

# **International Environmental Law Enforcement at Local Level for Climate Change Mitigation to Achieve Sustainable Development in India**

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**ABSTRACT:** International environmental law is read with Indian law for decisions in disputes involving any environmental issue. Environmental rules and regulations derive their authority, as per Article 38 (1) of the Statute of the International Court of Justice (ICJ), from four sources i.e. treaties, International custom, general principle of law recognized by civilized nations, and subsidiary sources. International environmental law principles have been utilized by the Indian courts not only to 'formulate' much of the contemporary environmental jurisprudence in India but also to 'enrich' the same. The environmental decision of the national/state courts and international environmental law has influenced each other. The decision of the state courts which is 'subsidiary sources' under Article 38(1) of the Statute of the ICJ, may lead directly to the growth of 'customary rules of international law.' Similarly, the state courts have often developed national environmental laws by taking inspirations and help from the international environmental laws. The Stockholm Conference played a significant role in throwing light on environmental degradation that has been caused worldwide. Consequently, the international stature of environmental & ecological balance has been enhanced and the Courts in India have played a distinguishing role in gradually enlarging the scope of a qualitative living by applying various issues of environmental protection using Article 21 in the plethora of cases.

**KEYWORDS:** Environmental law, Climate change, Sustainable development, Indian judiciary, Enforcement.

## **I. INTRODUCTION**

The growth of international environmental law has compelled us to revisit to our existing political, economic and social values and structure both at national and international levels. Many general principles and rules like Principle 21 of Stockholm, Principle 2 of Rio and the good neighbour lines are sufficiently substantive to be capable of establishing the basis of an international cause of action i.e. to give rise to an international customary legal obligation the violation of which would give rise to a legal remedy. Climate Change is a serious global environmental concern [1-6]. It is primarily caused by the building up of Green House Gases (GHGs) in the atmosphere [7]. Global Warming is a specific example of the broader term "Climate Change" and refers to the observed increase in the average temperature of the air near earth's surface and oceans in recent decades [8-12]. The clean development mechanism [CDM] allows developing countries to generate Kyoto permits that can be traded in an international market for projects that otherwise would not have been undertaken and which reduce emissions below a baseline [13-15]. The biggest climate impact has been on changing weather patterns in South Asia [16-18]. Over the last 50 years, rising temperatures have led to a nearly 10 percent reduction in the duration and rainfall levels of the annual monsoons that are vital to nearly all Indian agriculture [19].

Various international environmental treaties and laws binding on world community were framed and international responses [20-21] are adopted by Government of India also. Under the Hindu culture moral injunctions acted as guidelines towards environmental preservation and conservation. The environmental ethics of nature conservation were not only applicable to common man but the rulers and kings were also bound by them. In India, the enactment of the

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Forest Act, 1865 was the first step at asserting the State monopoly right over the forests. The customary rights of rural communities to manage forests were curtailed by the Act. The Forest Act of 1927 specifically denied people any rights over the forest produce simply because they were domiciled there. In the field of wildlife protection, the British practiced selective wildlife conservation. Customary laws are reflected in some general principles or rules which may have an even less developed legal status sometimes in some situations.

## II. RELATED WORK

In China, for instance, environmental protesters complain of an absence of the rule of law and demand a judicial role in handling environmental cases. According to China Dialogue, for example, during the 11<sup>th</sup> Five-Year Plan period (2006-2010), the Chinese Ministry of Environmental Protection received more than 300,000 environmental complaints, but "less than 1% of environmental disputes are resolved through legal channels." In India, by contrast, the public and judiciary lie on the one side of the spectrum and the politico-bureaucratic authorities are on the other when judicial redress is sought against authorities' acts of omission and commission. In fact, the mechanism of PIL has helped elevate the common man in India to the unofficial status of a powerful individual who can fall back on the apex court and the state high courts to flog bureaucracy into action that is in the public interest. In last 3 decades, PIL has increased Indian judicial engagement with environmental issues tremendously, although some judiciary experts consider this phenomenon a dilution of the original purpose of PIL.

