

## Protection of Environmental Rights for Sustainable Development: An Appraisal of International and National Laws

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**Abstract:** There is a close nexus between sustainable management, use and utilization of the environment and safeguard of environmental rights. Both are equally important for the wellbeing of the human kind, but this warrants striking a balance between them. It is for this reason that law has to provide for abatement and control of degradation of the environment and protection of environmental rights. At international level, early human rights instruments made no direct mention of protection of environmental rights, but they, in effect, safeguard them. The later ones have direct mention about protecting these rights. The Aarhus Convention is notable among them. It specifies environmental rights as: rights to access to relevant environmental information, right to participate in environmental-related decision-making, and right to access to justice. This paper attempts to critically examine the provisions of these conventions. At national level, some states grant environmental rights under right to life enshrined in their constitutions with specific provision for protection of these rights. Some other states have imposed duties, through their constitutions, as not to pollute the environment. The authors are of the opinion that the effect of all is the same. The courts both internationally and nationally have played a proactive role in ensuring environmental rights are provided in various legal instruments. In some countries, judicial activism has demonstrated a mark distinction by relaxing the requirement of *locus standi* for facilitating public interest litigations, which has, in effect, brought justice to the doorsteps of the poor and least resourceful people, because availability of such rights will have no value unless procedural impediments are not eased. The authors are of the opinion that the requirement of *locus standi* should be relaxed in all countries in the interest of general public.

**Key words:** Environmental rights, sustainable development, international laws, national laws

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### INTRODUCTION

The existing human rights instruments were drafted at a time when environmental issues were not a matter of universal concern, and thus they did not have adequate explicit provisions for protection of right to pollution-free environment and other environment-related rights, e.g. right to information pertaining to the environment, right to participation in environment-related matters and access to justice. Now, it has become seemingly clear that environmental degradation affects the enjoyment of several basic human rights recognized both in international and national human rights instruments. It is for this reason that provisions for a healthy environment have been incorporated into various treaties and almost all constitutions of contemporary states. Thus, since environmental degradation poses a threat to the enjoyment of certain fundamental rights, including the right to life, it has become blatantly clear that the existing human rights instruments can go a long way to enhance and promote environmental protection. Also, environmental rights are human rights and they depend on conservation of the environment as a whole and its processes. In this context, Agenda 21 becomes an important document for conservation of the environment for all nations and people. It is in this perspective that the paper aims to ascertain the extent to which the existing international human rights instruments can be used to ensure environmental protection and safeguard human beings against activities likely to affect the enjoyment of their fundamental rights, especially right to life. The paper is divided into five parts: the first part examines the concept of environmental rights; the second part examines closely the relationship between human rights and the environment in order to show the inextricability of the two concepts; the third part examines various provisions of international human rights instruments that can be used to enhance environmental protection and keep it healthy to both the human mass in specific and the nature in general; the fourth part examines the solicitude of regional human rights commissions and courts to environmental protection through the existing human rights instruments; and the last part examines court's practices in some selected jurisdictions.

***Conceptual Aspect of Environmental Rights:***

The question as to what constitute environmental rights has been a subject of intense debate among both environmentalists and environmental NGOs. The discrepancy as to the scope and qualitative content of the concept of environmental rights make it very difficult and impracticable to give a universally acceptable definition to the concept. To say that there is a widespread acceptance of the concept of environmental rights on the domestic and international plane does not mean that there is a complete agreement about the qualitative content and scope of environmental rights. Also, to say that there is much disagreement as to the qualitative content of environmental rights is not to deny the existence of such concept. The issue is not owing to lack of idea but one of agreeing to it. The question actually to be addressed is: as to what the qualitative content of environmental rights should be closely dependent on the part of the environment that is being protected (Baldock, 1993; Baldock, 1990; Cheyne, 2000; Nayar et. al, 1996). This would suggest that environmental rights could best be described only if we look at them from the human-centric perspective of the environment. Where an environmental good is seen only from the perspective of the benefit to mankind, then any definition of environmental rights will be limited to the benefit of mankind which will not be appropriate as the conservation of the environment as a whole is crucial for the protection of many rights of the mankind, including environmental rights. However, where environment is perceived to be less anthropocentric in nature, any definition of an environmental right must include both man and the environment as whole, e.g. the whole biodiversity, non-living entities and environmental processes. In short, a nature-centric definition is the only viable definition. When we look through various international instruments on the environment from its beneficial point of view, we get confronted with different adjectives appended to the word environment, e.g. clean, healthy, viable, decent, satisfactory, environment free from contamination or suitable for the development of the biodiversity, including humans, are envisaged in them (See for example, article 24 of the African Charter on Human and Peoples' Rights; article 7(b) of the International Covenant on Economic, Social and Cultural Rights 1966; article 24 of the Convention on the Rights of the Child; article 2, 6, 7, and 15 of the ILO Convention Concerning Indigenous and Tribes Peoples in Independent Countries; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights particularly article 11; Preamble to the Basel Convention on Control of Transboundary Movements of Hazardous Wastes and Their Disposal; Principle 7 of the Stockholm Declaration 1992; article 16 of the Convention on the Protection and utilization of Transboundary Rivers and Lakes; European Convention on Human rights; article 24 of the Angola Constitution; article 41 of the Argentine Constitution; article 225 of the Brazilian Constitution and article 5 of the American Convention on Human Rights, 1969). None of the global or regional treaties, declarations, codes of conduct and guidelines have attempted to define the term because the term 'healthy environment' is already well known with all its variables. When we talk about healthy environment, it is not only limited to human health; rather, it encompasses wellbeing of all living beings and non-living things of the environment, including protection of the environmental processes.

Definitions of various dictionaries range from something that environs, to the whole complex of climatic and biotic factors that act upon an organism or ecological community (Webster, 1988) or, simply, surroundings; surrounding objects, region or circumstances. The Declaration upon the conclusion of the United Nations Conference on Human Environment, 1972 (UNCHE), known as the Stockholm Declaration, merely refers implicitly to man's environment which gives him physical sustenance and affords him the opportunity for intellectual, spirituals, moral and social growth adding that both aspects of man's environment, the natural and the man-made, are essential for his well-being and enjoyment of basic human rights (Preamble, Para. 1, Report of United Nations Conference on the Human Environment 1972, A/CONF. 48/14/Rev. 1 (New York, 1972), 3.). It was a human-centric definition, which required protection of human beings and their belongings. This had a limited meaning of healthy environment, which was later, with the development of law, not appreciated. Thus, the problems of defining environmental rights begin with the problem of defining the environment itself.

