate countries and at present the stage and significant role in national and international ecological strategy. It becomes an unambiguous element of legislation in some nations; in others, it is an understood implication for together ecological guideline and legal responsibility for pollution. It has been included in come to International Instruments/Conventions/Agreements.

**Table 1:** The main Environmental Laws in India and the International Conventions have been analysed.

S.No.	International Environmental Laws	Relevant Indian Environmental Statutes
1.	The Stockholm Conference, 1972	The Air Act, 1981
2.	The Rio Conference, 1992	The Environmental Protection Act, 1986
3.	Convention of Biological Diversity, 1992	The Public Liability Insurance Act, 1991
4.	Convention of International Trade in Endangered Species of Wild Fauna and Flora, 1973.	The National Environmental Tribunal Act, 1995
5.	—	The Biological Diversity Act, 2002
6.	—	The Wild Life Protection (Amendment) Act, 2002

The above Table shows the main Environmental Laws in India and the International Conventions have been analysed.

### (a) The Stockholm Conference, 1972

The determining factor has made for the conference lack mitigation for safeguarding the environment. Stockholm represented a one of the stock of the worldwide individual collision on the surroundings, an attempt at forging a essential common viewpoint on how to speak to the confront of preserve and pleasing to the eye the human environment. As a result, the Stockholm Declaration espouses mostly wide environmental rules, goals and objectives of normal positions.

### (b) The Rio Conference, 1992

In Rio conference about 172 government officials were participated, with their report to 116 sending their Heads of State of Government.<sup>1</sup> About 2,400 representatives of non-governmental organizations (NGOs) participated, with 17,000 citizens at the

consequent NGO "Global Forum". The main points were addressed are included:

- Regular inspection of different patterns of invention — chiefly the construction of toxic apparatus.
- Another sources of energy to restore make apply of fossil fuels for correlated to universal climate change;
- Innovative dependence on transportation systems in order to make it convenient reduction in vehicle emissions, overcrowding in cities and the strength problems caused by polluted air and smoke in the increasing shortage of water.

India adopted a very significant legislation in pursuance of the Rio Conference. Therefore it formulated *The National Environment Tribunal Act, 1995*.

### (c) Convention of Biological Diversity, 1992:

It was renamed as Biodiversity Convention, was a

multilateral treaty. The Convention had three main issues:

- Preservation of natural diversity.
- Sustainable use of its device.
- Pale and disinterested contribution relating to reimbursement coming from inherited funds.

In supplementary terminology, the purpose is to expand nationwide strategies for the protection and sustainable exercise of organic multiplicity for the resolution of economic growth. This convention was recognized as per international law for the protection of natural multiplicity is "a common concern of humankind" as well as essential element for the growth course of action. This compliance covers each and every one ecosystem, kind, inherent wealth. Its relations customary preservation of hard work to the financial objective of by means of organic funds sustainably as well as sets ideology for the just and reasonable allocation, reimbursement coming from the formulation of different exercise of inherited wealth, particularly for commercial use. The Government of India had enacted the *Biological Diversity Act, 2002* with conformity of the Convention on natural multiplicity and to take steps with regard to:

- Control performance illegal.
- Provide different recommendation to the Government on preservation of biodiversity.
- Intellectual Property Rights (IPR) is one of the steps for appropriate measure against contribution of in overseas nations, coming out from the use of organic possessions or associated established information.
- In India, in the field of environmental security and development, awareness has been made for the reward of right to traditional era to the current period. In earlier period, India has make preservation and tidiness up of environment for spirit of Vedic civilization. In Hindu religion forests, plants and wildlife preservation thought put of particular respect. A critical green tree was forbidden and penalty was imposed for this legislation.
- Throughout the Moghul age, environment preservation was not receiving a large amount concentration. On the other hand, the forests were running under the help of a multifaceted variety of system and policy wicker approximately the social and cultural kind as well as the financial

activities of confined to local communities.