Justice Kuldeep Singh, popularly known as green judge applied Vellore Case for Order/Judgment in various cases/ PIL like Bayer India Ltd. Case Sept. 09, 1996 (with Justice B.L. Hansaria); Badkal & Surajkund Lakes case Oct. 11, 1996; *Suo Motu* case (Vehicular Pollution in Delhi matter) Nov. 18, 1996; Shrimp Culture case Dec. 11, 1996; Kamal Nath case Dec. 13, 1996; Calcutta Tannaries case Dec. 19, 1996; Taj Trapezium case Dec. 30, 1996; *F.B. Taraporwala v. Bayer India Ltd.* (1996) 6 SCC 58, 61 [22]; *M.C. Mehta (Badkal and Surajkund Lakes Matter v. Union of India)* (1997) 3 SCC 715, 718-20 [23]; *Suo Motu Proceeding In Re : Delhi Transport Development* (1998) 9 SCC 250, 251 [24]. Justice Kuldip Singh (Joint order of the Div. bench) applied the precautionary principle as part of sustainable development to establish a legal duty of the state government to control the vehicular pollution in Delhi in *S Jagannath, v. Union of India* (1997) 2 SCC 87, 143-46 [25]; *M.C. Mehta v. Kamal Nath* (1997) 1 SCC 388, 413-414 [26]; *M.C. Mehta (Calcutta Tannaries' Matter) v. Union of India* (1997) 2 SCC 411, 429-430 [27]; *M.C. Mehta (Taj Trapezium Matter) v. Union of India* (1997) 2 SCC 353, 382-83 [28]. In *Samatha case [Samatha, v. State of A.P. & others]* (1997) 8 SCC 191, 274 [29]. (Para 123) (Decided on July 11, 1997 by three judges' bench)], only meaning and importance of the term sustainable development as well as "the polluter pays principle as a facet thereof" have been briefly mentioned and affirmed by the Supreme Court. In *Nuyudu case [A.P. Pollution Control Board v. Prof. M.V. Nayudu]* (1999) 2 SCC 718, 732-34 [30] (Para 30, 31 & 36)] citing *Vellore case* [31] the Supreme Court felt it necessary to further elaborate the meaning of precautionary principle in more detail.

## III. INDIAN CONSTITUTION AND JUDICIARY

Principle 1 of the declaration of UN Conference on Human Environment, 1972 proclaimed that man has the fundamental right to freedom, equality and adequate conditions of life in an environment of a quality that permits a life of dignity and well being. It was only from the late eighties and thereafter, various High Courts and the Supreme Court of India have designated this right as a fundamental right. Prior to this period, as pointed out earlier, people had enjoyed this right not as a constitutionally guaranteed fundamental right but as a right recognized and enforced by the courts under different laws like Law of Torts, Indian Penal Code, Civil Procedure Code, Criminal Procedure Code etc. The Supreme Court in *Municipal Council, Ratlam v. Vardhichand* observed that the State will realize that Article 47 makes it a paramount principle of governance that are steps taken for the improvement of public health as amongst its primary duties. Only with the strengthening of public interest litigations and an enhanced commitment from the Central Government during the late 1970s, did an expansion of constitutional provisions to include aspects relating to the environment take place. Indian Constitution was amended in the year 1976 and this gave it an environmental dimension and added to it direct provisions for the preservation of ecological and biological diversity. Article 48A, a directive principle, was inserted into Part IV of the Constitution, to protect and improve the environment and to safeguard the forests and wildlife of the country.

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Article 51 A (g) in Part IVA, casts a duty on every citizen of India that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. In *M.K. Janardhanam v. District Collector, Tiruvallur*, the Madras High Court has observed that the phrase used (in Art 48A and Art 51A) is protect and improve which implies that the phrase appears to contemplate affirmative governmental action to improve the quality of the environment and not just to preserve the environment in its degraded form. The Supreme Court, in *Rural Litigation and Entitlement Kendra v. State of U.P.* ordered the closure of certain limestone quarries causing large scale pollution and adversely affecting the safety and health of the people living in the area. Likewise, in *M.C. Mehta v. Union of India*, the court directed an industry manufacturing hazardous and lethal chemicals and gases posing danger to health and life of workmen and people living in its neighbourhood, to take all necessary safety measures before reopening the plant. In an attempt to maintain the purity and holiness of the River Ganga, tanneries polluting the sacred river were ordered to be closed down.