It is better to deal with the definitional issue of environmental rights bearing in mind its changing nature with the change of time. As the scope of human rights takes into account changes from time to time, therefore the issue of what environmental rights entail should not be expected to be static. On this note, Douglass-Scott wrote that we should at present abandon the attempt to delimit the scope of environmental rights; instead we should concentrate more on procedural rights, e.g. *dissemination of information, public participation and access to justice in environmental matters as enshrined in the Aarhus Convention* (addition made by authors). He argued further that concentrating on procedural rights would help in future to build a qualitative content and scope for environmental rights (Douglass-Scott, 1996).

Merrills (1996) argued that to say that there were unacceptable ways to identifying or defining environmental rights was not to say that no such rights existed (Ansari, 1998; Merrills, 1996; Robertson, et al, 1993). Boyle (1996, 2010) argued that environmental rights were incapable of precise definition because national legal systems varied deeply in the degree to which they gave precedence to environmental protection. He went further to observe that the concept of environmental rights could best be addressed not in global terms, but in the context of particular societies and of their peculiar legal system (Boyle, 1996, 2010). Furthermore,

Anderson (1996) contends that the issue of qualitative content of environmental rights is merely a jurisprudential exercise and nothing more. According to him, the environmental right has come to stay in the world's legal order. Therefore, delimiting its scope is undesirable. Kiss et al, (1996) and Shelton (1991, 2002) are of the view that the issue of qualitative content of environmental right should be left to the courts to decide as they have done to other human rights (Ahmad, 2006).

One thing is apparent from above that there is a widespread acceptance of the existence of environmental rights, e.g. right to a healthful environment, right to access to environment related information, right to participate in environment related decision-making processes and right to access to justice, but the problem has always been in determining their qualitative contents. Therefore, the best approach is to assume that since human rights are continuous processes, and its scope is determined and re-determined, the question of what constitutes environmental rights should be left to states to define and courts to interpret as recommended by Kiss et al, (1996) and Shelton (1991, 2002). However, efforts should be made to really specify these rights in definite terms. This becomes more pertinent in view of the fact that many of the environmental problems are regional and global, thus, adversely affecting a seemingly large number of people. In the presence of uniform environmental rights in international legal instruments and constitutions of states, to determine violation of environmental rights and to take punitive and preventive measures against perpetrators will be uniform. And if the courts relax the application of *locus standi* in cases where a large number of people are affected but are unable to bring legal actions for getting justice, international actions would be much easier. We may learn from the famous Lake Lanoux (*France v. Spain*, 1957), Corfu Channel (*United Kingdom v. Albania*, 1949) and Trail Smelter (*The United States of America v. Canada*, 1925 and 1935) cases in which violation of environmental rights of states and their people were recognized, which are, in fact, now considered as part of customary international law.

#### ***Relationship Between Human Rights and the Environment:***

Human rights have always been a subject matter of discussion among academics and policymakers for over sixty years now. A human rights dimension pertaining to the environment, in specific, was only introduced in the seventies of the Nineteenth Century, except for right to a healthful environment which was covered by courts around the world under the equality clause enshrined in constitutions. The United Nations Charter 1945 marked the foundation of modern international human rights law; whereas, the Stockholm Declaration of 1972 is generally seen as the beginning of a rights-based approach to the environment and its protection.

The Declaration devised several principles, including that "Man have 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, and he bears a solemn responsibility to protect and improve the environment for present and future generations" (Shelton, 2002). In effect, this part of the Declaration attempts to recognize right to a healthful environment, a duty not to pollute the environment or degrade its quality, and envisages the inter-generational equity principle.

Initially, environmental human rights and environmental law were perceived as a challenge to, or restriction on, the customary understanding of state sovereignty as independent and autonomous, as they presumably were considered as obstacles in economic development of many states, especially developing and least developed countries. However, in spite of their aspirations to develop as fast as possible, it has become more and more accepted over the years that human rights and the environment are intrinsically interlinked. To give a clear picture, the right to life, personal integrity, family life, healthy development of human being, individually and collectively, depends on protecting the environment as a whole from being degraded and conserving it and its processes by all means. They cannot be subdued by any sovereign state. For example, no state can use and utilize its forests exhaustively for fulfilling its economic needs, as they are for the benefit of the present generation and all coming generations. They are thus in trust with the state and the state can only use and utilize them in a sustainable manner so that other beneficiaries are not deprived of their environmental rights; so is the case of any other natural resources. In short, states have to strike a meaningful balance between ensuring environmental rights and conservation of the environment and honestly maintain it.

Over the years, the world community has augmented its attention on the relationship between environmental degradation and human rights abuses. It is obvious that environmental degradation worsens poverty conditions resulting in human rights violations. The reasons for these are obvious: firstly, the over utilization of natural resources resulted into unemployment and emigration to cities; and secondly, this affects the enjoyment of some basic human rights. The best example of violation of environmentally related human rights is mismanagement of wetlands around the world. This brings miseries to the people who depend on wetlands for their subsistence (Ansari, 2011; Ansari et. al, 2012; Horwitz, et. al 2012).

Bad environmental conditions are responsible to a great extent to spreading of several infectious diseases. From the 4,400 million of people, who live in developing countries, almost 60 per cent lack basic health care services, almost a third of these people have no access to safe water supply. Dilapidation gives rise to new problems such as environmentally displaced people, internally or cross border. Environmentally displaced

people suffer from significant economic, socio-cultural, and political consequences having great impact on the enjoyment of basic human rights (Kane, 2010; Ansari, et. al, 2010). The best examples for environmentally displaced people are: displacement of people because of unusual weather conditions, which are causing frequent droughts and deluge, and rise of the sea level, which is engulfing territories (Ansari, 2012).

Environment and human rights law have indispensable points in common that facilitate the creation of the following areas of cooperation between them:

Firstly, both the disciplines have deep social roots; even though human rights law is more rooted within the collective awareness, the hastened process of environmental degradation is fast breeding new environmental consciousness (Kane, 2010).