- The forestry, flora and fauna and water pollution paying much concentration in this respect. Meanwhile, performance of the Forest Act, 1865 was one of the steps for asserting the State monopoly right over the forests. In the meadow of flora and fauna preservation, the British people were practised discriminating natural world preservation. On the ground of water, the anxiety for preservation and running of water property in the context of Bengal Regulation VI of 1819 in India.
- After sovereignty the Constitution of India was enacted in 1950, but it does not contract with the theme of surroundings or conservation and manage of pollution until modification in 1976. Maintenance of global principles, the Central government passed various legislations for environment conservation, water pollution, air pollution and wildlife protection. The criterion for Indian Environmental Legislation was passed in 1972 at Stockholm. India decided the morality and an achievement plan to look after the environment and come under an compulsion to put into practice these nationally. Under the Articles 48A<sup>2</sup> and Article 51A (g) was incorporated and amended from time to time by the Indian Constitution.<sup>3</sup> The Water Act, 1974, Air Act, 1981, and the Environmental Protection Act, 1986 was enacted from time to time and different provisions has been amended by the Indian Parliament.<sup>4</sup>
- The post-independence era, of environmental protection, but after 1970, to restrain and manage environmental pollution the Central Government has passed complete (special) environmental laws. The laws passed various acts i.e., the Wildlife (Protection) Act, 1972; the Water (Prevention and Control of Pollution) Act, 1974; the Water (Prevention and Control of Pollution) Cess Act of 1977; the Forest (Conservation) Act of 1980; the Air (Prevention and Control of Pollution) Act, 1981; the Environment Protection Act, 1986; the Environment (Protection) Rules, 1986; the Public Liability Insurance Act, 1991; the National Green Tribunal Act, 2010, etc.
- The National Green Tribunal Act was set up with the aim of extraordinary fast-track court for quick clearance of universal cases



relating to environment. The National Green Tribunal is the first deceased of its type act to pertain the “polluter pays” standard and the code of sustainable growth.

## PROTECTION MEASURES IN INDIA FOR ENVIRONMENT

The conservation of Environment is no another point for changing times of development and industrialization as it has become a requirement and a element of the permissible and ethical responsibility of every inhabitant to safeguard and get better surroundings about him. Thus, the judiciary also has move towards familiar to participate its role in the preservation and improvement of surroundings and developing go-ahead not only for the persons but also for everybody also for the Indian citizen, being a person, organizations, commercial or industrial houses. The difficulty therefore arises that whether the judiciary all the way through its position is doing sufficient to protect and improve the environment by its current come up to and whether there are some differences in the irritated instances of a variety of types of pollution and deprivation of the environment. Despite the slow and steady degradation of the environment the onset of industrial revolution including the growth of population and poverty of the people forced more and more dependence on natural resources to satisfy their basic needs of food, shelter and fuel. The Central government has been granted general powers for taking necessary measures for protecting the quality of the environment, for laying down standards for omission or discharge of environmental pollutants, for laying down safeguards for prevention of accidents and in respect of handling of hazardous substances, requiring persons to furnish certain information, issuing direction to persons, planning nationwide pollution control programmes and coordination of the actions of various agencies and authorities under the Act etc. The Government of India may also publish different regulations, orders, instructions, guidelines etc. under this Legislation. Dangerous substances include the substances which may source of hurt to human beings, other living creatures, plants, micro-organisms, possessions or the surroundings. This legislation prescribes penal provisions relating to offences by companies for contravention of orders, and instructions issued under the Act etc.

There are also other problems relating to environmental protection such as rising of

inhabitants, illiteracy and job loss create questions concerning condition of food, protection, water and sanitation. The Article 48-A imposes a responsibility on the State to defend and get better the environment and protect the forests and wildlife of the nation. The Water (Prevention and Control of Pollution) Act was passed in 1974 and the Air (Prevention and Control of Pollution) Act was enacted by the Indian Parliament during the year 1981.

Bhopal Gas Tragedy case<sup>5</sup> provides the best illustration of a representative suit wherein mass action against the Union Carbide company, Bhopal, a subsidiary of the Union Carbide Multinational Corporation, U.S.A. was sought by the gas victims collectively through a representative suit. The Supreme Court in this case called upon the higher courts to invoke their inherent powers conferred on them Under Section 9 of the Civil Procedure Code, 1908 in order to expand the scope of liability under law of torts.

