



“Constitutional Provisions for the Environmental Laws in India and Challenges for the Enforcement”

Dr. SHAIKH AHMAD S/O SHAIKH ISMAIL.

Working as a Lab. Scientific Officer in Civil Hospital Mudkhed, District Nanded.

Author's Educational Qualification....

B.Sc. (Chemistry), M.Sc. (Ecology & Environmental Science), M.Sc. (Chemistry), M.Sc. (Information Technology), P.Hd. (Environmental Science). L.L.B. (Bachelor Of LAW), M.Phil (Social Work), M.S.W. (Medical & Psychiatric), M.B.A. (Marketing Management), M.A. (English Literature), M.A. (Clinical Psychology), M.A. (Human Right), M.A. (Rural Development), M.A. (Economics), B.J. (Media Science), M.J. (Print Media), Post Graduate Diploma In Medical Lab. Technology (P.G.D.M.L.T.), Post Graduate Diploma In Rural Development (P.G.D.R.D.), Post Graduate Diploma in Forensic Science And Criminology (P.G.D.F.S.C.), L.L.M. (Master of Law In Criminology.)

E-mail: shaikh.ahmad524@gmail.com

ABSTRACT

There is Constitutional Provisions for the legislations on environmental protection in India but their enforcement has been far from satisfactory. There is need for the effective and efficient enforcement of the Constitutional mandate and other environmental legislations. The creative role of judiciary has been significant and laudable. Pursuant to the Constitutional provisions contained in Articles 48A and 51A(h), many Public Interest Litigations have been instituted in the Supreme Court of India against many industries for failing to provide adequate pollution control and also against Pollution Control Boards to direct them to take appropriate measures to ensure pollution control. For the purpose of efficient and effective enforcement of these laws, it is necessary to set up an Adjudatory Body which should consist of legal as well as technical experts. Caring for regulating and protecting the environment is essentially a desire to see that national development should proceed along the rational sustainable laws.

Key Words:

Water Pollution, Air Pollution, Environmental Protection, Sustainable Development, Public Interest Litigation, Judiciary,

INTRODUCTION

Today, the conservation, protection and improvement of human environment are major issues all over the world. Human environment consists of both physical environment and biological environment. Physical environment covers land, water and air. Biological environment includes plants, animals and other organisms. Both physical and biological environment are inter-dependent. Industrialisation, urbanisation, explosion of population, over-exploitation of resources, disruption of natural ecological balances, destruction of a multitude of animal and plant species for economic reasons are the factors which have contributed to environmental deterioration (**Sachidanand Pandey v. State of West Bengal**, AIR 1987 SC 1109) One country's degradation of environment degrades the global environment for all the countries (See Armin Rosencranz, Shyam Divan and Martha

L.Noble, Environmental Law and Policy in India (1991), p. 25)

The problem of environmental pollution has acquired international dimension and India is no exception to it. In the present paper, an attempt has been made to briefly outline the Indian laws which are primarily and more relevant to protect and improve the environment. The enforcement of these laws has also been examined and evaluated.

CONSTITUTIONAL AND LEGISLATIVE MEASURES

Stockholm Declaration of 1972 was perhaps the first major attempt to conserve and protect the human environment at the international level. As a consequence of this Declaration, the States were required to adopt legislative measures to protect and improve the environment. Accordingly, Indian Parliament inserted two Articles, i.e., 48A and 51A in the Constitution of India in 1976, (Inserted by the Constitution (Forty-second Amendment) Act, 1976) Article 48A of the Constitution rightly directs that the State shall endeavour to protect and improve the environment and safeguard forests and wildlife of the country. Similarly, clause (g) of Article 51A imposes a duty on every citizen of India, to protect and improve the natural environment including forests, lakes, river, and wildlife and to have compassion for living creatures. The cumulative effect of Articles 48A and 51A (g) seems to be that the 'State' as well as the 'citizens' both are now under constitutional obligation to conserve, perceive, protect and improve the environment. Every generation owes a duty to all succeeding generations to develop and conserve the natural resources of the nation in the best possible way.(State of Tamil Nadu v. Hind Store, AIR 1981 SC 711;

see also Rural Litigation and Entitle Ji: at Kendra v. State ofUttar Pordesh, AIR 1987 SC 359)