Secondly, both the subject matters have become universalized. The world community has, thus, rumored the commitment to ensure the realisation of human rights with respect to the environment in all parts of the world. From the Second World War onwards, the state-individual relationship is of great importance to the international community. On the other hand, the incident of environmental degradation transcends political boundaries and is of serious importance to the protection of world peace and security. In view of this, the international community has accepted that for the survival of human beings all their beneficiaries must also be protected; broadly speaking the environment as a whole. States have internalized this imperative and are making efforts for protection of the environment by all possible means necessary for their conservation (Kane, 2010).

Thirdly, both the disciplines tend to universalize their object of protection of the environment. Environmental rights are being protected universally; and as a correlative of these rights, there exists a duty not to degrade the environment (Kane, 2010).

There is more and more tendency for environmentalists and human rights NGOs to work together towards universalizing their common goals to protect both the environment and environmental rights (London Conference Report, 1993). At the global level, there is a natural resemblance between organizations such as Greenpeace and Amnesty International, since both aim to lessen the reserved domain of domestic jurisdiction protected under the United Nations Charter for facilitating protection of the environment (article 2(7) of the UN Charter). Similarly, at the national level, both individual environmentalists and NGOs aim to control the exercise of unaccountable power by state and private actors; and despite their reliance on local movements and issues, they are nonetheless international in scope and ambition. For these reasons, one may anticipate a spontaneous co-operation between the two imperatives, protection of human rights and protection of the environment in order to protect environment related human rights.

According to Anderson (1996), the relationship between human rights and environment may be conceived in two ways. First, environmental protection may be cast as a means to the end of fulfilling human rights standards. Since degraded physical environments contribute directly to infringements of the human rights to life, health and livelihood, acts leading to environmental degradation may constitute an immediate violation of internationally recognized human rights. The creation of a reliable and effective system of environmental protection would help ensure the well-being of future generations as well as the survival of those persons, often including indigenous or economically marginalized groups, who depend immediately upon natural resources for livelihoods (Anderson, 1996).

As the second approach, he observed that the legal protection of human rights was an effective means to achieving the ends of conservation and environmental protection. Thus, the full realisation of a broad spectrum of first and second-generation rights according to him would constitute a society and a political order in which claims for environmental protection are more likely to be respected (Anderson, 1996).

Therefore, the issue whether there is indeed a relationship between human rights and environmental protection is no more a debatable issue. It is an issue that has come to stay in the world's legal order for all times to come. This is because measures designed to protect the environment also protect human rights and vice versa.

#### ***International Instruments on Environment and Human Rights:***

Most human rights treaties were drafted and adopted before protection of the environment became a matter of international concern. It is for this reason that there are little references to environmental matters in international human rights instruments, although the right to life and right to health are certainly included and some formulations of the latter right make reference to environmental issues. Notwithstanding the fact that many human rights instruments were drafted before the emergence of environmental awareness, they have proved to be of great importance in protecting the environment. This section, therefore, examines some of the provisions contained in certain international human rights instruments, which can be used to foster environmental protection and gives an analysis of cases where some of these rights have been utilized to ensure the protection of the environment and human rights pertaining to it. In international circle, it has been common to classify human rights into two major categories. That is, civil and political rights, and economic, social and cultural rights. The civil and political rights are often referred to as first generation rights or negative rights. They are negative because they protect individual freedom against state intervention. Economic, social and

cultural rights, on the other hand are referred to as positive rights or second-generation rights and they required state intervention. In the true analysis, both first and second-generation human rights require state intervention for their compliance and enforcement. Therefore, as it will be analyzed in this section, both civil and political rights, and economic, social and cultural rights contain provisions, which can adequately being employed for making the environment sustainable.

The International Covenant on Economic, Social and Cultural Rights (Brownlie, 1992) protects the right to safe and healthy working conditions and the right of children and young persons to be free from work harmful to their health. Article 7 of the Covenant imposes a positive obligation on the State Parties to recognise the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular, safe and healthy working conditions. This would seem to ensure, for example, that a person at the place of work should be free from contact to pollution and there should be enough vegetation for enough supply of oxygen. Labour laws in many countries have specific provisions for ensuring pollution free environment for labourers. To understand the extent of the Member States' obligations under Article 7, it is also essential to consider Article 2 which sets out the general duties of the Member States to give effect to a variety of rights contained in the Covenant. Article 2(1) provides that every Party to the Covenant undertakes to take steps, individually and through international assistance and co-operation, especially in economic and technical matters, to the maximum of its available resources, with a view to achieving progressively full realisation of the rights recognised in the Covenant by all appropriate means including particularly the adoption of legislative measures (Brownlie, 1992).

The Convention on the Rights of the Child (Convention on the Rights of the Child, 1989), which came into force on 2 September 1990, refers to aspects of environmental protection with respect to the child's right to health. Article 24 states that "State Parties shall take suitable measures to fight disease and malnutrition through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution. Information and education is to be ensured to all sections of society on cleanliness and environmental sanitation matters". It is notable in this context that excessive use of inorganic fertilizers, pesticides and fungicides contaminate the crop and adversely affect the soil quality which has a long-term impact on future crops. When human beings consume these crops directly or indirectly, they cause deleterious effect in their bodies. Since children are vulnerable to these, they might be affected faster.

The International Labour Organisation Convention No. 169 contains several provisions relating to the lands, resources, and environment of indigenous peoples. Part II of the Convention focuses on land issues, including the rights of the peoples concerned to the natural resources relating to their lands. Additionally, states are to guarantee that adequate health services are available and provide resources to indigenous groups so that they may benefit from the highest attainable standard of physical and mental health (Brownlie, 1992). There is a clear message in the Convention for maintaining healthy working environment and conservation of all its resources.

The International Covenant on Civil and Political Rights, which came into force on 23 March 1976, similar to the above treaties, contains provisions for the safety of the environment, which may be given wide connotation, including conservation of the environment as whole (Brownlie, 1992). Article 14 contains a right to property. It also contains provisions for the protection of the right to life and freedom from interference with one's home and enjoyment of family and private life. Among the economic and social rights established in the Covenant are the right to work under satisfactory conditions and the right to enjoy the best attainable state of physical and mental health to which end the Parties to the Covenant are to take the necessary steps to protect and ensure the health of their people (Brownlie, 1992). It is obvious that without a healthful environment, health and life cannot be guaranteed. This has been stressed by courts around the world that right to a healthy environment falls within the constitutional right to health and life.