In this case, the foreign multinational Corporation i.e., the Union Carbide was held liable for nuisance and negligence causing untold suffering and injuries to thousands of people due to methye-iso-cynide (M.I.C.) gas leakage in its Bhopal plant in the mid-night of 2/3 December, 1984, the High Court of Madhya Pradesh upheld the claims of large number of people who were injured and suffered from incurable disease due to ill-effect of M.I.C. gas on their health and held the Union Carbide liable in the mass representative suit. The court held that a in a mass-action, quantification of damages can be made without attaching much importance to individual injuries. The Union Carbide Corporation tried to disown liability on the ground that a holding Company cannot be held liable for the dangerous and hazardous activities carried out by its subsidiary company in India which resulted into huge mass destruction of man, material and property. The Court however rejected the plea and held the corporation liable.

## JUDICIAL RESPONSE

The Supreme Court and High Courts has given landmark judgement in the study of law making and decision making success or failures, the position of courts has been vital role in determining the environmental laws and regulations. The Indian court formulated different method of Public Interest Litigation for various reason of environmental conservation in many cases on behalf of deprived and unaware of citizens. The crucial role played

by the Judiciary in the adoption of Environmental Jurisprudence in India can be deliberate through the following landmark judgements which gave new description to environment legislation and legal action both. It is only due to the legal inspiration seen in these meticulous cases that there are Doctrines and various aspects related to protection and development of environment in India today.

Most of the cases relating to the environment come under in the form of Public Interest Litigations or Social Action Litigations, either under Article 226 or under Article 32 as defined by the writ petitions of Constitution of India. The Apex court takes various litigations as decided and are interpreted in the form of judiciary expands the range of environmental jurisprudence on various important and measure doctrines and principles. The adoption of the Polluter's Pay Principle, Precautionary Principle, The Public Trust Doctrine, the proposal of Absolute Liability etc. are some of the concepts and doctrines which establish submission and development in Indian legal System only from first to last the Judicial Activity and originality through ecological litigation.

Under the legal system the position of constitution Article 51(A)-(g) and 48-A is enabled in life and not binding legally has been interpreted by the Indian courts. However, some provisions have been accorded by the courts to justify and expand a lawfully compulsory fundamental right to environment on account of right to life under Article 21.<sup>6</sup>

The responsibility of the Judiciary in the functioning of Environmental cases in India can be deliberately all the way through the subsequent landmark judgment which gives innovative face to environment legislation and litigation both. It is only owing to the judicial imagination seen in these thorough cases that may be Doctrines and various aspects related to safeguard and development of environment in India.

In a landmark judgment between *Rural Litigation and Entitlement Kendra vs. State of Uttar Pradesh*<sup>7</sup> it is the first case of this kind in India, involving issues relating to environment and ecological balance. The R.L. & E. Kendra and others in a letter to the Supreme Court complained about the illegal / unauthorized mining in the Mussorie, Dehradun belt. As a result, the ecology of the surround area was adversely affected and it led to the environment disorder.

As per the Environment (Protection) Act, 1986, the Supreme Court treated the letter as writ petition to

stop the excavations (illegal mining) under Art. 32 of the Constitution. The respondents asked about the writ petition which is registered in 1983 and the Environment Protection Act was passed in 1986 and criminal proceedings cannot be initiated with exposition result. The argument of the case was rejected by the court and held that the provisions of procedural law shall applied to criminal cases and not to the environmental cases. The Union government of India directed the State to take necessary steps to prevent illegal mining.

In another case *Ajeet Mehta vs. State of Rajasthan*<sup>8</sup> the petitioners make a complaint that the dealing of loading receiving and stock of fodder had revolve out to be a momentous substantial circumstance for the people of locality as it infected by the entire ambience. The Executive Magistrate passed ordered U/s. 133 of Cr.P.C. directing keeping out of the said fodder business in another place inside 15 days and the order was maintained by the High Court of Rajasthan in appeal. The court alleged that public health cannot be sanctioned to undertake due to performance which are polluting the environment.

