

National and International Perspective About Wildlife Protection and Forest Conservation

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Abstract

The Indian Constitution is perhaps one of the rare constitutions of the world that contains specific provisions relating to environmental protection. It puts a duty on the "State" as well as "citizens" to protect and improve the environment. The Indian judiciary has made extensive use of these constitutional provisions and developed a new "environmental jurisprudence" of India. In India, most of the environmental matters have been brought before the judiciary through "Public Interest Litigation" (PIL). Out of all the legal remedies available for the protection of the environment, the remedy under the constitution is preferred because of its relative speed, simplicity, and cheapness.

DIRECTIVE PRINCIPLES OF STATE POLICY

Part IV of the Constitution deals with directive principles of State policy. These directive principles represent the socio-economic goals which the nation is expected to achieve. The directive principles form the fundamental feature and the social conscience of the Constitution, and the Constitution enjoins upon the State to implement these directive principles.¹ These directive principles are designed to guide the destiny of the nation by obligating three wings of the State, i.e., the legislature, judicature and the executive to implement these principles.

The Constitution (Forty-second Amendment) Act, 1976, added a new directive principle in Article 48-A, dealing specifically with the protection and improvement of the environment. It provides:

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.² Thus, the Indian Constitution became one of the rare constitutions of the world where specific provisions were incorporated in the *Suprema Lex* putting obligations on the "State" as well as "citizens" to "protect and improve" the environment. This certainly is a positive development of Indian law.³

The State cannot treat the obligations of protecting and improving the environment as a mere pious obligation. The directive principles are not mere showpieces in the window dressing. They are "fundamental in the governance of the country" and they, being part of the Supreme Law of the land, have to be implemented.

¹ State of Kerala v. N. M. Thomas, (1976) 2 SCC 310

² Inserted by Constitution (Forty Second Amendment) Act, 1976, Section 10 (w.e.f. 03/01/1977)

³ Paramjit S. Jaswal, "Developments in Environmental Law: The case of India", Proceedings of the workshop on the development and planning, Vol. II, SOAS, The centre for Asia and Africa, University of London, London, January 6th to 18th, 1992

In *M. C. Mehta (II) v. Union of India*,⁴ the Supreme Court, relying on Article 48-A gave directions to the Central and the State Governments and various local bodies and Boards under the various statutes to take appropriate steps for the prevention and control of pollution of water.

In *Kinkri Devi v. State*,⁵ the Himachal Pradesh High Court reiterated that in Articles 48-A and 51-A(g) there is both a constitutional pointer, the State and a constitutional duty of the citizens not only to protect but also to improve the environment and to preserve and safeguard the forests, the flora and fauna, the rivers and lakes and all other water resources of the country. The neglect or failure to abide by the pointer or to perform the duty is nothing short of a betrayal of the fundamental law which the State and, indeed, every Indian, high or low, is bound to uphold and maintain. Otherwise, the Court cannot remain a silent spectator. To ensure the attainment of the constitutional goal of the protection and improvement of the environment, the Court can intervene effectively by issuing appropriate writs,

FUNDAMENTAL DUTIES

The Constitution (Forty-second Amendment) Act, 1976, added a new Part IV-dealing with "Fundamental Duties" in the Constitution of India.⁶ Article 51-A of this Part enlists ten fundamental duties. It is interesting to note that this Part was added on the recommendations of the Swam Singh Committee bringing the Constitution of India in line with Article 29(1) of the Universal Declaration of Human Rights.⁷ Article 51-A(g) specifically deals with the fundamental duty with respect to environment. It provides:

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.

Article 51-A (j) further provides:

It shall be the duty of every citizen of India to strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of Endeavour and achievements. The fundamental duties are intended to promote peoples participation in restructuring and building a welfare society. The protection of environment is a matter of constitutional priority. The problem is the concern of every citizen. Neglect of it is an invitation of disaster.⁸

Article 51-A (g) refers to the fundamental duty of every citizen to protect and improve "natural environment". But in the present days the pollution is caused not only by exploiting the "natural environment" but otherwise also. In modern industrialized civilization such a concept may seem to be a misnomer, it is submitted that the word "natural" before environment has to be understood in broad sense. Nature has given us the gift of pollution free environment. The fundamental duty imposed on every citizen is not only to "protect" the environment from any kind of pollution but also to "improve" the environment quality if it has been polluted. Thus, the underlined emphasis of this fundamental duty is that every citizen has a duty to make an endeavor to preserve the environment in the same way as nature has gifted it to all of us.