Part 1 of the European Social Charter 1961 provides for the right of everyone to benefit from any measures enabling him to enjoy the highest possible attainable standards pertaining to health. To give effect to this right, Article 11 of part II provides that the Parties will undertake appropriate measures designed to remove as far as possible the causes of ill-health and to prevent as far as possible epidemic, endemic and other diseases. The Committee of Experts has taken the viewpoint, while deliberating on this Article, that this provision demands State Parties to take appropriate measures aimed in particular at the prevention of air and water pollution, protection from radioactive substance, noise abatement, food control, and environmental hygiene; and in recent years the Committee has been particularly concerned with environmental pollution when examining the report of party states. In general the Committee has found States Parties to be complying with Article 11.

Principle 10 of the Rio Declaration and the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters 1998 (Aarhus Convention) also, in effect, aim to protect various environmental rights. Principle 10 states: "environmental issues are best handled with participation of all concerned citizens, at the relevant levels...At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities... and the opportunity to participate in the decision-making process. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative

proceedings, including redress and remedy, shall be provided". The Aarhus convention also underscores these three aspects by emphasizing on: dissemination of information, public participation in decision-making and access to justice. Their use in EIA processes has been significant. It is needless to say that if an EIA is properly made, it will protect and preserve environment related rights of the people in the vicinity of the project in specific and the human mass in general (Ansari, 2009).

Two regional human rights instruments contain express provisions on the right to a healthy environment. The approach of each of the instruments differs. While the African Charter on Human and Peoples' Rights, Banjul, 26 June 1991 relates to the environment and development, the Additional Protocol to the American Convention on Human Rights, 1988 speaks of a healthy environment. Article 11 of the Additional Protocol states that "everyone shall have the right to live in a healthy environment and to have access to basic public services. State Parties shall promote the protection, preservation and improvement of the environment" (Boyle, 1996, 2010). The African Charter contains both a right to health and a right to environment. Article 16 of the Charter guarantees to every individual the right to enjoy the best attainable state of physical and mental health while it states that all peoples shall have the right to a general satisfactory environment favourable to their environment.

It may also be helpful to say a few words about the machinery provided in the African Charter for the protection of all the rights contained in it. Articles 30 and 45 provide for establishing an African Commission on Human and Peoples' Rights, whose responsibilities are to promote and ensure the protection of the rights contained in the Charter (Brownlie, 1992). To this latter end, the commission may first of all consider complaints by one State Party that another State Party is violating the Charter. If the Commission cannot resolve the matter amicably on the basis of human rights, it is to make a report stating the facts and finding, including any recommendation it deems useful. This report is to be sent to the Parties and to the Assembly of Heads of States and Government of the African Union. Although nothing has been said in the Charter as to what the Assembly should then do, it could most probably under its general powers make a recommendation to the States concerned, which has very high degree of persuasive force.

The Commission also welcomes communication from individuals or group of individuals. In the case of such communication, which relates to special cases which reveal the existence of series of serious or massive violations of human and peoples' rights, the Commission is to draw the attention of the Assembly to these cases. The Assembly may then demand the Commission to undertake an in-depth study of these cases and make a factual report, supported by its findings and recommendations (article 58(2) of the Charter). Finally, under Article 62, the Parties are to submit every two years a report on the measures they have taken to give effect to the rights contained in the Charter. Nothing is said as to whom these reports are to be sent and who (if anyone) may examine and comment on them. In 1988 the Assembly decided that the Commission should consider these reports.

As indicated above, the meticulous interest of the African Charter, as far as this section is concerned, is that it contains an express environmental right. The latter is found in Article 24, which reads:

All peoples shall have the right to a general satisfactory environment favourable to their development.

It can be noticed that the right is to be enjoyed by all peoples as opposed to every individual who is the beneficiary of the civil and political, and economic and social rights contained in the Charter (Kiwanuka, 1988). It has been argued that all people refer to the entire population of a party State, rather than any particular ethnic or other group within a party state (Kiwanuka, 1988).

The Additional Protocol to the American Convention on Human Rights in the area of economic, social and cultural rights also contains provisions for both a right to health and a right to environment, drafted in more detail than in other human rights instruments. Article 10 provides:

Everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being. In order to ensure the exercise of the right to health, the states parties agree to recognize health as a public good and, particularly, to adopt the following measures to ensure that right: (a) primary health care, that is, essential health care made available to all individuals and families in the community; (b) Extension of the benefits of health services to all individuals subject to the states jurisdiction; (c) Universal immunization against the principal infectious diseases; (d) Prevention and treatment of endemic, occupational and other diseases; (e) Education of the population on the prevention and treatment of health problems, and (f) Satisfaction of the health needs of the Highest risk groups and of those whose poverty makes them the most vulnerable.

As stated above, Article 11 of the Additional Protocol reads:

Everyone shall have the right to live in a healthy environment and to have access to basic public services. The States Parties shall promote the protection, preservation and improvement of the environment.

The Additional Protocol contains no operational definition or other indication as to what is meant by a healthy environment, nor as to what type of measure is intended by the second paragraph. Taken literally, the second paragraph is not restricted to measures relating directly to promoting a healthy environment for humans, and could include a broad range of environmental measures not necessarily anthropocentric in form. However,

in view of the caption of Article 11 (Right to a healthy Environment) and the fact that the right referred to in the article is to a healthy environment contained in the first paragraph, it may well be that the second paragraph should be read as referring only to measures which protect a healthy environment for humans (Additional Protocol, 1988).

To get some additional inspiration of the scope of Article 11 and the obligations placed on State Parties, it is necessary to consider Articles 1 and 2 of the Additional Protocol, which set out the general obligations on party states with regard to all the rights conferred by the protocol. Article 1 provides that the parties undertake to take all necessary measures, both domestically and through co-operation among the states, especially economic and technical, to the degree allowed by their available resources and taking into account their level of development, for the purpose of achieving progressively and pursuant to their internal legislations the full observance of the rights protected in the protocol (Additional Protocol, 1988). Article 2 states that if the exercise of the rights set forth in this protocol are not already protected by legislative or other provisions, the State parties are obliged to adopt such legislative or other measures as may be desirable for making these rights a reality. The effect of these provisions, especially Article 1 would seem to be that state parties must do what they can do all in terms of positive effort to promote a healthy environment as far as their resources allow (Additional Protocol, 1988).