In *M.C. Mehta vs. Union of India*<sup>9</sup> the Supreme Court observed that the ultimate of tanneries at Jajman near Kanpur, by polluting the river Ganga. The subject was brought to the notice of the court by the petitioner, a social worker, through Public Interest Litigation.

The court said that not with standing the complete provisions contained in the Water (Prevention and Control of Pollution) Act and the Environmental (Protection) Act, no successful steps have been taken by Government to stop the grave public nuisance caused by the tanneries at Jajmau, Kanpur. In a state of affairs, it was held that the Court was permitted to order the closure of tanneries unless they take steps to set up management plants.

The Indian Supreme Court in *M.C. Mehta vs. Union of India*<sup>10</sup> (pollution of Taj Mahal) the petitioner Mr. M.C. Mehta filed a public interest litigation in the court representation the consideration of the Court just before the deprivation of the Taj Mahal on account of the impressive pollution caused by a number of foundries, chemically dangerous industries well known and implementation in the region of the Taj Mahal and requested the Court to issue suitable directions to the authorities troubled to take necessary steps to prevent air pollution in the Taj Trapezium (TTZ) Mr. Justice Kuldeep Singh, who is well known as a green judge for his verdict on pollution, delivering the judgement of the court on behalf of the court held that the 292 polluting industries nearby functioning in the region are the

major source of pollution and concentrating them to alter over within fixed time calendar to avoid natural gas as industrial fuel and if they could not do so they must discontinue functioning beyond 31 December 1997 and be reallocated other plots in the manufacturing land outside Taj Trapezium (TTZ). The government shall then give alternative plots to the industries which are looking for rearrangement. The end by December 31, 1997 is unqualified and appropriate to new and old both units. The Deputy Commissioner Agra and the supervisor of Police shall result the closing of industries. The Uttar Pradesh State government shall make all support to the industries in the development of relocation.

The above mentioned cases, decided by the Apex Court are some of the landmark judgement have totally distorted for the continued existence of environmental jurisprudence in India and also engineering the concept of Environmentalism. The judiciary has showed magnificent thoughts and has broadened in its come to arrive at including Environment as a fundamental right of every individual.

## MAJOR FINDINGS

Article 15 (2) (b) prohibits discrimination on the ground of sex, race, religion, caste, place of birth etc. to make use of the public places viz., wells, tanks, roads etc. maintained by the State or dedicated to the general public. The public places, which are part and parcel of the human environment, should be made available to the public. The prelude to our foundation ensures socialistic outline of the humanity and well-mannered paradigm of life, which can be likely in a pollution free environment.

Article 21 is the heart of the fundamental rights and has received expanded meaning from time to time after the decision of the Supreme Court in *Maneka Gandhi vs. Union of India*.<sup>11</sup> Article 21 guarantee a basic right to life – a life of gravity to be lived-in a appropriate environment, free of threat of disease and illness. The right to live in a strong environment as piece of Article 21 of the Constitution was first familiar.

Article 24 of the constitution put forward about management of Child Labour. This provision is certainly in the interest of public health and safety of life of children as the children are assets of the nation and part of the environment. Article 39 (e) and 39 (f) under Directive Principles of State Policy provide for the protection of the health and strength of children below the age of 14 years. In *People's Union for Democratic Rights vs. Union of India*<sup>12</sup> the

Supreme Court held that the prohibition under Article 24 could be compulsory next to any one, be it the State or undisclosed person. In pursuance of this compulsion, Parliament passed the Child Labour (Prohibition and Regulation) Act, 1986. The Act prohibits exclusively for the service of children in definite industries.

Article 47 provide that the State shall regard the raising of the level of nutrition and the standard of living of its people and the development of public health as among its most important duties. The improvement of public health also includes the protection and improvement of environment without which public health cannot be secure. Article 48 directs the State to take steps to organise agriculture and animal husbandry on modern and scientific lines. In particular, it should take steps for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milk and draught cattle.

Article 49 deals with protection of monuments and places and objects of national importance. Article 49 requires the State to protect every monument or place or object of artistic or historic interest from spoliation, disfigurement, destruction, removal, disposal or export. Article 51-A (g) specifically deals with the fundamental duty with respect to environment. Article 51-A enlists ten fundamental duties designed for restructuring and building a welfare society / state.