The Supreme Court in *Virender Gaur v. State of Haryana*, the Court explicitly held that the word environment is of broad spectrum which brings within its ambit hygienic atmosphere and ecological balance. It is therefore, not only the duty of the State but also duty of every citizen to maintain hygienic environment. Moreover in *S. Jagannath v. Union of India*, the Supreme Court has held that setting up of shrimp culture farms within the prohibited areas and in ecologically fragile coastal areas has an adverse effect on the environment, coastal ecology and economics and hence, they cannot be permitted to operate. In *Vijay Singh Puniya v. State of Rajasthan*, the High Court of Rajasthan observed that any person who disturbs the ecological balance or degrades, pollutes and tinkers with the gifts of nature such as air, water, river, sea and other elements of the nature, he not only violates the fundamental right guaranteed under Article 21 of the Constitution, but also breaches the fundamental duty to protect the environment under Article 51A (g). In India, the higher judiciary has interpreted Article 21 to give it an expanded meaning of including the right to a clean, safe and healthy environment. Class actions have been entertained by the Supreme Court under Art 32 of the Constitution as being part of public interest litigation actions. The High Courts, also being granted this jurisdiction under Article 226 have intervened by passing writs, orders and directions in appropriate cases, thereby giving birth to an incomparable environmental jurisprudence in the form of the constitutional right to healthy environment.

The decision given by the Supreme Court in *Sachidanand Pandey v. State of West Bengal*, seemed to be narrowing the level of scrutiny as opposed to enlarging it to include the all pervasive environmental dimension. In this case, the proposal for the construction lodging by the Taj Group of Hotels, amidst the zoological gardens of Allipore, for improving tourism in West Bengal was accepted by the Government and subsequently, when the case appeared before the Supreme Court, the decision of the Tourism Ministry was upheld. The Court justified its stand that appropriate considerations had been borne in mind and irrelevancies were excluded. However, one must not be misled in thinking that the decision of the court in *Sachidanand Pandey v. State of West Bengal* suppressed its activist nature. This decision is no longer an authority as the limited nature of scrutiny is not followed by the Courts of the present years. For the first time in the case of *Subash Kumar v. State of Bihar*, the court declared that the right to life under Art 21 includes the right to clean water and air. In the same case, the rule of *locus standi* was enlarged so that the court could take cognizance of environmental degradation and regulate the prevention of the same in an effective manner. In *Virender Gaur v. State of Haryana*, the Apex Court confirmed that for every citizen, there exists a constitutional right to healthy environment and further conferred a mandatory duty on the state to protect and preserve this human right.

Another landmark and revolutionary judgment is *Indian Council for Enviro-Legal Action vs. Union of India*, a case concerned serious damage by certain industries producing toxic chemicals to the environment of Bichhri District in Rajasthan. Directions for the closure of the industry were given and the decision in the *Oleum Gas Leak* case regarding absolute liability for pollution by hazardous industries was reaffirmed. Moreover, the polluter pays principle was explicitly applied for the first time in the Bichhri case. A foundation for the application of the Precautionary Principle, the Polluter Pays Principle and Sustainable Development, having been laid down, the three principles were applied together for the first time in by the Supreme Court in *Vellore Citizens Welfare Forum v. Union of India*, a case concerning pollution being cause due to the discharge of untreated effluents from tanneries in the state of Tamil Nadu. The Court, referring to the precautionary principle, polluter pays principle and the new concept of onus of proof, supported with the constitutional provisions of Art. 21, 47, 48A and 51A (g) and declared that these doctrines have become part of the environmental law of the country.