Protection of health is a constant theme in bilateral regional and global environmental agreements; indeed one of the principal components of that is a healthful environment. A typical definition of pollution, found in many legal texts, is the introduction by man, directly or indirectly, of substance or energy at a wrong time, at a wrong place and in a wrong quantity into the environment resulting in degradation of the environment in general and human health in particular (See for example, Convention on the Long-rang transboundary air pollution (Geneva, 13 Nov. 1979), 1302 U.N.T.S. 217, article 1. See also: Vienna convention for the protection of the Ozone layer (Vienna, 22 Mar. 1985), UNEP Doc. IG. 53/5 article 1(2); Montreal Protocol on substance that Deplete the Ozone Layer (Montreal, 16, Sep. 1987), 26 I.L.M. 1550 (1987), para. 3; Convention on the Transboundary effects of Industrial Accidents (Helsinki, 17 Mar. 1992), 31 I.L.M. 1330, article 1(c); United Nations Framework Convention on Climate Change (Rio de Janeiro, 9 May 1992), 31 I.L.M. 849, article 1(1); Convention for the protection of the Mediterranean sea against pollution (Barcelona, 16 Feb. 1976), 15 I.L.M. 290, article 2(a) and all subsequent regional seas agreements; Convention on the Non-Navigational Uses of international watercourses (New York, 31 May 1997), 36 I.L.M. 700, article 21(2)). The preface of the European Community directives often states their aims as being to protect human health (EC Council Directive No. 80/779 on Air Quality Dioxide, 7 Mar. 1985, L 87 O.J.E.C. 1985) and the growing threat to human health posed by hazardous wastes (Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal Basel, 22 Mar. 1989).

Non-binding declarations also make the link. The Stockholm Declaration expresses in paragraph 3 its concern about: growing evidence of man-made harm in many regions of the earth: dangerous levels of pollution in water, air earth and living beings; major and undesirable disturbances to the ecological balance of the biosphere; destruction and depletion of irreplaceable resources; and gross deficiencies harmful to the physical, mental and social health of man, in the man-made environment, particularly in the living and working environment.

Article 1 of the Legal Principle for Environmental Protection and Sustainable Development, approved by the expert group of the Brundtland Commission, expressly links the three fields in declaring that, all human beings have the fundamental right to an environment adequate for their health and well-being (U.N.Doc. WCED/86/23/Add. 1 (1986), Atr.1.). Also, Chapter 6 of Agenda 21, adopted at the 1992 United Nations Conference on Environment and Development, is completely committed to protecting and promoting human, animal and plant health and life, while the Rio Declaration itself outlines that human beings are entitled to a healthy and productive life in harmony with nature and provides that states should effectively cooperate to discourage or prevent the relocation and transfer to other states of any activities and substance that, *inter alia*, are found to be harmful to human health (principle 1 of the Rio Declaration, 1992.).

ASEAN countries have also taken several initiatives towards ensuring conservation of the environment. Prominent among them are: collective efforts made for conservation of the biodiversity of the region, protection of the marine environment and abatement and control of forest fires. It was expected that the ASEAN-China free trade agreement would have enough environmental element in it so that environmental rights could be protected but little attention was given to the possible impact of this Free Trade Agreement (FTA agreement) to fulfill human rights in Indonesia. Some rights include the right to health and a healthy environment, work and earn a decent livelihood, the access to natural resources, and other social, economic, and cultural rights.

A critical survey of the existing human rights instruments on environmental protection shows that only three major international instruments have explicit provisions for the protection of the environment. These are: the African Charter on Human and Peoples Rights, the Additional Protocol to the America Convention on Human Rights and the Aarhus Convention. The reason for this omission is not farfetched. This is because most of other treaties on human rights predate environmental protection. However, notwithstanding this fact, those treaties have proved that they can adequately be employed to protect the environment. It is now pertinent at this

junction to examine as to how the courts, in order to encompass environmental protection, have interpreted the existing human rights instruments (*The Jakarta Post*, 4 April 2012). However, objective 15 of the ASEAN Action Plan, 1999-2004 clearly emphasized on enhancing public information and awareness of and participation in issues on the environment and sustainable development. In order to achieve these, positive efforts have been made, which will, in effect, ensure environmental rights of the people in the region.

***International Decisions on Human Rights and Environmental Protection:***

It is important to start with the case of *Lopez Ostra v. Spain* *Lopez-Ostra v Spain*, Eur. Ct. Hum. Rts. [1994] Ser. A, No. 303C., wherein the right to life in private and in family had been the major thrust that plaintiffs, as well as the European Court of Human Rights (ECHR) associated with the contamination of the environment. In this case, the ECHR admitted that “severe environmental pollution may affect individuals’ well being and prevent them from enjoying their homes in such a way as to affect private and family life adversely.” The complaint in this case argued that the omission of a state by allowing activities of an enterprise in grave violation of waste management rules caused devaluation of her house and hindered the private life of the plaintiff and his family who were in close proximity of the enterprise, which compelled them to move to another house. The court granted her damages for both. This case created a precedent, which became the basis for subsequent cases.

In *Guerra v. Italy* App. No: 14967/89, Reports 1998-1, no 64. as well, a complaint was made against the state for the failure to inform the plaintiff of the dangers threatening the family members’ private and family lives. The ECHR while deciding in favour of the plaintiff said that the state was in breach of article 8 of the European Convention on Human Rights by failing to take positive measures in order to ensure that activities likely to violate human rights abuse were regulated and controlled and that the public must be adequately informed of the risk or danger of any activities posing threat to the enjoyment of their private and family life.

Also, in *Arondele v. United Kingdom*, the ECHR admitted the complaint of the plaintiff under article 8 of the European Convention and article 1 of the First Protocol that the high noise level of an airport had lowered the value of his immovable property and affected his right to peaceful enjoyment of the property. This case was one of the earlier cases pointing to the connection between ownership of immovable properties and clean environment. However, the case was settled by peaceful means and the Commission could not have the opportunity to give its final decision.

