AN ANALYSIS OF THE ENVIRONMENTAL DIMENSION OF PUBLIC NUISANCE, WITH PARTICULAR REFERENCE TO THE ROLE OF THE JUDICIARY IN SRI LANKA AND INDIA

SHYAMI FERNANDO PUVIMANASINGHE**

"What is development? When does it become destructive and self-defeating. How and how far can law rein in asuric technology infiltrating into production models Are judges expert enough to control environmental vandalism or will the robed' remedy aggravate the malady Have we the statutory basics to weave law of pollution control and developmental equity? How can we evolve substantive legislation and forensic project when specialist knowledge can be harnessed to the judicial process?"

Justice V. R. Krishna Iyer, in 'Environmental Protection and Legal Defence [1]

INTRODUCTION

Rhetorical though they may seem, the above questions raise some of the most fundamental issues faced by developing countries in their dual quest for development and environmental protection. It is now accepted worldwide, that these are both crucial needs for all nations, and the concept of sustainable development' attempts to acheive a balance in the simultaneous pursuit of these two objectives-

The particular reference to the judiciary in this paper, by no means purports to exclude the role of all other members of society in the protection of the environment. For the environment' excludes no human being nor any other living being, all of whom inevitably draw sustenance from it. Its protection

** LL. B. (Hons) (Colombo); LL.M (Harvard): Senior Lecturer, Faculty of Law, University of Colombo.
[This paper is based on a presentation made by the author at a workshop for the members of the Judiciary on the role of Judiciary in environmental protection, organized by the Sri Lankan Judges Institute, the Judicial Service Commission and the Ministry of Transport. Environment and Women s Affairs, Colombo.]

1 Sterling Publishers Private Limited, New Delhi, India, 1992 p. 41.

2 See for instance, *Our Common Future*, Report of the World Commission on Environment and Development (1987) Annexe 1 (Document A/42/427, Annexe) and Rio Declaration on Environment and Development. Rio de Janeiro, June 1992.