From this research it is found out in the Indian Scenario, the judiciary has been the only organ of the government which has showed marvellous impending in the growth of environment philosophy. It has protected and evaluated many significant ethics such as the Polluters Pay Principle, The Public Trust Doctrine etc. all through the judicial response to Public Interest Litigation.

## RESEARCH PROBLEM

The country has been still facing serious environmental problems due to following problem areas:

- Due to excessive heat and the problem of global warming created by ultraviolet radiation, the entire eco-system is badly affected and many human lives and animal species are killed.
- In *Karnataka Industrial Area Development Board vs. C. Kenchappa*<sup>13</sup>, the court directed a more crucial problem is that water fumes, methane gas and nitro-oxide along with



ozone deposit also catch the ultraviolet radiation preventing earth surface from excessive heat and global warming. It causes melting of ice-peaks thereby recording an extraordinary go up in ocean level which could be devastating for coastal areas and cities.

- *Indian Council for Enviro-Legal Action vs. Union of India and others*<sup>14</sup> it has been observed by the court that safety of environment and natural heritage, mountains, water bodies, catchment areas from damage to preserve ground in its pioneering form often faced by courts is that the grievance suffered by an individual on account of the pollution must be protected by a judicial right.
- In many cases where the damage is huge with a lot of fatalities suing for reimbursement, the injurer might be ruling evidence. It further states that he may be in debt or may not have the required solvency to pay for the full injure caused by his performance. There is a difficulty of appraisal of damages, which is often faced by courts.
- Alteration in the global climate due to excessive greenhouse gas emission effect is bound to result in spectacular change in the ecosystem, living conditions, human health and hygiene and economic activities.
- The atmosphere pollution may be suffered as the firms are accountable to hygienic the environment as it ineffective pollution of environment, make less efficient.
- A huge amount of deprived household, relaxed subdivision firms and survival farmers cannot tolerate any supplementary charges for energy or for waste disposal.
- Little and middle size firms from the prescribed sector, which chiefly give out the household marketplace, find it complicated to pass on higher pay out to the marital finish users of their goods.
- Exporters in early countries like India frequently cannot shift the burden of cost internalisation to foreign customers due to elastic demand and globalisation.

So in the prevalent context the research aims to make a study the international standards, different countries laws, to analyse the Indian laws, to discuss the judicial pronouncements on environmental pollution, to compare the Indian laws with the laws of the other countries so as find out the

solution of the research problems and internalise the same in our country's legislations to achieve the ends of research goal of make improvement of the environmental legislations of our country. Implementation of the different laws to internalise of cost of pollution to protect the present generation so as to fulfill the needs of "the future we want".

In order to complete the above challenging task materials were collected from different sources, which included only doctrinal techniques. The materials collected from basic sources are various juristic opinions, the statutory schemes, legislations, and the national policies of India specifically and various jurisdiction in the world, in general.

## CONCLUSION

The surroundings prescribe all basics for existence and it is suggested that there is a secure connection among the environment and individual beings. Devoid of well accepted and gracious atmosphere, human survival is not promising on world. Since time immemorial, the man should be aware of for strong-minded pains to build exploit of the accepted resources and in the direction of adapt his surroundings so that the unfavourable contact caused by limits of temperature, rainfall may be compressed. In the search of assemblage existence additional relaxing the man has forever oppressed the environment. Agriculture, industrialization and other developments are some of the methods of development of usual possessions. The global problem of the present day is the environmental pollution and hence, the subject environmental pollution and judicial control is now globally recognised as a fundamental right to an environment adequate for healthy well-being of human beings. In the absence of appropriate legal machinery, environmental standards cannot be maintained. The first United Nations Conference on Human Development held at Stockholm in 1972 called for an International Policy for the protection and improvement of the environment. Almost all the member states passed legislations on environment. In India, nearly 200 Central and State legislations on environment were passed. The main object of the environment is to preserve and protect the nature's gifts viz., water, air, earth and atmosphere, which are part and parcel of environment.

