

Chapter i

Environment, Pollution



CHAPTER I INTRODUCTION 1. 1 HISTORY The word environment is a broad spectrum which brings within its hue hygienic atmosphere and ecological balance. Saving this planet Earth is now of utmost concern to the entire humanity. The world is witnessing a global crisis of environmental degradation. The future of the earth is entirely linked with the sustainable development that may take place in the various countries, both developed and developing. They have to adopt a visionary approach in consonance with the needs of the man and the earth. There is human threat to air, water and land. India had been under the colonial rule for about two centuries and even prior to that there were minor kingdoms which did not pay attention to any sort of environmental concerns. After the independence the primary concern of the administrators was to eradicate poverty. Millions of people were below the poverty line and the literacy rate was also very poor. The population growth was at alarmingly high rate. All these factors contributed to serious environmental degradation and the persons who were mostly affected by this environmental degradation were the poor and the disadvantage sections of the society. They were the first victims of the poor sanitation, bad air, contaminated water, scarce food, fuel and fodder. For millions of Indians their only wealth and common property resources were threatened by environmental degradation[1] Role of Environmental activists

Activism consists of intentional efforts to bring about social, political, economic, or environmental change. The role that these activists play is to try to persuade people to change their behaviour directly, rather than to persuade governments to change laws. In India , the role of activist in shaping the environment law either with respect to the liability of the

employer has been very vital 1. 2 CENTRAL QUESTION INVOLVED: Whether the role of judiciary towards environmental matter is positive or not? 1. 3 HYPOTHESIS According to the researcher judiciary has performed a proactive in dealing with the matter concerning environment. 1. 4 RESEARCH METHODOLOGY: The topic of this project is the researchers have used the doctrinal method of research. The researchers have made use of secondary data only. The data so obtained has been used appropriately and effectively. The net has been the primary source of secondary data besides books. The NLU Delhi law library has been used for the secondary sources. 1. 5 RESEARCH PLAN: a. Aims and Objectives — Through this project the researcher aims to provide the reader with a detailed overview of the topic. The researcher has carefully scrutinized the above and given a brief study on the same. b. Scope and Limitations- Within the scope of this project the researchers will discuss the theme at length along with important cases on the same. Due to paucity of space and time to some extent, the researcher will be unable to include all the factors contributing with respect to environmental activism. c. Chapterisation- The researchers have divided the project into 3 broad sections: a) Introduction: Brief overview of the topic is given b) Judicial activism and environment activist c) Environmental activism in China. d) Environmental activism in US e) Conclusion: The researcher's observation and analysis CHAPTER II JUDICIAL ACTIVISM AND ENVIRONMENTAL ACTIVIST The most important procedural innovation for environmental jurisprudence has been the relaxation of traditional process of standing in the Court and introducing the concept of Public Interest Litigation (PIL). Until the early 1970s, litigation in India was in its rudimentary form

because it was seen as a pursuit for the vindication of private vested interests. The Court's approach to entertain PIL for environmental protection, however, is significant in many ways. First, prior to the emergence of the concept PIL, Criminal Law provisions as contained in the Indian Penal Code, Civil Law remedies under the law of Torts and provisions of the Criminal Procedure Code were existed to provide remedies for public nuisance cases including air, water and noise pollution. However, due to lack of people's awareness about the environmental problems and limited knowledge of environmental laws there were problems in drawing the attention of the Court towards environmental problems. Again, there was no provision in the environmental legal framework for allowing the third party to seek the help of the Court if the party was not directly affected by environmental problems. Hence, the biggest hurdle in the path of litigation for environmental justice had been the traditional concept of locus standi. [2] Earlier when the third party approached the appellate Court for seeking relief against an injury they did not incur directly, the action was not maintainable as the appellate Court focused its attention on the identity of the petitioner rather than the subject of petition. But now the Court's approach has changed and it has been ruled that any member of the public having sufficient interest, may be allowed to initiate the legal process in order to assert diffused and meta-individual rights. Generally, in environmental litigation, the parties affected by pollution are a large, diffused and unidentified mass of people. Therefore, the question arises as to who ought to bring such cases to the Court's notice where no personal injury, in particular, has been noticed. In such situations, the Court has emphasised