In *Oneryildiz v. Turkey* (Report 2001-VI (30 Nov.), the ECHR through the expansion of the right to life, stressed on the need for states to protect the citizens whose rights might be severely affected by environmental nuisances. In this case, the Court remarked: “the positive obligation to take all appropriate steps to safeguard life for the purpose of Article 2 entails above all a primary duty to provide effective deterrence against threats to the right to life.” The Court held further that this positive obligation on the state covered issues concerning licensing, setting up, operation, security and supervision of dangerous activities to ensure the effective protection of citizens against unnecessary risks. In conclusion the Court held: “that the regulatory framework applicable in the present case had proved defective in that the tip had been allowed to open and operate and there had been no coherent supervisory system. The Court accordingly held that there had been a violation of Article 2...Accordingly, it could not be said that the Turkish criminal-justice system had secured the full accountability of State officials or authorities for their role in the tragedy, or the effective implementation of provisions of domestic law guaranteeing respect for the right to life, in particular the deterrent function of criminal law. The Court therefore held that there had also been a violation of Article 2 concerning the inadequate investigation into the deaths of the applicant’s close relatives.”

In *Yanomami v. Brazil*, a petition was filed with the Inter-American Commission on Human Rights (IACHR) against the State of Brazil and in favor of the Yanomami indigenous community. The case was based on the construction of a road and mining licenses granted in indigenous land, which had led to a massive presence of foreigners in the said territory and had had serious effects on the community's well-being, including the alteration of their traditional organization, emergence of female prostitution, epidemics and diseases, forced displacement to lands unsuitable to their ways of life, and death of hundreds of Yanomamis. The Inter-American Commission found that the State had violated the Yanomami right to life, liberty and personal security guaranteed under Article 1 of the Declaration as well as their right to preservation of well-being because the government failed to implement measures of adequate protection for the safety and health of Yanomami Indians, and thus it was responsible for it. The Court ruled that such failure had led to alterations in the community's well-being and violations to the right to life, liberty, security, residence and movement, and to the preservation of health and well-being. The IACHR considered that current international law acknowledges the right of indigenous groups to special protection for the use of their language, their religion and, in general, all elements essential to the preservation of their cultural identity. The IACHR recommended the State, in line with domestic legislation, to proceed to demarcate the Yanomami Park, to continue adopting preventive and remedial sanitary measures aimed at protecting the life and health of the Yanomami, and to ensure education, health protection



and social integration programmes aimed at the Yanomami were carried out in consultation with the indigenous community, as well as expert scientific, medical and anthropological advisors.

In *Maya Indigenous Community of Toledo District v. Belize*, the petitioner alleged that logging and oil concessions given by Brazil had violated a number of provisions of the American Declaration of Rights and Duties of Man. The Inter-American Commission on Human Rights (IACHR) acknowledged that logging concessions threatened long-term and irreparable damage to the natural environment on which the petitioners' system of survival agriculture depended. It concluded that there had been infringement of the petitioners' right to property in their ancestral land. The Commission ordered that Belize should repair the damage caused to the environment and to take measures to segregate and protect their land in consultation with the community. The commission while taking cognizance of the importance of economic development reiterated that development activities must be complemented by suitable and effective measures to ensure that they did not continue at the expense of the fundamental rights of persons who might be predominantly and harmfully affected, including indigenous localities and the environment upon which they depended for their physical, cultural and spiritual well-being.

In Africa, the *Ogoniland's case* has also been remarkable in this respect. In this case, the African Commission on Human and Peoples Rights ruled that "an environment degraded by pollution and defaced by the destruction of all beauty and variety is as contrary to satisfactory living conditions and development as the breakdown of the fundamental ecologic equilibria is harmful to physical and moral health." The Commission held that Article 24 of the Charter imposed an obligation on the state to take reasonable measures "to prevent pollution and ecological degradation, to promote conservation, and to secure ecologically sustainable development and use of natural resources." The Commission called for a complete cleanup of lands and rivers damaged by oil operations and the provision of information on health and environment and access to regulatory and decision-making bodies concerning environment.

#### ***Position in Selected Jurisdictions:***

Various constitutions throughout the world guarantee a right to a clean and healthy environment (Angola (all citizens shall have the right to live in a healthy and unpolluted environment, Article 24); Argentina (all residents enjoy the right to live in a healthy environment, Article 41); Azerbaijan (everyone has the right to live in a healthy environment). They impose an obligation on the state and citizens to avoid environmental harm, or stress on the protection of the environment or natural resources (constitution of Angola, Argentina, Belarus, Belgium, Burkina Faso, Cameroon, Cape Verde, Chad, Chechnya, Chile, Colombia, Congo, Ecuador, Finland, Georgia, Ghana, Hungary, India, Mexico, Niger, Namibia, Portugal, Russia, Romania, Sao Tome, Saudi Arabia, Slovakia, Ukraine, and Zambia.). Some constitutions explicitly identify the right to a clean and healthy environment. Some others, based on courts' decisions, cover environmental rights under 'right to life'. Courts are enforcing the constitutional rights granted by them in a proactive manner. It becomes essential here to examine the provisions in some jurisdictions and judicial solicitude on them.

In Indian, for example, a series of judgments between 1996 and 2012 are related to health issues mainly caused by industrial pollution. In some instances, the courts issued orders to close down operations (*M.C. Mehta v. Union of India & others*, (1996) 5 SCC 647). The Indian Supreme Court based shutting down orders on the principle that right to health is of paramount importance among other rights.

Probably ahead of other jurisdictions on Earth, the Democratic Republic of India has fostered an all-embracing and innovative jurisprudence on environmental rights. Several decades after the commencement of public interest litigation, where courts for ensuring justice to general public relaxed the requirement of *locus standi*, it became easy for lawyers and NGOs to institute representative suits for protecting the environment in the interest of general public, thus, bringing justice to the doorsteps of poor people who could not bear the cost of justice. This process is nothing but the demonstration of protection of environmental rights of poor and indigent people. Not only has the Supreme Court ruled that every individual had a fundamental right to the enjoyment of pollution free water and air (*Subhash Kumar v. Bihar*, AIR 1991 SC 420, at 424.), but it had been enthusiastic to resolve multifarious matters of environmental management according to this test, and had evolved a series of innovative procedural remedies for ensuring this right to citizens.

Since 1985, the Supreme Court and the High Courts of India have delivered a number of several epoch-making decisions on environmental rights. Since these decisions disclose much about the promises and problems of human rights approaches to environmental protection, they are worth close attention from both advocates and critics of environmental rights.