The phrase 'protect and improve' appearing in both the Articles 48A and 51A (g) seems to contemplate an affirmative government action to improve the quality of environment and not just to preserve the environment in its degraded form. Apart from the constitutional mandate to protect and improve the environment, there are a plenty of legislations (E.g. Indian Forest Act, 1927; the Factories Act, 1948; the Atomic Energy Act, 1962; insecticide 1968) on the subject but more relevant enactments for our purpose are the Water (Prevention and Control of Pollution) Act, 1974; the Water (Prevention and Control of Pollution) Cess Act, 1977; the Air (Prevention and Control of Pollution) Act, 1981; the Environment (Protection) Act, 1986; Public Liability Insurance Act, 1991; the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997; the Wildlife (Protection) Act, 1972; the Forest (Conservation) Act, 1980. The Water Act provides for the prevention and control of water pollution and the maintaining or resorting of the wholesomeness of water. The Act prohibits any poisonous, noxious or polluting matter from entering into any stream or well. The Act provides for the formation of Central Pollution Control Board and the State Pollution Control Board. The new industries are required to obtain prior approval of such Boards before discharging any trade effluent, sewages into water bodies. No person, without the previous consent of the Boards shall bring into use new or altered outlet for the discharge of sewage or trade effluent into a stream or well or sewer or on land. The consent of the Boards shall also be

required for continuing an existing discharge of sewage or trade effluent into a stream or well or sewer or land. In the Ganga Water Pollution case (M.C.Mehta v. Union of India, AIR 1988 SC 1037. See also Bhavani River v. Sakthi Sugar Limited AIR 1998 SC 2059) the owners of some tanneries near Kanpur were discharging their effluents from their factories in Ganga without setting up primary treatment plants. The Supreme Court held that the financial capacity of the tanneries should be considered as irrelevant while requiring them to establish primary treatment plants. The Court directed to stop the running of these tanneries and also not to let out trade effluents from the tanneries either directly or indirectly into the river Ganga without subjecting the trade effluents to a permanent process by setting up primary treatment plants as approved by the State Pollution Control Board.

The Water (Prevention and Control of Pollution) Cess Act, 1977 aims to provide levy and collection of a cess on water consumed by persons carrying certain industries and local authorities to augment the resources of the Central Board and the State Boards constituted for the prevention and control of water pollution. The object is to realise money from those whose activities lead to pollution and who must bear the expenses of the maintaining and running of such Boards. The industries may obtain a rebate as to the extent of 25% (Substituted for '70%', w.e.f. 26.1.1992) if they set up treatment plant of sewage or trade effluent. The Air Act has been designed to prevent, control and abatement of air pollution. The major sources of air pollution are industries, automobiles, domestic fires, etc. The air pollution adversely affects heart and lung and reacts with hemoglobin in the blood.

According to Roggar Mustress, the American Scientist, air pollution causes mental tension which leads to increase in crimes in the society. The Air Act defines an air pollutant as any 'solid, liquid or gaseous substance including noise present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.' The Act provides that no person shall without the previous consent of the State Board establish or operate any industrial plant in an air-pollution control area. The Central Pollution Control Board and the State Pollution Control Board constituted under the Water Act shall also perform the power and functions under the Air Act. The main function of the Boards under the Air Act is to improve the quality of air and to prevent, control and abate air pollution in the country. The permission granted by the Board may be conditional one wherein stipulations are made in respect of raising of stack height and to provide various control equipments and monitoring equipments. It is expressly provided that persons carrying on industry shall not allow emission of air pollutant in excess of standards laid down by the Board.

In Delhi, the public transport system including buses and taxis are operating on a single fuel CNG mode on the directions given by the Supreme Court.(M.C. Mehta v. Union of India, AIR 1998 SC 2963)

Initially, there was a lot of resistance from bus and taxi operators. But now they themselves realise that the use of CNG is not only environment friendly but also economical. Noise has been taken as air pollutant within the meaning of Air Act. Sound becomes noise when it causes annoyance or irritates. There are many sources of noise pollution like factories,

vehicles, reckless use of loudspeakers in marriages, religious ceremonies, religious places, etc. Use of crackers on festivals, winning of teams in the games, and other such occasions causes not only noise pollution but also air pollution. The Air Act prevents and controls both these pollutions. The Environment (Protection) Act, 1986 was enacted to provide for the protection and improvement of the quality of environment and preventing, controlling and abating environmental pollution. The Act came into existence as a direct consequence of the Bhopal Gas Tragedy. The term 'environment' has been defined to include water, air and land, and the inter-relationship which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property. The definition is wide enough to include within its purview all living creatures including plants and micro-organism and their relationship with water, air and land. The Act has given vast powers to the Central Government to take measures with respect of planning and execution of a nation-wide programme for prevention, control and abatement of environmental pollution. It empowers the Government to lay down standards for the quality of environment, emission or discharge of environmental pollutants; to regulate industrial locations; to prescribe procedure for managing hazardous substances, to establish safeguards for preventing accidents; and to collect and disseminate information regarding environmental pollution. Any contravention of the provisions of the Act, rules, orders or directions made there- under is punishable with imprisonment for a term which may extend to five years or with fine upto one lakh rupees or with both. The Act is an 'umbrella' legislation designed to provide a frame work for Central