that any member of the public having sufficient interest may be allowed to initiate the legal process in order to assert diffused and meta-individual rights in environmental problems. A number of cases on environmental issues have been initiated through PIL. Beginning with the Dehradun lime stone quarrying case¹⁵ in 1983, followed by the Ganga Water Pollution case, Delhi Vehicular Pollution case, Oleum Gas Leak case, Tehri Dam case, Narmada Dam case, Coastal Management case, industrial pollution in Patancheru, and T. N. Godavarman case, all of them came to Court's attention through PIL. These cases have been initiated by Non-Governmental Organisations (NGOs), and environmental activists on behalf of other individuals and groups or public at large, to ensure the implementation of statutory acts and constitutional provisions aimed at the protection of environment and enforcement of fundamental rights. In one case concerning massive pollution of the river Ganga, the Court has published notices in the newspaper drawing the litigation to the attention of all concerned industries and municipal authorities inviting them to enter an appearance. In this case, the petition was filed against the Kanpur tanneries and Kanpur Municipal Council to stop polluting the river Ganga. The Court, however, asked all the industrialists and the Municipal Corporations and the town Municipal Councils having jurisdiction over the areas through which the river flows in India, to appear before the Court. Similarly, in 1995, T. N. Godavarman Thirumulpad filed a writ petition with the Supreme Court of India to protect the Nilgiris forest land from deforestation by illegal timber operations. The Court expanded the Godavarman case from a matter of ceasing illegal operations in one forest into a reformation of the entire country's forest policy.[3] The

positive impact of Court's approach to environmental litigations through third party representation has been such that it has dramatically transformed the form and substance of environmental jurisprudence in India. By entertaining petitions on behalf of poor and disadvantaged sections of the society, from different NGOs and public-spirited people, the Court has attempted to ensure the rights of people in terms of deciding compensation and providing other remedies to the affected people. Allowing third party to bring environmental problems to Court's notice has also an important bearing on inanimate objects, which cannot represent itself in the litigation process. The voice of the inanimate objects has been represented by concerned NGOs and environmental activists through the instrument of PIL. The polluter has been asked to pay for the damage done to the natural objects and restore the environment to its natural position. Notwithstanding the above progressive implications of the concept PIL for environmental jurisprudence, certain practical difficulties and constraints have emerged in recent years from judicial entertainment of PILs dealing with environmental cases. A close look at the history of environmental cases suggests that with the liberalization of the locus standi principle, there has been a flurry of PILs on environmental issues. Taking advantage of the in addition to this, what was considered as an inexpensive and expeditious mode of redressal has sometimes taken more than a decade to get settled. The Godavarman case is a classic example of the Court being seized of the problem for over a decade and its final resolution is a long way in coming. The case that began its life in 1996, as a petition seeking the intervention of the Supreme Court for the protection of Nilgiris forest land from deforestation by illegal timber

operations, has grown into a case of mammoth proportions and has mired in controversies of interfering in administrative functions and traditional method of forest management and lack of attention in recognising the rights of forest dwellers. Another immediate concern is the inconsistent approach of the Court in entertaining and rejecting PILs. The judicial restraint towards environmental litigations, especially challenging infrastructure projects, offers a well illustration in this context. In such nature of litigations, the Court has not only rejected PILs but has also made gratuitous and unmerited remarks regarding abuse of PIL. For instance, in the Narmada Bachao Andolan v. Union of India case, the Court did not allow Narmada Bachao Andolan from making any submissions on the pros and cons of large dams. Despite the dissenting judgment of Justice S. P. Bharucha, who pointed out that the Sardar Sarovar Project was proceeding without a comprehensive environmental appraisal, majority of the successive judges allowed the government to construct the dam without any comprehensive environmental impact assessment, which was necessary even according to the government's own rules and notifications. The majority judgment observed that a conditional clearance given in 1987 was challenged in 1994 and stated that the pleas relating to height of the dam and the extent of submergence, environment studies and clearance, hydrology, seismicity and other issues, except implementation of relief and rehabilitation, cannot be permitted to be raised at this belated stage. Court's lacks of expertise on observation of technicalities, PILs are being filed with little or no preparation. Actions are initiated by filing complaints without proper evidentiary materials to support them. Expectations are that once a petition is filed, the Court