The Constitution (Forty-Second Amendment) Act of India clearly included environmental protection and improvement as part of State Policy through the insertion of Article 48(A). Article 51A (g) imposes a duty on every citizen to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for all living creatures. One of the main objections to an autonomous right or rights to the environment lies in the difficulty of definition. It is in this respect that the Indian Supreme Court has made a noteworthy contribution. When a claim is brought under a specific article of the Constitution, this allow an

adjudicating body such as the Supreme Court to find a violation of this article, without the requirement for a definition of an environmental right as such. All what the court needs to do is to define the constitutional right before it. Accordingly, when a court found a risk to life, or damage to health, on the facts before it, it must have set a standard of environmental quality in defining the right. This is well depicted by cases that have come before the Supreme Court of India, in particular in relation to the extensive meaning given to the right to life under Article 21 of the Constitution.

The right to life has been used in a different manner in India. It includes, *inter alia* the right to survive as a species, quality of life, the right to live with dignity and the right to livelihood. This right along with right to health ascertains a balanced and healthful ecology (section 15; see also *See the case of Minors Oposa v. Sec. of the Department of Environment*, 33 I.L.M. 173 (1994).). In contrast, Article 21 of the Indian Constitution states: "No person shall be deprived of his life or personal liberty except according to procedures established by law". The Supreme Court extended this right in two ways. Firstly, by declaring that any law affecting personal freedom should be reasonable, fair and just. Secondly, by recognizing several implicit liberties that were implied under Article 21. It is through the second method that the Supreme Court construed the right to life and personal liberty to include the right to the environment.

*Rural Litigation and Entitlement Kendra v. State of U.P* AIR 1985 SC 652 was one of the earliest cases where the Supreme Court addressed issues relating to environment and ecological balance. The extended concept of the right to life under the Indian Constitution was additionally elaborated in *Francis Coralie Mullin v. Union Territory of Delhi* AIR 1981 SC 746 where the Supreme Court highlighted positive obligations on the state, as part of its duty correlative to the right to life. The importance of this case lies in the readiness on the part of the court to be assertive in adopting an extended understanding of human rights. It is only through such an understanding that claims concerning the environment can be incorporated within the extensive rubric of human rights.

A Constitution Bench of the Supreme Court in *Charan Lai Sahu v Union of India* also addressed the relation between environmental quality and the right to life AIR [1990] SC 1480. Also, in *Subash Kumar v. State of Bihar* AIR [1991] SC 420, the Court observed that right to life guaranteed by article 21 includes the right of enjoyment of pollution-free water and air for full enjoyment of life.

The Supreme Court has employed the right to life as a foundation for emphasizing on the need to take radical steps to combat air and water pollution. It has ordered for closure or relocation of industries (*M.C. Mehta v. Union of India*, (1996) 4 SCC 750) and for evacuated land to be used for the purpose of the community. The court took serious note of unscientific and uncontrolled quarrying and mining, and issued orders for the protection of ecology around coastal areas by stopping the work in Himalayas and carrying out the work in field by way of mining (*Rural Litigation and Entitlement Kendra and Others v. State of U.P.*, AIR 1988 SC 2187), it restricted industries from discharging effluents beyond the legally prescribed standards (*M. C. Mehta v. Union of India and Ors.*, AIR 1988 SC 1037), and it ordered for commercial vehicles entering into New Municipal area to be run with compressed natural gas (CNG). These cases have demonstrated that industries, municipal corporations and other concerned governmental agencies can be compelled to take positive measures to improve the environment for protecting environmental rights of the people. This could be possible only when the Indian courts, especially the Supreme Court of India played a proactive role in protecting environmental rights by relaxing the requirement of *locus standi* and admitting public interest litigations pertaining to abatement and control of environmental pollution resulting in degradation of the environment and its processes. Protection of environmental rights could not have been possible without the judicial activism that the Indian courts demonstrated (Balakrishnan, 2009). The judicial solicitude of the Indian courts has left proactive impact on the courts in South Asian countries, e.g. Bangladesh, Nepal, Sri Lanka and Pakistan. Public interest litigations are also becoming popular because of judicial activism in some African countries, notably in Kenya, Uganda and Tanzania (Ansari, 2010). In Southeast Asia, the courts of Philippines have given epoch-making judgments for protecting environmental rights of the present generation, but also of coming generations, thus, enforcing the principles of intergenerational equity and sustainable development (*Juan Antonio Oposa and Others v. The Honorable Fulgencio S. Factoran and Others*, G.R. No. 101083 S.C.).

In Brazil, however, none of the preceding Republican Constitutions, 1981, 1934, 1937, 1946, and 1967 ever made clear the collective right to a protected environment. They all failed to recognize any state obligation whatsoever to secure a rational utilization of natural resources and to defend and recompose the environment (Fernandes, 1996). Before 1988, there were no constitutional instructions establishing administrative, criminal, or civil responsibilities for environmental damage. Before the 1988 Constitution, laws involving the protection of environment were disjointed and unsystematic, and there was no overall approach to environmental management.

The environmental subject was not an imperative issue during the climax of the industrialization and urbanization process in Brazil, being mainly a phenomenon of the 1980s. Only from the 1980s beyond has the so-called urban question been recognised as a political question by the government (Viola, 1988). Chapter VI of the 1988 Constitution is devoted to the environment. It contains just one article, divided in six paragraphs.

Article 225 recognised the collective right to a balanced environment attributing to both the state and the community the duty for its defence and conservation for the present and future generation. Besides being a goal of the health system, environmental preservation is also considered as a major element of the economic order, the basic aim of which is thought to be the promotion of social justice.

Paragraph 1 of Article 225 provides that in order to guarantee the effectiveness of this right to a balanced environment, it is the public authorities' responsibility at all governmental levels, to preserve and restore the essential ecological processes as well as to preserve the diversity and the integrity of the country's genetic patrimony and to supervise the bodies dedicated to research and manipulation of genetic material.

Paragraph 2 of Article 225 obliges those who exploit mineral resources to restore the degraded environment, according to the technical solution required by the public agency responsible, according to law. In a nutshell, under the 1988 Constitution, the Brazilian government is responsible for the preservation, restoration, and management of ecological processes in general. In all, the Brazilian Constitution makes adequate provisions for the protection of the environment.