The Public Trust Doctrine, evolved in *M.C. Mehta v. Kamal Nath*, states that certain common properties such as rivers, forests, seashores and the air were held by Government in Trusteeship for the free and unimpeded use of the general

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public. A matter regarding the vehicular pollution in Delhi city, in the context of Art 47 and 48 of the Constitution came up for consideration in *M.C. Mehta vs. Union of India (Vehicular Pollution Case)*. It was held to be the duty of the Government to see that the air did not become contaminated due to vehicular pollution. The Apex court again confirming the right to healthy environment as a basic human right, stated that the right to clean air also stemmed from Art 21 which referred to right to life. This case has served to be a major landmark because of which lead-free petrol supply was introduced in Delhi. There was a complete phasing out old commercial vehicles more than 5 years old as directed by the courts. Delhi owes its present climatic conditions to the attempt made to maintain clean air.

Stockholm Conference on Human Environment, 1972, has generated a strong global international awareness and in India it facilitated the enactment of the 42<sup>nd</sup> Constitutional Amendment, 1976. This amendment has introduced certain environmental duties both on the part of the citizens [Article 51A (g)] and on the state (Article 48-A). The Supreme court of India briefly referred important legal developments such as the Stockholm Conference 1972, Burndtland Commission Report, 1987, Caring of the Earth Report, 1991, Rio Conference, 1992, Convention on Climate Change, 1992, Convention on Biological Diversity, 1992 and Agenda -21 (a programme of Action for Twenty-first Century) etc in *Vellore case*, for interpretation of sustainable development, the precautionary Principle and the Polluter Pays Principle. The court held that "Sustainable Development" as a balancing concept between ecology and development has been accepted as a part of customary international law though its salient features are yet to be finalized by the international law jurists. The court was of the view that "The precautionary Principle" and "The Polluter Pays Principle" are essential features of "Sustainable Development." The Precautionary Principle and the Polluter Pays Principle have been accepted as part of the law of the land; and court observed that once these principles and concepts are accepted as part of the customary International law there would be no difficulty in accepting them as part of the domestic law. Therefore the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law.

India has a number of national policies governing environmental management, including the National Policy on Pollution Abatement (NPPA, 1992) and the National Conservation Strategy and Policy Statement on Environment and Development (NCS/PSED, 1992). While these national policies are not judicially enforceable, they serve as guiding principles for the central and state governments to follow. In India, provisions available for environment protection through various Act, Laws and Rules can be enforced by the instrument of Writ Petitions in High Courts under Article 226 and the Supreme Court under Article 32 of the Constitution of India. Public interest litigation (PIL), emerged/originated in 1979 when the judicial ruling in the *Hussainara Khatoon v. State of Bihar* case led to the release of more than 40,000 under trial prisoners in the Indian state of Bihar. In a subsequent judgment (*S.P. Gupta v. Union of India*, 1981), Justice P.N. Bhagwati and Justice V.R. Krishna Iyer articulated the concept of PIL, stating that any member of public can file a petition in the High Court against a violation of the legal or constitutional right(s) of any person or class of persons who are helpless in approaching the court for relief, and can directly approach the Supreme Court in case the latter's fundamental right has been breached. PIL is a strategic arm of the legal aid movement which is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity, and is a totally different kind of litigation from the ordinary traditional litigation.