Government coordination of the activities of various Central and State authorities established under previous laws, such as the Water Act and the Air Act. (Supra note 2, p. 68)

The Parliament passed the Public Liability Insurance Act, 1991 to provide for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling any hazardous substance and for matters connected therewith. The Act provides for mandatory public liability insurance for installations handling any hazardous substance to provide minimum relief to the victims (other than workers) through the mechanism of collector's decision. Such an insurance will be based on the principle of 'no fault' liability as it is limited to only relief on a limited scale. (See Public Liability Insurance Act, 1991, the Schedule) Such insurance apart from safeguarding the interests of the victims of accidents would also provide cover and enable the industry to discharge its liability to settle large claims arising out of major accidents. However, availability of immediate relief under this law would not prevent the victims to go to Courts for claiming large compensation. The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance.

The Act provides for establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident. It imposes liability on the owner of an enterprise to pay compensation in case of death or injury to any person; or damage to any property or environment resulted from an accident. The accident must have occurred while



handling any hazardous substance. A claimant may also make an application before the Tribunal for such relief as is provided in the Public Liability Insurance Act, 1991. The National Environment Appellate Authority Act, 1997 has been enacted to provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguard under the Environment (Protection) Act, 1986. After the establishment of the Authority, no Civil Court or other authority shall have jurisdiction to entertain an appeal on matters on which the Authority is so empowered under the Act. It is evident that this Act has been made with objective to provide speedy justice on environmental issues. The Wild Life (Protection) Act, 1972 was enacted with a view to provide for the protection of wild animals, birds and plants. The Act prohibits hunting of animals and birds as specified in the schedules. The Act also prohibits picking, uprooting, damaging, destroying etc. any specified plant from any forest. The Act provides for State Wildlife Advisory Board to advise the State Government in formulation of the policy for protection and conservation of the wildlife and specified plants; and in selection of areas to be declared as Sanctuaries, National parks, etc. The Act is administered by a Director of Wildlife Preservation with Assistant Directors; and a Chief Wildlife Warden with other Wardens and their staff. The Forest (Conservation) Act, 1986 was passed with a view to check deforestation of forests. The Act provides that no destruction of forests or use of forestland for non-forest purposes can be permitted without the previous approval of the Central Government. The conservation of forests includes not only

preservation and protection of existing forests but also re-afforestation. Reafforestation should go on to replace the vanishing forests. It is a continuous and integrated process. (Anupama Minerals V. Union of India & Others, AIR 1986 A.P. 225) The Act is intended to save a laudable purpose and it must be enforced strictly for the benefit of the general public. It is evidently clear that there is no dearth of legislations on environment protection in India. But the enforcement of these legislations has been far from satisfactory. What is needed is the effective and efficient enforcement of the constitutional mandate and the other environmental legislations.

ADMINISTRATIVE STRUCTURE

The Water Act and the Air Act are administered by the Central and State Govern- ments and the Central Pollution Control Board and the Stale Pollution Control Board. The Boards have been vested with wide powers to issue any direction including the direction to order closure or stoppage of the supply of electricity, water or any other service to the polluting unit. It may be noted that similar powers are vested to the Central Government under the Environment (Protection) Act. Further, under the Environment (Protection) Act, the Central Government has framed the Environment (Protection) Rules, 1986 laying down standards for the emission or discharge of environmental pollutants with respect to some major industries. (e.g., Caustic soda, cement, electroplating, man made fibers, oil-refinery, sugar industry, thermal power plants, cotton textile, stone crushing unit, composite woollen mills, etc.)

There are some other agencies also framing the standards, namely-Central Pollution Control Board, State Pollution Control Board, Bureau of

Indian Standard and Local Authorities, i.e., Municipal Corporation. Apparently, there is multiplicity of pollution control standards for the same type of industries. However, under the Environment (Protection) Act, 1986, the power has been conferred upon the Central Government to lay down the standards of quality of air, water, soil, etc. It is hoped that this will ensure uniformity of standards through out the country. Further, many of the standards have not yet been laid down as stipulated under the respective Pollution Control Acts, may be due to non-availability of instrument to measure the parameters of pollution. This will adversely affect the process of enforcement of laws.

