ENVIRONMENT AND HUMAN RIGHTS
From the earliest dawn of civilisation the human race became the shaper and moulder of his environment. Every organism in our planet is inextricably connected with the environment in which it grows and the development of it requires a healthy environment. It then becomes essential to all human beings a favourable environment in which they live in. Any infringement of it can damage human health and property to an enormous extent and even destroys the lives of the people. Therefore the "right to the environment" can be considered as basic human need for the development of all human beings. It is a matter of common observation in all human societies that people may treat each other 'well' or 'badly' depending on whether they are motivated by love, generosity, gratitude,
co-operation and creativity; or by hatred, greed, envy, competitiveness and destructiveness. Deeply buried somewhere in that observation are the origins of what are today called 'human rights' and the legal rules associated with them. All human beings display certain needs and desires which must be satisfied if they are even to survive, let alone to grow, develop their potential, and contribute to the development of the potential of others. Those needs and desires are often painfully frustrated by unavoidable causes such as disease, or other natural calamities. It is the paramount objective of human rights law — both national and international — to seek to protect individuals from man-made, and so avoidable, suffering inflicted on them through deprivation, exploitation, oppression, persecution, and other forms of maltreatment by organized and powerful groups of other human beings. In order to meet and approach that objective, human rights law uses the classical transformations of political philosophers and lawyers from needs and desires to moral claims, and from moral claims to 'rights', founded first on morality and ultimately on positive and enforceable law. Throughout the centuries over which the concepts of 'human rights' and 'fundamental freedoms' have developed and been refined, it has been an axiom of all the underlying theories that the beneficiaries of those rights and freedoms are individual human beings, in whom they 'inhere', 'inalienably', by virtue of their humanity, and the dignity and integrity to which
that characteristic entitles them. When some such rights have been ascribed to sub-classes of the universal class of human beings — such as workers, women, mothers, children or prisoners — those rights have still been seen as attaching to individual members of the sub-class concerned, rather than to the sub-class as an abstract unity. That has hitherto formed the basis for the definition, interpretation and application of all 'human rights'. The famous French philosopher Sartre wrote "And when one day our human kind becomes fully grown, it will not define itself as the sum total of the whole world's inhabitants, but as the infinite unity of their mutual needs. If we consider this statement in the context of our current affairs, it is obvious that we face a staggering task in linking the ecological security of our planet with the livelihood of the people. The lives of every human beings are dependent on the state of environment in which they live in. Life is totally revolved around its supporting systems of land, water, flora and fauna and the atmosphere. It will be then prudent to say that the relation between human beings and its environment is similar to that of fish and water. Man cannot live and sustain without a conducive environment. The right to the environment is then very much essential and extensively related to the lives of mankind. As human rights can only attach to living human beings, one might expect the right to life in some sense primary, since none

of the other rights would have any value or utility without it.
The earliest national statute prohibiting the arbitrary depriva-
tion of life is stated in the English Magna Carta of 1215. The
same principle can be found in 1791 in the Fifth (and later the
Fourteenth) Amendment to the U.S. Constitution. Slowly this con-
ception has been infiltered in the Bill of Rights and in many
other international instruments and national constitutions. But
the international instruments do not in fact accord it any formal
primacy; on the contrary ICPR, ECHR, and AMR all contain qualifi-
cations rendering the right less than absolute, and allowing
human life to be deliberately terminated in certain specified
cases. Many Declarations\(^1\) explicitly declare a 'right to life'.
The 'arbitrary deprivation of the right to respect for life' is
enunciated in AFR\(^2\) too. But only one of the treaties ICPR\(^3\) does
likewise, adding the adjective 'inherent'. The right to life thus
stands in marked contrast to some of the other rights protected
by many instruments: for example, the freedom from torture and
other ill-treatment and the freedom from slavery and servitude
are both absolute and subject to no exceptions of any kind.
It may therefore be said that international human rights law
assigns a higher value to the quality of living as a process,
than to the existence of life as a state. It becomes crystal

1. (a) UDHR \(\S\) 3. Everyone has the right to life...
   (b) ADRD \(\S\) 1. Every human being has the right to life...

2. Human beings are inviolable. Every human being shall be
   entitled to respect for life and integrity of his person.
   No one may be arbitrarily deprived of this right.

3. Every human being has the inherent right to life. This right
   shall be protected by law. No one shall be arbitrarily depri-
vied of his life.
clear that the 'right to the environment' is another human right which has been proposed in recent years is a species of 'right to life' AFR\(^1\) is the first international instrument of human rights law to adopt that proposal, qualifying the environment concerned as general, satisfactory, and favourable to development.