#### IV. CLIMATE CHANGE LAWS IN INDIA

Status under International Climate Change Law includes UNFCCC: signature (10 June 1992), ratification (1 Nov 1993), and entry into force (21 March 1994); KP: accession (26 August 2002) and entry into force (16 February 2005); Vienna Convention: accession (18 Mar 1991); Montreal Protocol: accession (19 Jun 1992); Energy Charter; Espoo Convention etc. The Environmental (Protection) Act of 1986, Act No. 29 to act as an "umbrella" legislation designed to provide a frame work for Central government co-ordination of the activities of various central and state authorities established under previous laws, such as Water Act & Air Act. The Air (Prevention and Control of Pollution) Act of 1981, No. 14, 29 March 1981, to provide for the prevention, control and abatement of air pollution is effective instrument for air management. The Ozone Depleting Substances (Regulation and Control) Rules, 17 July 2000, to enact rules for regulating ozone depleting substances is another important rules available. The Energy Conservation Act of 2001, No. 52, 29 September 2001, to provide for efficient use of energy and its conservation and for matters connected therewith or incidental thereto. Energy Conservation (Amendment) Act, 2010, No. 28, 24 August 2010, to amend the Energy Conservation Act of 2001 is available Law for energy. Electricity Act 2003 was amended in 2007, to better coordinate

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development of the power sector by providing a comprehensive framework for power development. The Indian Forest Act of 1927, No. 16, 21 September 1927, to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest- produce. Forest Conservation Act of 1980, No. 69, 27 December 1980, to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

Environmental Impact Assessment notification of 1994 by Ministry of Environment and Forest, Government of India changed the Law for starting any project. The National Green Tribunal Act, 2010, No. 19, 2 June 2010, to provide for the establishment of a Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons or property and for matters concerned therewith or incidental thereto. The National Environment Appellate Authority Act, 1997, No. 22, 26 March 1997, 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 or class of industries, operations or processes, shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 and for matters concerned therewith or incidental thereto.

The Water (Prevention and Control of Pollution) Cess Act, 1977, 7 December 1977, amended 1992, to provide for the levy and collection of a cess on water consumed by persons carrying on certain industries and by local authorities, with a view to augment the resources of the Central Board and the State Boards for the prevention and control of water pollution constituted under the Water (Prevention and Control of Pollution) Act, 1974. The Coastal Regulation Zone Notifications, 1991, 19 February 1991, amended 16 August 1994 and 18 April 1996, to impose the following restrictions on the setting up and expansion of industries, operations or processes, etc., in the said Coastal Regulation Zone. The Indian Wildlife Protection Act, 1972, amended 1993. The Wildlife (Protection Act) Amendment Act, 2002, No. 16 of 2003, 17 January 2003, to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country. Biological Diversity Act, 2002, No. 18 of 2003, 5 February 2003, to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

Recycled Plastics Manufacture and Usage Rules, 1999, 2 September 1999, to define rules for the manufacture and use of recycled plastics carry bags and containers. Government Documents like National Action Plan on Climate Change, 2008; India: Taking on Climate Change – Post Copenhagen Domestic Actions, 30 June 2010; India's 12th Five-Year Plan, October 2011; National Electricity Plan, January 2012; Integrated Energy Policy Report, 2006; India: Greenhouse Gas Emissions, 2007; National Solar Mission (consequence of National Action Plan on Climate Change), June 2010; Incentives for Wind Power, 2009, ceased March 2012; Solar Power Generation Based Incentive, 2008; Energy Conservation Building Code, 2007; Ethanol Production Incentives, 2007; Tariff Policy, 6 January 2006, amended 2011; National Electricity Policy, 3 February 2005; National Auto Fuel Policy, 2003.

## V. INTERNATIONAL RESPONSE TO CLIMATE CHANGE

More than 150 nations signed the “United Nations Framework Convention on Climate Change” (UNFCCC) in June 1992 in Rio de Janeiro. The climate convention is the base for international co-operation within the climate change area. In the convention the climate problem's seriousness is stressed. There is a concern that human activities are enhancing the natural greenhouse effect, which can have serious consequences on human settlements and ecosystems. The convention's overall objective is the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.” The principle commitment applying to parties of the convention is the adoption of policies and measures on the mitigation of climate change, by limiting anthropogenic emissions of greenhouse gases and protecting and enhancing greenhouse gas sinks and reservoirs. The commitment includes the preparation and communication of national inventories of greenhouse gases. The Climate convention does not have any quantitative targets or timetables for individual nations. However, the overall objective can be interpreted as stabilization of emissions of greenhouse gases by year 2000 at 1990 levels. The deciding body of the climate convention is the Conference of Parties (COP). At the COP meetings, obligations made by the parties are examined and the objectives and implementation of the climate convention are further defined and developed. The first

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COP was held in Berlin, Germany in 1995 and the latest (COP 10) was held in December 2004, Buenos Aires, Argentina.