⁴ (1988) 1 SC 471.

⁵ AIR 1988 HP 4.

⁶ Section 11 of The Constitution (Forty Second Amendment) Act, 1976, Section 10 (w.e.f. 03/01/1977)

⁷ Article 29 (1) of the Universal Declaration of Human Rights Provides: "Everyone has duties to the community in which alone the free and full development of his personality is possible".

⁸ V. Lakshmipathy vs State Of Karnataka on 9 April, 1991

In *Goa Foundation v. State of Goa*,⁹ the Bombay High Court examined the question of locus standi from the premises of the fundamental duties under the Constitution of India. In this case the petitioner was a society registered under the law relating to registration of societies and their members were citizens of India having fundamental duty under article 51-A(g) to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. The question before the court was whether such a society also has the same duties. The court answered this question in affirmative and held that such a society also has the same duties. On the basis of this, the petitioner society was held to have a *locus standi* to move to the court to prevent ecological degradation, to formulate and implement programmes for rehabilitation of environment and, to restore ecological balance. If protection and improvement of the environment is a constitutional duty of every citizen, there is hardly a need to impose restrictions or limitations on public interest litigation in the area of environment litigation.

In *Nature Lovers Movement v. State of Kerala*,¹⁰ there was diversion of forest land against which public interest litigation was filed. The Government orders laid down conditions to regulate exploitation of environment and natural resources but it did not impose total prohibition in the matter of enjoyment of environment. There was adjustment and reconciliation between the preservation of environment and development of economy. The Court held that all the steps taken by the Central Government as per the said orders did not stand against the concept of sustainable development and environment protection. Consequently, it was held that the orders of the Government of India and consequent steps for the issue of title deeds to occupants/encroachers were not opposed to Article 48-A or 51-A of the Constitution.

FUNDAMENTAL RIGHTS

Principle 1 of the Stockholm Declaration finds reflection in Articles 14, 19 and 21 of the Constitution of India dealing with the right to equality, freedom of expression and right to life and personal liberty respectively.¹¹ The Permanent Peoples' Tribunal regards the "anti-humanitarian effects of industrial and environmental hazards not as an unavoidable part of the existing industrial system, but rather as a pervasive and organized violation of the most fundamental rights of humanity. Foremost among these are the rights to life, health, expression, association and access to justice."¹² All these rights are secured to the people of India under the Constitution of India particularly in Part III dealing with fundamental rights. A constitutional provision is never static; it is ever evolving and ever changing and, therefore, does not admit of a narrow, pedantic or syllogistic approach. Constitutional provisions in general and fundamental rights in particular must be broadly construed unless the context otherwise requires.

Right to Livelihood

The judicial grammar of interpretation has further broadened the scope and ambit of Article 21 and now "right to life" includes the "right to livelihood". So much so that even right to earn livelihood is also considered as a part of right to life under Article 21 of the Constitution.¹³ This broad interpretation of the

⁹ AIR 2001 Bom 318

¹⁰ AIR 2000 Ker. 131

¹¹ Principle 1 of the Stockholm Declaration Provided that man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well being, and he bears solemn responsibility to protect and improve the environment for present and future generation.

¹² Asia 92 permanent peoples tribunals, findings and judgements-third session on industrial and environment hazards and human rights: 19 to 24 october, Bhopal to Bombay (India) at 14 (1992).

¹³ State Of Himachal Pradesh & Anr vs. Umed Ram Sharma & Ors on 11 February, 1986

right to life is very helpful in checking the governmental action which has an environmental impact that threatens the poor people their livelihood by "dislocating them from their place of living or otherwise depriving them of their livelihood. In the last few years, the people have been protesting against the construction of large dams as they generally displace thousands of people who are often tribal and forest dwellers and thus deprive them of their livelihood.

In *Banwasi Seva Ashram v. State of HP*,¹⁴ a letter from Banwasi Seva Ashram was registered under Article 32 of the Constitution. The main grievance of the petitioner was that Adivasis and other backward people (tribal forest dweller) were using forest as their habitat and means of livelihood. Part of the land was declared reserved forest and in respect of other p acquisition proceedings were initiated as the government had decided that a Super Thermal Plant of the National Thermal Power Corporation Ltd. (NTPC) was to be located there.

The Supreme Court gave detailed directions safeguarding and protecting the interests of the Adivasis and backward people who were being ousted from their forest land by NTPC. The Court permitted the acquisition of land only after NTPC agreed to provide certain facilities to the ousted forest dwellers.