JUDICIAL CONTRIBUTION

The right of a person to pollution free environment is a part of basic jurisprudence of the land. Article 21 of the Constitution of India guarantees a fundamental right to life and personal liberty. The Supreme Court has interpreted the right to life and personal liberty to include the right to wholesome environment. (13 Rural Litigation and Entitlement Kendra, Dehradun V. State of U.P., AIR 1988 SC 1037) The Court through its various judgements (See for example, Subhash Kumar v. State of Bihar, AIR 1991 SC 420; M.C. Mehta V. Union of India. AIR 2000 SC 1997) has held that the mandate of right to life includes right to clean environment, drinking-water and pollution-free atmosphere.

Taj Mahal Case

In Taj Mahal's case (15 M.C.Mehta v. Union of India, AIR 1997 SC 734; see also M.C.Mehta v. Union of India, AIR 1999 S.C. 3192), the Supreme Court issued directions that coal and coke based industries in Taj Trapezium (TTZ)

which were damaging Taj should either change over to natural gas or to be relocated outside TTZ. Again the Supreme Court directed to protect the plants planted around Taj by the Forest Department as under: (M.C.Mehta v. Union of India, (2001), 9 SCC 520)

The Divisional Forest Officer, Agra is directed to take immediate steps for seeing that water is supplied to the plants... The Union Government is directed to release the funds immediately without waiting for receipt of the proposal from the U.P. Government on the basis of the copy of the report. Funding may be subsequently settled with the U.P. Government, but in any set of circumstances for want of funds the officer is directed to see that plants do not wither away.

Dehradun Valley Case

In that case (17 Rural Litigation & Entitlement Kendra v. State of U.P., AIR 1985 SC 652; see also AIR 1988 SC 2187), carrying haphazard and dangerous limestone quarrying in the Mussorie Hill range of the Himalaya, mines blasting out the hills with dynamite, extracting limestone from thousand of acres had upset the hydrological system of the valley. The Supreme Court ordered the closing of limestone quarrying in the hills and observed (Id., at p. 654) :

This would undoubtedly cause hardship to them, but it is a price that has to be paid for protecting and safeguarding the right of the people to live in healthy environment with minimal disturbance of ecological balance...

Smoking in Public Places

In 2001, the Supreme Court of India imposed ban on smoking of tobacco in public places all over the country (19 Murli S.. Deora v. Union of India (2001) 3 SCC 765) Smoking causes

harm not only to the smokers but also to non-smokers who are forced to inhale the second hand smoke. More than 3 million people die every year in India as a result of smoking tobacco including bidis and cigarettes (See Hindustan Times, New Delhi, dated 5.11.2001, p. 10) One lakh Indians get lung cancer every year because of smoking. Indeed, lung cancer kills 95% of its victims (Ibid) That is why the apex Court ruling has immense social value. But no one cares for the ban. As you know the cigarettes and bidis are openly sold in tobacco-free railway stations, bus stands, cinema houses, etc. The statutory warning 'smoking is injurious to health' is printed in such small prints and colour that hardly it is readable. Even, if it is readable, it has not served any purpose. So it is the social awakening which can only help us to prevent smoking.

Pollution in Delhi

In *Almitra H.Patel v. Union of India* (22 AIR 2000 SC 1256 23 Dr. B.L Wadehra v. Union of India, AIR 1996 SC 2969), the Supreme Court reiterated the observations made in Wadehra's case²³-Historic city of Delhi, the Capital of India, is one of the most polluted cities in the world. The authorities, responsible for pollution control and environment protection have not been able to provide clean and healthy environment to the residents of Delhi. The ambient air is so much polluted that it is difficult to breathe. More and more Delhites are suffering from respiratory diseases and throat infections. River Yamuna- the main source of drinking water supply- is the free dumping place for untreated sewerage and industrial waste. Apart from air and water pollution, the city is virtually an open dustbin. Garbage strewn all over Delhi is a common sight. The Court directed the

authorities to take immediate necessary steps to control pollution and protect the environment.

Sri Ram Food and Fertilizer Case

In that case (*M.C. Mehta v. Union of India*, AIR 1987 SC 1086) a major leakage of Oileum Gas affected a large number of persons, both amongst the workmen and public. The Supreme Court held that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to any one on account of an accident in the operation of such hazardous and inherently dangerous activity resulting in the escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such a liability is not subject to any exception.