Negotiations on the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) were completed and the Kyoto Protocol was adopted in Kyoto, Japan, on 11 December 1997; and entered into force on 16 February 2005. The Kyoto Protocol is an international agreement linked to the UNFCCC. Industrialized nations committed through legal binding for reductions in emissions of six greenhouse gases. The 6 major greenhouse gases covered by the protocol are carbon dioxide ( $\text{CO}_2$ ), methane ( $\text{CH}_4$ ), nitrous oxide ( $\text{N}_2\text{O}$ ), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride ( $\text{SF}_6$ ). Under the Protocol, countries must meet their targets primarily through national measures. However, the Protocol also offers them an additional means to meet their targets by way of three market-based mechanisms: (i) International Emissions Trading (IET); (ii) Clean Development Mechanism (CDM); and (iii) Joint implementation (JI). The mechanisms help to stimulate green investment and help Parties meet their emission targets in a cost-effective way. The Bali Road Map was adopted at the 13th Conference of the Parties and the 3rd Meeting of the Parties in December 2007 in Bali. The Road Map is a set of a forward-looking decisions that represent the work that needs to be done under various negotiating "tracks" that is essential to reaching a secure climate future.

The 15th session of the Conference of the Parties to the UNFCCC and the 5<sup>th</sup> session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol took place in Copenhagen, Denmark in 2009, to produce the Copenhagen Accord. This included the long-term goal of limiting the maximum global average temperature increase to no more than 2 degrees Celsius above pre-industrial levels, subject to a review in 2015. The Cancun Agreements form the pillars of the largest collective effort the world has ever seen to reduce emissions, in a mutually accountable way, with national plans captured formally at international level under the banner of the UNFCCC. The Cancun Agreements, reached on December 11 in Cancun, Mexico, at the 2010 United Nations Climate Change Conference, represented key steps forward in capturing plans to reduce Green House Gas emissions, and to help developing nations protect themselves from climate impacts and build their own sustainable futures. The main objectives include: (i) Mitigation; (ii) Transparency of actions; (iii) Technology; (iv) Adaptation; (v) Forests; (vi) Capacity building; and (vii) Finance. The objectives also include setting up the Green Climate Fund to disburse \$100 billion per year by 2020 to developing countries to assist them in mitigating Climate Change and adapting to its impacts.

The United Nations Climate Change Conference at Durban in 2011, delivered a breakthrough on the international community's response to Climate Change to stabilize Green House Gas concentrations in the atmosphere at a level that will prevent our dangerous interference with the climate system and at the same time will preserve the right to sustainable development. The launch of a new platform of negotiations under the Convention to deliver new and universal Green House Gas reduction protocol, legal instrument or other outcome with legal force by 2015 for the period beyond 2020. In Doha, Qatar, on 8 December 2012, the "Doha Amendment to the Kyoto Protocol" was adopted. New commitments for Annex I Parties to the Kyoto Protocol who agreed to take on commitments in a second commitment period from 1 January 2013 to 31 December 2020; a revised list of Green House Gases (GHG) to be reported on by Parties.

## VI. INTERNATIONAL VERSUS INDIAN ENVIRONMENTAL LAWS

Comparative analysis of International Environmental Laws and Relevant Indian Environmental Statutes provide wide scope for understanding interpretation for different aspects in The Stockholm Conference, 1972 versus The Air Act, 1981; The Stockholm Conference, 1972 versus The Environmental Protection Act, 1986; The Rio Conference, 1992 versus The Public Liability Insurance Act, 1991; The Rio Conference, 1992 versus The National Environmental Tribunal Act, 1995; Convention of Biological Diversity, 1992 versus The Biological Diversity Act, 2002; Convention of International Trade in Endangered Species of Wild Fauna and Flora, 1973 versus The Wild Life Protection (Amendment) Act, 2002 etc.