Protection measures include duty of the State under article 48-A, 39 (e) and 47 of the Indian Constitution to protect life. Many acts have been enacted by the Parliament as the environmentalists enlighten / warn the people from time to time to take necessary



precautions against the threats of environmental pollution. The environmental pollution has great significance and of global importance and drew the attention of all concerned including the judiciary. Thus, every nation must feel environmental problem as the national problem and should take necessary steps to protect and improve the environment. In view of the above discussion, environmental pollution may be regarded as a basic law.

The environmental jurisprudence in India has developed through the gadget of Public Interest Litigation (PIL). Under the PIL, the judiciary liberalized the concept of *locus standi* and thereby empowered the people to move towards the judiciary when the public interest is damaged by either the deed of the state, organization or individual. Exclusive issue of the Indian environmental jurisprudence is the important role played by the PIL. The role played by higher judiciary regarding the cases related with violation of environment and human rights has acquired. The Supreme Court has not only played a crucial role in the implementation of environmental laws but also interpreted the right to life under Article 21 to include a right to healthy and pollution free environment, as a fundamental right. The Apex court expanded scope of Article 21 of the Constitution in two ways. In *Maneka Gandhi vs. Union of India*<sup>15</sup>, the first one it affects personal liberty to pass the test of Articles 14 and 19 of the constitution thereby ensuring that the process of miserly a person of his personal liberty be sensible, light and immediately. In *Joseph Antonys*<sup>16</sup> case, the Apex Court preserved the traditional livelihood of fishing community vis-a-vis the mechanising fishing by powerful fishing lobby. In this case right to life of community over right to livelihood of the workers affected by closure of polluting industries.

Second, the court recognised implicit rights that are inferred by Article 21. The Supreme Court analysed the right to life and personal liberty to embrace the right to healthy environment.

## REFERENCES

1. The World Commission on Environment and Development, 1987, 43.
2. State for the protection and improvement of environment and safeguarding of forests and wild life is a Directive Principle, Art. 48A.
3. Fundamental Duty for the citizens of India to protect and improve the natural environment, Art. 51A (g).
4. K.R. Krishna, Evolution of Environmental Legislation in India, 2007.
5. Union of India vs. Union Carbide Co., AIR 1989 SC 1086.
6. R.L.E.K., Dehradun v. State of U.P. (Doon Valley Matter) was the first case in which the Supreme Court recognized a fundamental right to live in a healthy environment with minimum disturbance of ecological balance. AIR 1985 SC 625 at 656.
7. AIR 1985 SC 652, 656.
8. (1990) Cri LJ 1596 (Raj.).
9. (1987) 4 SCC 463.
10. AIR 1997 SC 735.
11. AIR 1978 SC 597.
12. AIR 1982 SC 1473.
13. (2006) 6 SCC 371 (380).
14. AIR 1996 SC 1446.
15. AIR 1978 SC 597; Francis Corlie Mullin v. The Administration of U.T., Delhi, AIR 1982 SC 746, 750.
16. State of Kerala v. Joseph Antony, AIR 1994 SC 721.
17. All India Reporter; Journal Articles.
18. Armin Rosencranz, Shyam Divan and Martha L.Noble, Environmental Law and Policy in India (1991).
19. Ashok K. Jain; Law and Environment; Ascent Publications; 1st edn; Delhi.
20. Climate Leaders. Lead India. 2009.
21. Documents from the United Nations Conference on Environment and Development (also known as UNCED or the Earth Summit).
22. Dr. Bharat H. Desai; Enforcement of the Right to Environment Protection; Reprint from Indian Journal of International Law; Volume 33, 1993.
23. <http://www.globalhealthrights.org>
24. Indian Bar Review Vol. Xxiii (3 & 4) 1996.
25. Paras Divan; Environmental Laws in India; Allahabad Law Agency; 2010.
26. S.K. Verma and Kusum (eds.), Fifty Years of the Supreme Court of India : It's Grasp and Reach (Delhi, Oxford University Press, 2000)
27. UpendraBaxi, 'The Avatars of Indian Judicial Activism : Explorations in the Geography of (In) justice', [www.legalservicesindia.com/articles](http://www.legalservicesindia.com/articles).