Public Health

The Supreme Court has emphasised the importance of preservation of public health. In *Subba Rao v. State of Himachal Pradesh* (AIR 1989 SC 171), the Supreme Court ordered the closure of a bone factory which was polluting the environment by its pungent smell and making the life of the people miserable. No one can do business at the cost of public health. With a view to preserve the environment and control pollution within the vicinity of tourist resorts of Badkhal and Suraj Kund, the Supreme Court directed the stoppage of mining activity within two Kilometers radius of these two tourist resorts (*M.C.Mehta v. Union of India* 1996 (4) SCC 351) In *Municipal Council, Ratlam v. Vardhichand & Others* (27 AIR 1980 SC 1622) the Supreme Court held that the grievous failure of local authorities to provide the basic amenity of public conveniences drives the miserable slum-dwellers to ease in the streets, on the sly for a time, and openly thereafter, because under

nature's pressure, bashfulness becomes a luxury and dignity a difficult art. A responsible Municipal Council constituted for the purpose of preserving public health cannot run away from its duty by pleading financial inability.

Public Park

A place which is reserved for public park cannot be converted for use into a private nursing-home. In *Banglore Medical Trust v. B.S. Muddappa* (28 AIR 1991 SC 1902) the Supreme Court set aside the decision of the Bangalore Development Authority granting permission for converting the place reserved for public-park for the establishment of a nursing home and observed thus: The public interest on reservation and preservation of open spaces for parks and playgrounds cannot be sacrificed by leasing or selling such sites to private persons for conversion to some other use. In another case (*M.I. Builders Pvt. Ltd v, Radhey Shyam Sahaoo*, (1999) 6 SCC 464) a park was in existence for many years. Because of the construction of underground shopping complex and parking, irreversible changes were made. The Supreme Court ordered for the demolition of the building on the site of the park and held that no authority has power to grant permission to change the land use of a site reserved for Public Park.

Sustainable Development 'Sustainable development' means development that meets the needs of the present without compromising the ability of the future generations to meet their own needs. The Supreme Court of India in *Vellore Citizens Welfare Forum v. Union of India* (AIR 1996 SC 2715) elaborately discussed the concept of 'sustainable development' which has been accepted as part of the law of the land. The 'precautionary principle'

and the 'polluter pays principle' are essential features of 'sustainable development'. The 'precautionary principle' makes it mandatory for the State Government to anticipate prevent and attack the causes of environment degradation { *M.C. Mehta v. Union of India*, (1997) 1 Camp L.J. 199 (SC) }. The Supreme Court in *M.C. Melna v. Union of India* (Id., at 203) observed thus: We have no hesitation holding that in order to protect the two lakes (Badhkal and Suraj Kund) from environmental degradation, it is necessary to limit the construction activity in the close vicinity of the lakes.

The 'polluter pays principle' demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause pollution. The 'polluter pays principle' has been held to be a sound principle and as interpreted by the Supreme Court of India { *Indian Council for Enviro-Legal Action v. Union of India*, AIR 1996 SC 1446; see also *Vellore-Citizens Welfare Forum v. Union of India*, AIR 1996 SC 2715; *M.C. Mehta v. Union of India* (1997) i Camp L.J. 199(SC) } it means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environment degradation. Remediation of the damaged environment is part of the process of 'sustainable development' and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. The aforesaid study of cases clearly reveals that the Supreme Court of India has played a vital role for protection and improvement of environment. The jurisdiction of the Court has been expanded by way of Public Interest Litigation. The creative role of judiciary has been significant and laudable.

We have noticed that in the past few years there is an increasing trend to the number of cases based on environmental pollution, ecological destruction and conflicts over natural resources coming up before the Courts. In most of these cases there is need for natural scientific expertise as an essential input to inform judicial decision-making. These cases require expertise at a high level of scientific and technical sophistication. The experience shows that the prosecution launched in ordinary Criminal Courts under the provisions of the Water Act, Air Act and the Environment (Protection) Act never reach their conclusion either because of the work load in these Courts or because there is no proper appreciation of the significance of the environment matters on the part of those in charge of conducting of those cases (Indian Council for Enviro-Legal Action v. Union of India & Others, AIR 1996 SC 1446)