The 'right to the environment' then becomes a pre-condition for the favourable development of the human beings. In other words the 'right to the environment' became the basis of all human rights law for the sustenance of the lives of human beings. The Indian Legislature created exemplary work by inserting provision in the constitution for the protection of environment. Environmental protection and improvement were explicitly incorporated into the constitution by the Constitution (Forty-Second Amendment) Act of 1976. Article 48A\(^2\) was added to the directive principles of State policy. A new Chapter\(^3\) was entered altogether by the Legislature which imposes a fundamental responsibility on every citizen. Article 51 A(g)\(^4\) was for the preservation of the environment was added in the constitution through the same Amendment Act of 1976. The provisions clearly highlight the national consensus on the

1. All peoples shall have the right to a general satisfactory environment favourable to their development.
2. "The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country"
3. Chapter IV A of Fundamental Duties.
4. It shall be the duty of every citizen of India "to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures."
importance of environmental protection and improvement. This principle has been classically conceptualized by our judicial institutions and is reflected in a wide dimension. Encouraged by an atmosphere of freedom and articulation in the aftermath of the Emergency, the courts in India entered one of its most creative periods. Specifically, the Supreme Court of India fortified and expanded the fundamental rights enshrined in Part III of the Constitution. In the process, the boundaries of the fundamental right to life and personal liberty guaranteed in Article 21, were expanded to include environmental protection. This dynamic approach had a tremendous effect in the territory of India and made other courts active. The court required laws affecting personal liberty also to pass the tests of Article 14 and Article 19 of the Constitution, thereby ensuring that the procedure depriving a person of his or her personal liberty be reasonable, fair and just. The Court also recognised several unarticulated liberties that were implied by Article 21. It is by this second method that the apex court interpreted the right to life and personal liberty to include the right to a wholesome environment. A tremendous effort is activated through judicial process and this will be remembered over by the people.

1. "No person shall be deprived of his life or personal liberty except according to procedure established by law".

2. Maneka Gandhi v. Union of India, AIR 1978 SC 597, 623-624. Article 14 enshrines the right to equality before law and protects a person against arbitrary or unreasonable state action. Article 19 enumerates certain fundamental rights, such as the right to freedom of speech and expression and the right to form associations or unions.


4. E.g., the right to free legal assistance was recognised in Khatri v. State of Bihar, AIR 1981 SC 928; the right of a prisoner to be treated with humanity was recognised in Charles Sobraj v. Superintendent, Central Jail, Thar, AIR 1978 SC 514.
for generations to come. The first indication of the right to a wholesome environment may be traced to the Dehradun Quarrying Case. The writ jurisdiction under Article 32 is enhanced considerably, and while issuing the orders it presupposed the violation of a fundamental right. The fundamental right to life in Article 21 is best suited in the Ganga Pollution (Tanneries) Case where the court held that the closure of tanneries may bring unemployment, loss of revenue, but life, health and ecology have greater importance to the people. In these judgments the court did not refer Article 21 but those judgments can only be understood on the basis that it was entertained through environmental complaints under Article 32 of the Constitution as involving violation of Article 21's right to life. The environmental dimension to Article 21 has also been explicitly recognised by various High Courts. While considering a writ petition to enjoin the Life Insurance Corporation and the Income Tax Department from building residential houses in a recreational zone, the Andhra Pradesh High Court held that it would be reasonable to hold that the enjoyment of life and its attainment and fulfilment guaranteed by Article 21 of the Constitution embraces the protection and preservation of nature's gift without which life cannot be enjoyed. There can be no reason why practice of violent extinguishment of life alone should be

regarded a violative of Article 21 of the Constitution. The slow poisoning by the polluted atmosphere caused by environmental pollution and spoilation should also be regarded as amounting to violation of Article 21 of the Constitution. It therefore, becomes the legitimate duty of Courts as the enforcing organs of Constitutional objectives to forbid all action of the States and the citizens from upsetting the environmental balance. In this case the very purpose of preparing and publishing the development plan is to maintain such an environmental balance. The object of reserving certain area as a recreational zone would be utterly defeated if private owners of the land in that area are permitted to build residential houses. It must, therefore, be held that the attempt of the Life Insurance Corporation of India and the Income Tax Department to build houses in this area is contrary to law and also contrary to Article 21 of the Constitution. The various High Courts too have observed that environmental degradation violates the fundamental right to life, as the right to a wholesome environment seems to be widely accepted by them as implied by Article 21. The writ jurisdiction of the court is enhanced and applied the above principle in the case of Sachidananda Pandey V State of West Bengal. The Calcutta High Court became very much active and played a very important role for the protection of the environment. This can be evidenced from a notable case