would do the rest. But, the heart of the matter is that most of the time, energy and resources of the Court are getting diverted for getting information on multi-dimensional aspects of environmental problems, so much so that the justice delivery system is under great stress and the cracks in it are becoming visible. The Court has shown its annoyance at taking every conceivable public interest issue to its jurisdiction when compliance with the orders made at the local level, in most of the cases, would have prevented the flurry of litigation at the highest level. As early as in 1980, in the Ratlam Municipal Council case, the Court upholding the orders of the Sub-Divisional Magistrate, expressed that had the Municipal Council spent half of its litigative zeal of rushing from lowest to the highest Court, in cleaning up the streets and complied with the orders issued at the local level, the civic problems would have been solved a long time back. Apart from this, the idea behind introducing PIL has been to address public interest. But there are certain alarming and emerging trends. One of the most significant ones is that of the PIL method becoming personalised, individualistic and attention-seeking. There are instances of their identification with the personality of a judge or a litigant. It becomes a travesty of justice when the outcome of the case depends on the judge before whom it gets posted. No doubt the personality of the judge and the litigant, and their deep commitment to social justice and protection of the environment have contributed, in a major way, to the evolution of the jurisprudence on the subject. But, without such concern and commitment, the system gets influenced by different whims and fancies that may hurdle the justice delivery system. The subordination of environmental interests to

the cause of development was also evident in Supreme Court's judgment in the PILs challenging the construction of Tehri Dam and the construction of power plant at Dahanu Taluka in Maharashtra, where the government's own expert committee had given an elaborate report pointing out a series of violations of the conditions on which environmental clearance to the projects had been given by the Ministry of Environment and Forests. In such nature of environmental litigations challenging infrastructure projects, the Court held that in case of conflicting claims relating to the need and the utility of any development project, the conflict had to be resolved by the executive and not by the Courts. The Court even held that if a project is stayed on account of a public interest petition which is subsequently dismissed, the petitioner should be made liable to pay for the damages occasioned by the delay in the project. In the words of the Court, ' any interim order which stops the project from proceeding further must reimburse all the cost to the public in case ultimately the litigation started by such an individual or body fails'. Unlike the use of discretionary power in entertaining PILs on environmental cases in 1980s, the Court maintained a distance with regard to cases against public infrastructure projects since 1990s. The inconsistent approach of the Court has become a serious concern among the public spirited persons who see the Court as the last resort to protect the environment. Constitutional Laws and Environmental protection At present most environmental actions in India are brought under Articles 32 [4]and 226 of the Constitution. The writ procedure is preferred over the conventional suit because it is speedy, relatively inexpensive and offers direct access to the highest courts of the land. Nevertheless, class action suits also have their own advantages. The

powers of the Supreme Court to issue directions under Article 32[5] and that of the high courts under Article 226 have attained greater significance in environmental litigation. The Supreme Court of India in numerous matters elaborated the scope of Article 21 of the constitution of India, which deals with protection of life and personal liberty - No person shall be deprived of his life or personal liberty except according to procedure established by Law. [6] In the matter of Rural Litigation and Entitlement Kendra Vs State of U. P. - the Hon'ble Supreme court held that the right to unpolluted environment and preservation and protection of nature's gifts has also been conceded under Article 21 of the Constitution of India. The Constitutional provisions provide the bed-rock for the framing of environmental legislations in the country. Article 48-A of the Constitution deals with the Protection and Improvement of Environment and Safeguarding of Forests and Wildlife — The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.[7] On the basis of the said provisions, the Environment (Protection) Act, 1986 and the Wild Life (Protection) Act, 1972 (as amended in 1986) have been enacted by the Parliament. Under Part IV-A of the Directive Principles of State Policy, Fundamental Duties have been added under Article 51-A by the 42nd Amendment of the Constitution in 1976. Under Article 51-A(g) provides the Fundamental Duties with respect to the environment which includes - To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. [8] The Environment related Laws enacted by the Parliament under Articles 252 and 253 of the Constitution of India. The Water (Prevention and Control of Pollution) Act, 1974 was promulgated

as a Central Legislation under Article 252 of the Constitution.[9] Since, the “water” is listed under the State list; a Resolution from two or more State Assemblies empowering the Parliament to enact the Legislation on the State List was required. The Water (Prevention and Control of Pollution) Act, 1974 became effective at the State level when it was adopted by the concerned State Assemblies. The Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 were promulgated under Article 253 of the Constitution of India, which empowered the Parliament to enact legislations on such matters as necessary for compliance of International Agreements in which India has been a party. Landmarks in Public Interest Litigations