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## VII. SIMULATION AND RESULT

Climate changes is due to positive feedbacks in ecosystems and require holistic approaches and policies that guides all environmental protection Law and Acts applicable for climate change mitigation strategies. Apart from International Conventions and Laws there are many Local Laws and Acts which play important role for climate change mitigations and environmental protection. Environment policy in India has evolved under the dominant influence of specific actors and events over time. The period from 1972 to 1980 saw a large number of legislations being enacted, aimed at forest conservation, protection of wildlife and a framework for abatement of water pollution. The Environmental (Protection) Act of 1986, Act No. 29 to act as an "umbrella" legislation designed to provide a frame work for Central government co-ordination of the activities of various central and state authorities established under previous laws, such as Water Act & Air Act. The Air (Prevention and Control of Pollution) Act of 1981, No. 14, 29 March 1981, to provide for the prevention, controls and abatement of air pollution is effective instrument for air management. The Ozone Depleting Substances (Regulation and Control) Rules, 17 July 2000, to enact rules for regulating ozone depleting substances are important rules available. The developing countries, especially the poorest and most vulnerable, will need much more support through effective good governance to adapt to the change that is already embedded in the global climate system.

## VIII. CONCLUSION

All polluting facilities are legally required to obtain from central pollution control board (CPCB) or a respective state pollution control board (SPCB) consent (permits) to establish (CTE) and consent to operate (CTO). Sustainable development can be achieved only when development is eco-friendly (environment friendly), economically viable and socially acceptable (for animals, plants and microbes). The main general rules and principles which have broad support and are frequently endorsed in practice are the obligation reflected in Principle 21 of the Stockholm Declaration and Principle 2 of the Rio Declaration, namely that states have sovereignty over their natural resources and the responsibility not to cause environmental damage; the principle of preventive action; the principle of good neighborliness and international co-operation; the principle of sustainable development; the precautionary principle; the polluter-pays principle; and the principle of common but differentiated responsibility. The deterrent theory of punishment employed under strict and absolute liability principle has achieved some decree of success. The existing principles, laws, case law, regulations, standards, resolutions and so on, already constitute a vast and complicated apparatus of paper and of powers conferred upon certain bodies or persons. Role of the judiciary is pivotal to environmental protection and ecosystem management.

Environment Protection Act 1986 has broad scope and rights for clean air and water to all citizens. In last two decades, the Supreme Court of India and some High Courts of the states have led the way in the enforcement of environmental laws through citizen-led public interest litigation (PIL) that has its legal basis in the constitutional right to a healthy environment. The Supreme Court of India responded with equal anxiety and raised the issue to come within the mandate of the Constitution and through many cases/ matters, the court have evolved the doctrines for enforcing mandatory compliance of environmental regulations i.e. Public Trust Doctrine in *M.C.Mehta v. Kamal Nath*, (1996) 1 SCC 38, *MI Builders Pvt. Ltd. v. Radhey Shyam Sahu*, AIR 1996 SC 2468, Precautionary Principle in *Vellore Citizens Welfare Forum v. Union of India (UOI)*, AIR 1996 SC 2718, *Narmada Bachao Andolan v. UOI*, AIR 2000 SC 375, Polluter Pays Principle in *Vellore Citizens Welfare Forum v. UOI*, AIR 1996 SC 2718, Absolute Liability Principle in *M. C. Mehta v. UOI*, AIR 1987 SC 1086, *Narmada Bacho Andolan v. UOI*, AIR 2000 SC 375, Sustainable Development in *M.C. Mehta v. UOI*, AIR 1997 SC 734, *State of Himachal Pradesh v. Ganesh Wood Products*, AIR 1996 SC 149. The growth of Indian environmental law has often been co-extensive to the growth of the environmental law under international law. After the Bhopal Mass Disaster (December, 1984) all the three branches of the state and particularly the India Supreme Court, having inspired from the international environmental law, have developed environmental law speedily in India.

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