2. AIR 1987 SC.
3. Rabin Mukherjee V. State of West Bengal. AIR 1985 Cal.222 261-263
in which the court held that the environmental degradation poses serious threat to the health of the residents apart from causing serious inconvenience to the weak, infirm and indisposed people. The polluters are warned and failure to stop the environmental pollution shall be liable for prosecution in accordance with law.

Due to the rapid increase in population in our planet, industrialisation is very much necessary for meeting the needs and desires of the people, without which man cannot develop. It is also the urgent need of the hour to observe that human development is not frustrated by environmental pollution. This concept recognises that economic growth and environmental protection are inextricably linked, and that the quality of present and future life rests on meeting basic human needs without destroying the environment on which all life depends.

The question is how clean the environment should be for an optimum use of resources. A statement issued in March 1992, by the Royal Society of London and the National Academy of Sciences, United States of America has pointed out that the world population is growing at an unprecedented rate of almost 100 million people every year; and human activities are producing major changes in the global environment. To cope with this emerging problem of the environment, the international community developed a new concept known as 'Sustainable Development', maintaining the relationship of environment and human development. This does not imply that environmental concerns should occupy
a paramount position *vis-a-vis* the economic, technological or financial, but that they should rather receive due and balanced consideration before the finality of a decision. Sustainable development therefore implies a future in which life is improved worldwide through economic development, where even local environments and biosphere are protected and science is mobilised to create new opportunities for human progress. The emerging concept is much attached to human rights in that as it signifies the lives of human beings and its sustainable progress. It is in this context of the macro scenario that is to be considered of achieving continuous advances in biological productivity in an ecologically sustainable manner. The new paradigm of development now emerging places as much stress on ecological sustainability as on economic and social needs. The human beings then require to maintain the concept of sustainability in so far as its development is concerned. The 'right to a sustainable development' is also a human right developed in recent years for the progress of human society. Sustainable advances imply the conservation, evaluation, and sustainable utilisation of the resources for achieving such advances. It may be rather said that the lives of mankind are totally *depended* on the new term 'sustainable development'. Thereby the 'right to a life' can only be achieved through the 'right to a sustainable development'. This emerging concept has been accepted worldwide and created consciousness among the people of the world for the furtherance of human civilisation. The Earth Summit at Rio 1992 clearly made declaration
on principles of general rights and obligation on environmental protection, proclaimed that to achieve sustainable development and higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote demographic policies by enhancing the development adaptation, diffusion and transfer of technologies including new and innovative technologies, by enacting effective environmental legislation on the basis of an international consensus. It further proclaimed that EIA as a national instrument shall be undertaken for the proposed activities that are likely to have a significant adverse impact on the environment. A wide range of administrative, legislative and judicial measures may be taken for promoting the ecological security of the mankind and for the progress of it. The ultimate goal of sustainable development should be the improvement and development of human beings and the livelihood security of the human society. The sustainable development becomes an integral part of all the lives of human race. The enhancement of the emerging concept may have a far reaching sustainable effect on the lives of every organism. A unique development may occur on this earth if the concept of sustainable development is blended with intelligence and humanity and proceeded further. The mobilisation so to be created for progress of mankind should be based on equity and environment. Development which is not equitable will not be sustainable in the long run. There can be no better common future without a better common present. Actually, 'equitable
development' is the order of the day and is a part of every living and non-living organism. Therefore 'right to life' is exactly related with the 'right to an equitable development'. The human rights are uniquely blended with the new classical concept of 'equitable development' not only for the development of the present or near future but for the infinite generations to live on this planet. It can be inferred that the 'right to an equitable development' is very much fundamental for the human societies and is a part of 'right to life'. This dynamic concept may provide a fundamental approach to the mankind if it is implemented in the world at large, and will pave the way for a developed state free from pollution for generations to come. The twin words 'equitable development' and 'human rights' are so closely linked that one is to suffer without the other. So, for the human development, it is of utmost importance to have ecological security, and therefore 'right to an equitable development is the only alternative for human progress, and is a pointer to the quality of our civilisation.