1. Taj Pollution Matter: M. C. Mehta Vs Union Of India (UOI) & Ors. W. P. (C) No. 13381/1984
2. Ganga Pollution Matter: Writ Petition (Civil) No. 3727/1985 (M. C. Mehta Vs UOI & Ors.)
3. Vehicular Pollution in Delhi: Writ Petition (Civil) No. 13029/1985 (M. C. Mehta Vs UOI & Ors.)
4. Pollution By Industries in Delhi: M. C. Mehta Vs Union of India & Ors. Writ Petition (Civil) No. 4677/1985,
5. Pollution in river Yamuna: Writ Petition (Civil) No. 725/1994, News Item ‘HT’, dated 18. 7. 1994, A. Q. F. M. Yamuna Vs Central Pollution Control Board & Ors.
6. Pollution in Noida, Ghaziabad area: Writ Petition (Civil) No. 914/1996, Sector 14 Residents’ Welfare Association & Ors. Vs State of Delhi & Ors.
7. Noise pollution by firecrackers: Writ Petition (Civil) No. 72/1998 (Noise Pollution — Implementation of the laws for restricting use of loudspeakers and high volume producing sound systems) Vs UOI & Ors.
8. Import of Hazardous waste: Writ Petition (Civil) No. 657/1995 (Research Foundation for Science, Technology and Natural Resource Policy Vs UOI & Ors.)
9. POLLUTION IN PORBANDAR, GUJARAT: Dr. Kiran Bedi Vs Union of

India & Ors. Writ Petition (Civil) No. 26/98 10. Management of municipal solid waste: Writ Petition (Civil) No. 286/1994, Dr. B. L. Wadehra Vs Union of India & Ors. 11. Management of solid waste in class-1 cities — Writ Petition (Civil) No. 888/1996 (Almitra H. Patel Vs Union of India & Ors.) 12. Pollution in Medak District, Andhra Pradesh: Writ Petition (Civil) No. 1056/1990 (Indian Council for Enviro Legal Action & Others Vs. UOI & Others) 13. Pollution by Chemical industries in Gajraula Area: Writ Petition (Civil) No. 418/1998 (Imtiaz Ahmad Vs UOI & Ors.) — Pollution by Chemical Industries in Gajraula area

CHAPTER III ENVIROMENTAL ACTIVISM IN CHINA

3. 1 THE NATURE OF ENVIRONMENTAL ACTIVISM

Chinese environmental activism has evolved since 1994. While initially they were primarily concerned with politically “safe” issues such as education and biodiversity protection, environmental activists have expanded their reach over the last decade. Activists now voice their discontent over rising pollution levels through various means, including protesting dams, filing lawsuits against corporations, and exposing corruption practices affecting the environment. There are also increasingly more Chinese NGOs that regularly expose polluting factory cases, help village victims of contaminated water with lawsuits, give seed money to emerging NGOs, and go undercover to denounce multinationals that ignore international environmental standards. Such organizations often protest to the CCP via letters, campaigns on the Internet, and newspaper editorials.

[10] Environmental education and biodiversity protection, however, remain the core mission of NGO activities. For instance, Friends of Nature supports educational vans that travel throughout the country to provide region-specific environmental knowledge, while NGOs such as Green Earth

Volunteers and Wild China launch campaigns and educational material to promote biodiversity protection. Interestingly, Chinese grassroots organizations are now also supported by the strong presence of various international NGOs in China with similar interests, such as World Wildlife Fund (WWF), Conservation International, and Nature Conservancy. [11]

Relations Between Environmental Groups and the Chinese Government

Although the CCP has tolerated NGOs and media outlets for exposing local level environmental abuse, it remains vigilant in overseeing that the party itself is not directly criticized and that other lines are not crossed. All registered NGOs are required to be sponsored by government agencies, commonly referred to as "mothers-in-law," to supervise their activities, membership, and funding sources. NGOs are not allowed to have branch organizations in different provinces, and persons labeled as political dissidents cannot join NGOs. Certain parts of the Chinese government are still concerned that NGOs may be subversive entities. Yu Xiaogang, winner of the Goldman Environmental Prize for honoring grassroots environmentalists, was banned from travelling because of his involvement in educating villagers about the potential downsides of a proposed dam relocation in Yunnan Province. In 2002, Friends of Nature was forced to remove one of its founding board members, Wang Lixiong, due to his support for two Tibetan monks who were sentenced to death. One of the main challenges for Chinese environmental NGOs lies in the lack of incentives for local officials to make environmental protection a priority. Even when the central government emphasizes the need to protect the environment, local officials often turn a blind eye to pollution out of self-interest. Often, they have a direct financial