In South Africa, section 24 of the Constitution guarantees the right of everyone to an environment that is not harmful to health and well-being (section 24 of the Constitution of the Republic of South Africa 1996). It also requires the government to act reasonably to guard the environment by preventing pollution, promoting conservation, and securing sustainable development, while building the economy and society. In *Director, Mineral Development Gauteng Region and Sasol Mining (pty) Ltd v. Save the Vaal Environment and others* [1999] (2) SA 709 (A), the Supreme Court of Appeal held that prior to issue of license for mining by the government, the government must prepare to listen to the comment of the people concerned about the potential environmental harms. By this the court recognized the right of the people to be informed and heard in respect of activities likely to damage the environment and violate human rights.

In Argentina, the National Constitution has established since 1994 the right to a healthy and sustainable environment. However even before the law provided for such unambiguous recognition, courts had accepted the existence of the right to live in a healthy environment (*Kattan, Alberto and others v. National Government, Juzgado Nacional de la Instancia en lo Contencioso-administrador federal*. No 2, Ruling of 10 May, La ley, 1983-D, 576).

In Columbia, the right to the environment was introduced in 1991. In *Antonio Mauricio Monroy Cespedes*, the Court held that side by side with fundamental rights such as liberty, equality and necessary conditions for people's life, there was the right to the environment (*fundepublico v. Mayor of Bugalagrande and others, Juzgado Primero superior, Interlocutorio*, no. 032, Tulua, 19 December 1991). The right to a healthy environment could not be separated from the right to life and health of human beings. In fact, factors that are harmful to the environment cause irreversible harm to human beings. If this is so, one may arguably state that the right to the environment is a right essential to the existence of humanity.

In Costa Rica, the Apex Court stated that the rights to health and to the environment were necessary to guarantee that the right to life is fully enjoyed. The Supreme Court of Costa Rica affirmed the right to a healthy environment in a case regarding the use of a cliff as waste dump. In *Carlos Roberto Garcia Chaocon*, the Supreme Court stated that life was only promising when it existed in harmony with nature, which nourishes and sustains us not only with regard to food, but also with physical well-being (*Presidente de la sociedad Marlene S.A v. Municipalidad de Tibas, Sala Constitucional de la corte supreme de justicia*. Decision No. 6918/94 of 25 November 1994). It held further that the right to life constituted a right that all citizens possess; to live in an environment free from contamination.

Guatemala's court in a 1999 case held that lack of interest and irresponsibility on the part of authorities in charge of National Environmental Policy amounts to an infringement of human rights, considering that it violated the enjoyment of a healthy environment, the dignity of the person, the preservation of the cultural and natural heritage and social-economic development (*Concesiones otorgadas por el Ministerio de Energía y minas a Empresas Petroleras* (1999)).

The Constitution of Bangladesh does not openly provide for the right to healthy environment either in the directive principles or as a fundamental right. Article 31 states that every citizen has the right to protection from action detrimental to the life, liberty, body, reputation, or property, unless these are taken in accordance with law. It added that the citizens and the residents of Bangladesh have the inalienable right to be treated in accordance with law. In 1994, public interest litigation was instituted before the Supreme Court dealing with air and noise pollution (*Dr. M. Farooque v. Secretary, Ministry of Communication, Government of the People's Republic of Bangladesh and 12 Others* Unreported). The Court agreed with the submission presented by the petitioner that the constitutional right to life does expand to include right to a safe and healthy environment. A few years later, the Appellate Division dealt with this issue in a positive manner. In the case of *Dr. M. Farooque v. Bangladesh* (1997 49 *Dhaka Law Reports* (AD), p. 1), the court reiterated Bangladesh commitment in the context of engaging concern for the conservation of environment, irrespective of the locality where it is threatened. It held in this case that the right to life under the constitution encompassed the protection and preservation of environment and freedom from pollution of air and water.

**Conclusion:**

Many international environmental multilateral legal instruments do not directly delineate a basis for environmental human rights, but, in effect, they do so. However, the three pillars of the Aarhus Convention, i.e. dissemination of information, public participation and access to justice, clearly demonstrate the three environmental rights; and jointly they ensure right to a pollution free environment. A number of declarations and resolutions, which constitute soft law regime with their persuasive value, except the Agenda 21, have failed to play any significant role in protecting environmental rights. Thus, for logical reasons, it was rather reasonable to turn to international human rights law in order to find out whether its norms encompass and safeguard environmental rights. It is clearly demonstrated that international human rights legal instruments can be reinterpreted in favour of environment related human rights, especially right to a healthful environment because without being healthy other human rights cannot possibly be enjoyed. In light of this, it is warranted to move away from philosophical debates about human rights and the environment. The time has come to commence the difficult process of assessing the efficacy of the right to a healthy environment and other environmental rights, not through rose-coloured glasses but through an even-handed evaluation of realistic evidence. This will be significant not only for states that are engaged in implementing their constitutional environmental provisions, but also for states whose constitutions do not hitherto acknowledge the profound importance of protecting the environment for safeguarding environmental rights. The role of international dispute settlement bodies, especially of the ECHR and the IACHR, has been significant in protecting environmental rights. It is hoped that in future, the position of environmental human rights will be spelled out and enforced in a better way so that environmental justice could be ensured to all, especially to the poor of the world. In order to achieve this imperative, states need enough political will in order to strike a meaningful balance between economic development and protection of environmental rights by closely adhering to the imperatives enshrined in the Agenda 21. This requires the developed countries to liberalize transfer of technology, movement of financial resources, and to work for capacity building of developing and least developed countries. The recent added emphasis on 'green economy', which does not have a consensual definition and which is leaning towards economic development, pushed at the RIO+20, should also emphasize on these in order to strike a meaningful balance between environment and development, protect environmental rights, and to ensure environmental justice to all.

Availability of environmental rights in any state will have no meaning for a large section of the society, which constitutes poor and indigent people, as they might not enforce those rights. In view of this and the difficulty associated with bringing representative suits if *locus standi* is strictly adhered to, judicial activism and relaxation of the requirement become *sine qua non* for rightful enforcement of environmental rights. To courtiers, notably India, where courts have played a proactive role in the enforcement of environmental rights and ensuring pollution free environment to the people, environmental rights are of great value. In view of this, it is suggested that other countries, including United Kingdom, United States, Canada and Australia should emulate the Indian courts and relax the requirement of *locus standi* in environmental pollution and biodiversity conservation cases so that poor people could easily have access to justice.

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