Freedom to Carry on Trade or Business

Article 19(1)(g) guarantees all citizens the right "to practice any profession, or to carry on any occupation, trade or business". However, this right of the citizens is also not absolute. It is subject to Article 19(6) under which "reasonable restrictions" in the "interest of the general public" can be imposed. Thus, environmental interests from the hazards of any trade or business can be protected.

In the *State of H.P. v. Ganesh Wood Products*,¹⁵ the question involved was regarding the establishing of Katha industry—which is a forest based industry, in the State of Himachal Pradesh and its adverse effect upon the environment and ecology of the State. The Supreme Court held:

That the obligation of sustainable development requires that a proper assessment should be made of the forest wealth and the establishment of industries based on forest produce should not only be restricted accordingly but their working should also be monitored closely to ensure that the required balance is not disturbed. Therefore, in so far as forest based industries are concerned, there is no absolute or unrestricted right to establish industries notwithstanding the policy of liberalization announced by the Government of India. The Court also pointed out that it is meaningless to prescribe merely that the Government need not supply the raw material and that the industrial units will have to get their Khair trees/raw material from private lands/forests. No distinction can be made between government forests and private forests in the matter of forest wealth of the nation and in the matter of environment and ecology. It is just -riot possible or permissible.

Right to Equality

Article 14 of the Constitution provides:

The State shall not deny to any person equality before the law or equal protection of the laws within the territory of India. The right to equality enshrined in Article 14, *inter alia*, strikes at "arbitrariness" of any governmental action "because an action that is arbitrary must necessarily involve a negation of equality." In fact, "equality and arbitrariness are sworn enemies". The principle of "non-arbitrariness" pervades Article 14 like a "brooding omnipresence." Whenever there is arbitrariness in State action, whether of

¹⁴ AIR 1987 SC 374

¹⁵ AIR 1996 S.C. 149

the legislative or of the executive or of an authority under Article 12, Article 14 immediately springs into action and strikes down such action.¹⁶

In *Ivory Traders & Mfg. Assn. v. Union of India*,¹⁷ the Delhi High Court justified the ban on business in animal species on verge of extinction. The Court held that the ban on trade in imported ivory and articles made there from is not violative of article 14 of the Constitution and does "not suffer from any of" the mala fides, namely, unreasonableness, unfairness and arbitrariness.

Protection and improvement of forest and wild life: Article 48-A. requires the State to take steps "to protect and improve the environment and to safeguard the forests and wild life of the country. *Ivory Traders & Mfg. Assn. v. Union of India*,¹⁸ the Supreme Court, relying on Article 48-A gave directions to the Central and the State Governments and various local bodies and Boards under the various statutes to take appropriate steps for the prevention and control of pollution of water.

a. Constitutional Mandate to Protect The Wildlife

The Constitution (Forty-second Amendment) Act, 1976, has introduced a new Article 48-A, which imposes obligation on the State to protect and improve the environment including Wild Life. It provides as under:

The State shall endeavour to protect and improve the environment and to safeguard the forests and Wild Life of the country.

Similarly, Article 51-A was also introduced by the Constitution (Forty-second Amendment) Act, 1976. Clause (g) of article 51-A imposes a fundamental duty on every citizens to protect, inter alia, wild life and to have compassion for living creatures. It provides as under;

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.

The above provisions clearly show that both State as well as citizens are under an obligation to protect the Wild Life and to have compassion for living creatures.

List III of the Seventh Schedule contains the following entries under which both Centre and the State can make laws:

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|-------------|--|
| Entry 17. | Prevention of cruelty to animals. |
| Entry 17-A. | Forests. |
| Entry 17-B. | Protection of Wild Life and birds. |
| Entry 29. | Prevention of the extension from one State to another of infectious or contagious disease of pests affecting men, animals or plants. |

Further, list II of the Seventh Schedule also contains the following entries under which the State can make laws to preserve, protect and improve the livestock and prevent animal diseases, and on fisheries.

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|-----------|--|
| Entry 15. | Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice. |
| Entry 21. | Fisheries. ¹⁹ |

b. CONSTITUTIONAL MANDATE AND FOREST CONSERVATION

The Constitution (Forty-second Amendment) Act, 1976 has introduced a new directive principle of state policy-article 48-A and a fundamental duty under article 51(A) (g) for the protection and improvement

¹⁶ Aruna Venkat, "Environmental Law and Policy", PHI Learning Pvt. Ltd., New Delhi, 2011, p. 56.