link or personal relationships with factory owners. Environmental laws and regulations exist, but their implementation is problematic, especially in poor areas. Local protectionism is a widespread obstacle. In one instance, a lead smelter that had been violating standards for ten years had only been exposed when hundreds of children were hospitalized for high levels of lead in their blood. Because the local government was benefiting from the factory's business, it ignored the violations of the regulation for years. Though the factory was eventually shut down after gaining national attention, there are likely thousands of similar cases across the country. Moreover, fines for polluting or for violating environmental standards are so low that factory owners often prefer to pay rather than implement cleaner technologies. [12] Additionally, NGOs face considerable challenges due to the lack of reliable information and data on environmental performance. Many factory owners will either turn on their pollution control equipment only when inspection is imminent, or have found secret underground pipes to divert pollution far downstream for discharge. Environmental NGOs are working to refine a system that seeks to publicize factories' environmental performances as well as redirect business from the United States toward more environmentally friendly performers in China.

CHAPTER IV
ENVIRONMENTAL ACTIVISM IN US
The Evolution of the American Environmental Movement
The American environmental movement encompasses a variety of environmental organizations, ideologies, and approaches. Indeed, the evolution of environmentalism from an ideology into a social movement illuminates the existence of the essential elements of movement formation. These elements include: (1) the growth of preexisting

communications networks; (2) co-optable ideas; (3) a series of crises that galvanize individuals into action; and (4) subsequent organizing efforts to weld spontaneous groups together into a movement. As the following history illustrates, these elements appear throughout the course of the four eras of the American environmental movement.

The First Era: Conservation and Preservation

When considering the American environmental movement's origins of conservation and preservation, however, it is essential to note the utter lack of diversity among these early organizations. Both types of organizations were comprised of members harboring anti-urban and class biases. Members of these groups were generally wealthy, white, Anglo-Saxon males who enjoyed outdoor activities, such as hunting, fishing, and camping. Indeed, their debates were primarily "disputes among elites—between those who wished to leave the natural environment in a pristine state and those who viewed it as a place for recreation and pleasure." Consequently, early environmentalism was not a social movement but rather an attempt by privileged classes to preserve a place for outdoor recreation. Working class individuals and ethnic minorities were generally excluded from conservation and preservation organizations. Moreover, urban, industrialized areas, viewed by early preservationists and conservationists as areas of pollution, degradation, and squalor, found no home in early environmentalism. Consequently, environmentalism did not evolve into a social movement until the 1960s—when diversity entered the fight to protect the environment.[13]

The Second Era: The Rise of Modern Environmentalism in the 1960s

A series of dramatic environmental catastrophes in the 1960s galvanized environmentalists into action. These events included the 1965 power

blackout and garbage strikes of New York City, the 1969 burning of the Ohio River along the industrial sections of Cleveland, and the 1969 Santa Barbara oil spill. Symbolic protests on college campuses across the nation, which included letter writing campaigns and “ guerrilla theater-like” events, brought students into the Environmental Movement. At Columbia University, for example, sit-ins were organized initially to protest the conversion of parkland in a neighboring black community into a university gymnasium. Similarly, the 1969 People’s Park protests at Berkeley, designed to prevent the bulldozing of a spontaneous community garden into a university parking lot, further heightened environmental awareness. In all, both these catastrophes and protests served to heighten awareness of environmental issues in America. Environmentalists responded to these events by demanding government protection from environmental degradation and pollution. Environmental activists helped to draft legislation, including the Wilderness Act (1965); the Clean Air Act (1967); National Trails Act (1968); and the Wild and Scenic Rivers Act (1968). Their efforts and the increasing momentum of the environmental movement culminated in the Earth Day celebration on April 22, 1970.[14] The Third Era: Mainstream