Moreover, any orders passed by the Authorities under Water Act, Air Act and Environment (Protection) Act are immediately questioned by the industries in Courts. Those proceedings take years and years to reach conclusion. Very often interim orders are granted meanwhile which effectively disable the authorities from ensuring the implementation of their orders (Ibid.) It is, therefore, absolutely essential to set up a separate machinery to cut down the delays which are hindering the implementation of environmental laws. Further, the judicial officers alone may not be able to appreciate scientific and technical aspects. It is, therefore, submitted that the provisions be made for the establishment of the Environment Courts with one judge and two experts from the ecological and other sciences. To begin with, we may have a two-tier system one at the State level and the other at the National level which may later be extended even

at the District level. Such Courts may be vested with the jurisdiction to decide both criminal prosecution cases under the various environmental laws and civil cases for compensation to victims of any activity leading to environmental damage or pollution. These Courts should be allowed to adopt summary proceedings for speedy disposal of the cases. The appeal from decision of the State Environment Courts may be preferred to the National Environment Court and appeal from the decision of the National Environment Court to the Supreme Court. The provisions should be confined to single appeal.

CONCLUSION AND SUGGESTIONS

The aforesaid study leads us to the following conclusion and suggestions:

- i) We have more than 200 Central and State legislations which deal with environmental issues. More legislation means more difficulties in enforcement. There is a need to have a comprehensive and an integrated law on environmental protection for meaningful enforcement.
- ii) It is not enough to enact the legislations. A positive attitude on the part of everyone in society is essential for effective and efficient enforcement of these legislations.
- iii) The powers vested to the Pollution Control Boards are not enough to prevent pollution. The Boards do not have power to punish the violators but can launch prosecution against them in the Courts which ultimately defeat the purpose and object of the Environmental Laws due to long delays in deciding the cases. Thus, it is imperatively necessary to give more powers to the Boards.

iv) The Environment Protection Laws have failed to bring about the desired results. Consequently, for the purpose of efficient and effective enforcement of these laws, it is necessary to set up the Environment Courts; with one Judge and two technical experts from the field of Environmental Science and Ecology. These Courts should be allowed to adopt summary proceedings for speedy disposal of the cases. To begin with we may have such Courts at the State and National levels that may later be extended to district level on need-based principle. In order to discourage prolonged litigation, the provisions should be confined to single appeal.

v) There is a multiplicity of environment pollution control standards for the same type of industries. However, under the Environment (Protection) Act, 1986 now the power has been conferred upon the Central Government for laying down the standards for the quality of air, water and soil. It is hoped that this will ensure uniformity of standards through out the country.

vi) In order to enforce the environmental laws stringently, mere mis-description and technical flaws should be disregarded by the Courts. The creative role of judiciary has been significant and laudable. The jurisdiction of the Courts has been expanded by way of Public Interest Litigation. The Supreme Court of India has played a vital role in giving directions from time to time to the administrative authorities to take necessary steps for improving the environment.

vii) The Public Liability Insurance Act, 1991 which provides for mandatory public liability insurance for installation and handling hazardous substance to provide minimum relief to the victims, is a welcome step in the right direction. Such an insurance apart from

safeguarding the interests of victims of accident will also provide cover and enable the enterprise to meet its liability.

viii) What we need is social awareness from below, not laws from the above. No law works out smoothly unless the interaction is voluntary. In order to educate people about the environmental issues, there should be exhibition of slides in the regional languages at cinema houses and television free of cost. Further, as directed by the Supreme Court of India (M.C. Mehta v. Union of India, AIR 1992 SC 382 Environment studies shall be made a compulsory subject at) school and college levels in graded system so that there should be general growth of awareness.

ix) It needs to be appreciated that keeping in view the magnitude of finance required, a judicious mix of incentives, phasing and awareness creating, programmes about cost-effective technologies is essential as the first prong of the strategy to control environment degradation. x) The traditional concept that development and ecology are opposed to each other, is no longer acceptable, since 'sustainable development' is the answer. The Supreme Court has accepted sustainable development as part of the laws of the land and has affirmed the 'precautionary principle' and the 'polluter pays principle' are essential features of sustainable development.

xi) The tapping of natural resources must be done with requisite attention and care so that ecology and environment may not be affected in any serious way. A long-term planning must be undertaken by the Central Government in consultation with the State Governments to protect and improve the environment and to keep up the national wealth.



xii) Finally, protection of the environment and keeping ecological balance unaffected is a task which not only the government but also every individual, association and corporation must undertake. It is a social obligation and fundamental duty enshrined in Article 51 A (g) of the Constitution of India.