Environmentalism By the 1980s, however, “ mainstream environmentalism” emerged in the wake of the Reagan Administration’s anti-environmental deregulation policies. Based primarily on a system of market-based incentives to entice companies to stop polluting, this approach frustrated progressive environmental protection advocates. “ From the beginning of that administration, the new governmental leaders made clear their conviction that the ‘ environmental movement’ had spent itself, was no

longer viable, and could be readily dismissed and ignored. " Consequently, while grassroots environmental groups were ignored by the Administration, mainstream environmentalism evolved into a cluster of public interest groups specializing in lobbying, legal expertise, scientific expertise, and the art of compromise. These mainstream organizations formed the " Group of Ten" (G-10), which included the CEOs of the ten largest environmental organizations. During the Reagan years, the membership in the G-10 organizations increased from four to seven million. These professionalized organizations utilized scientific and legal expertise, and primarily initiated lobbying and legislative strategies. Most importantly, however, these traditionally conservative, national organizations took a primary place in the American public's perception of the environmental movement during this decade. Unfortunately, the G-10 alienated many environmental groups by considering environmentalism to be a Beltway affair, played within the confines of Washington, D. C. and focused on the federal government through legislative strategies. Groups such as Greenpeace and Environmental Action, which defined action more broadly and distrusted federal government, were excluded. Moreover, apolitical groups like World Wildlife Fund and the Nature Conservancy were eliminated. The G-10 " clearly sought to exclude groups conducting, supporting, or advocating direct action against polluters, whalers, the military, and, even more troubling, against corporations. " However, other citizen environmental groups did respond to the Reagan Administration's challenge to prove their depth and persistence. These groups mobilized and joined together in opposition to Administration policies. A 1981 Harris poll illustrates this point,

finding that some eighty-percent of Americans favoured either maintaining the Clean Air Act or making it stricter. Moreover, by the late 1980s, grassroots organizations emerged that were critical of mainstream environmental groups' issue-by-issue strategy. The Fourth Era: Grassroots Environmentalism Reaction to Reagan Administration anti-environmental policies produced a backlash of grassroots environmentalism. Grassroots environmentalism embraces the principles of ecological democracy, and is distinguished from mainstream environmentalism by its belief in citizen participation in environmental decision making. Perceiving mainstream environmental organizations as too accommodating to industry and government, grassroots groups utilize " community right-to-know laws, citizen-enforcement provisions in federal and state legislation, and local input in waste clean-up methodology and siting decisions. " Consequently, although mainstream organizations do perform necessary functions such as educating the middle class to environmental concerns, litigating, and fighting the industrial lobby, grassroots groups create the real movement on issues and force environmentalism onto the public agenda. These new citizen-based groups reflect the evolution of environmentalism from a narrow, wilderness-centered philosophy to a richer, more inclusive ideology encompassing both rural and urban environments. Philosophically, the fourth era encompasses a spectrum of ideologies, including: deep ecology, social ecology, bio-regionalism, feminist ecology, spiritual ecology, native ecology, and Not in My Backyard (NIMBY) groups. Moreover, grassroots environmentalism cuts across ethnic, racial, and class barriers to introduce a diversity previously absent from the environmental movement CHAPTER V

CONCLUSION 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 institutionalized 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. ----- [1]

Mr. Justice K. G. Balakrishnan , " JUDICIAL ACTIVISM AND THE ROLE OF GREEN BENCHES IN INDIA", [www. indialawyers. com](http://www.indialawyers.com) dated on 15/9/11. [2]

Debadyuti Banerjee, " Environmental Jurisprudence in India: A Look at the Initiatives of the Supreme Court of India and their Success at Meeting the Needs of Enviro-Social Justice. " dated on 15/9/2011. [3] Ibid. [4] This Article gives the right to move the Supreme Court by appropriate proceedings for the enforcement of the guaranteed Fundamental Right [5] This Article gives the right to move the Supreme Court by appropriate proceedings for the

enforcement of the guaranteed Fundamental Right [6] Article 21 provides that: " no person shall be deprived of his life or personal liberty except according to procedure established by law. " [7] Article 48A-" The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country" [8] Article 51 A- Fundamental duty on every citizen to protect and improve the natural environment including forests , lakes, rivers and wildlife and to have compassion for living creatures [9] Central Pollution Control Board: Report, India. [10] Christine Xu , " China: Locals Turn to Environmental Activism", [www. climate. org](http://www.climate.org), dated on 15/9/2011. [11] Ibid. [12] Supra n 8. [13] Stacy J. Silveira ," THE AMERICAN ENVIRONMENTAL MOVEMENT: SURVIVING THROUGH DIVERSITY", dated on 15/9/2011. [14] Ibid .