¹⁷ AIR, 1997, Del 267

¹⁸ (1988) 1 SC 471

¹⁹ P. S. Jaswal, N. Jaswal, *Environmental Law*, Allahabad Law Agency, Faridabad, 2011, p. 257-258.

of environment including forests. These provisions provide as under:

Article 48-A.—Protection and improvement of environment and safeguarding of forests and wild life.—The State shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country.

Article 51-A (g) provides—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. A perusal of the above provisions clearly shows that both State and the citizens are under an obligation to protect and safeguard forests, which will have an impact on the environment. "Forest" was initially a "State" subject covered by Entry 19 in List II of the VII Schedule. The Indian Parliament realizing the national significance of the forest has also made changes in the VII Schedule. Entry 19 in List II of the VII Schedule has been deleted and a new entry 17-A relating to forests has been introduced in the Concurrent List of the VII Schedule by the Constitution (Forty-second Amendment) Act, 1976. Thus, State as well as Center can make the law relating to forests. The State Government can make laws relating to forest administration provided it is in consonance with the forests policy of centre for preservation and development of the nation's forest resources.²⁰

FEDERAL SYSTEM OF GOVERNMENT

As mentioned earlier, generally speaking, the problem of environment is tackled through various statutes. Therefore, from an environmental point of view, the allocation of legislative authority is very important. India has adopted a federal system in which the governmental power is shared between the Union or Central Government and the State Governments. Part X] [of the Constitution (Articles 245 to 263) regulates the legislative and administrative relations between the Union and the States. Article 245 empowers the Parliament to make laws for the whole country whereas the State Legislatures have the power to legislate for their respective States. Article 246 further divides the subject areas of legislation between the Union and the States. This division is based on three lists, *i.e.*, Union List, State List and Concurrent List, which are given in the VII schedule to the constitution.

1. Union list contains 97 subjects (List I)
2. State list contains 66 subjects (List II)
3. Concurrent List contains 52 subjects (List III)²¹

Forty – Second Amendments (1976)

The amendment amended the seventh schedule to the constitution and transferred from certain entries from one List to another. The subjects which have been transferred from List II (State List) to List III (Concurrent List) are—(1) administration of justice, constitution and organization of all courts except the Supreme Court and the High Courts, (2) education, (3) weight and measures, (4) forest, (5) protection of wild animal and birds.

IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

Article, 253 of the Constitution specifically empowers the Parliament "to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body". Entries No. 13 and 14 of the Union List (List I), which includes, the subject matters over which the

²⁰ Supra note 14 at 316

²¹ J.N. Pandey "The Constitutional Law of India" Central Law agency, Central Law Agency, Allahabad, 2009, p.613

Parliament can make laws, provides “participation in international conferences, associations and other bodies and implementing of decisions made thereat”: and “entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries”²² in India, the Parliament has made use of this power to enact the Air (Prevention and Control of Pollution) Act of 1981, and the Environment (Protection) Act of 1986. The preambles to both these laws state that these Acts were enacted to implement the decisions reached at the United Nations Conference on Human Environment held at Stockholm in 1972. For example, the preamble to the Environment (Protection) Act of 1986 provides : Whereas decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment; And whereas it is considered necessary further to implement the decisions aforesaid in so far as they related to the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property.

INTERNATIONAL PERSPECTIVE

Wildlife and forest crime and other offences of this nature vary from country to country. Within a country, violations of wildlife and forest laws or regulations can give rise to administrative, civil or criminal liability, with some States relying more on criminal sanctions, while others rely more on civil or administrative sanctions.

Over the last 40 years, there has emerged an extensive body of treaties, agreements, declarations and organizations that seek to protect the environment, natural resources, habitats, and the world’s wild fauna and flora.²³ While none of these initiatives is specifically aimed at preventing and suppressing wildlife and forest offences, many international treaties and domestic laws provide frameworks that, directly or indirectly, regulate, control and limit international trade in wild fauna and flora, and criminalize illegal activities in the wildlife and forestry sectors.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is the principal international instrument to control and regulate international trade in protected species and to suppress any illegal dealings in wild fauna and flora. The treaty has quickly widened its membership and to this day, with its 175 Parties, remains the single most important instrument in this field. In addition, the offences and international cooperation frameworks established by the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption enable the criminalization, investigation and prosecution of those aspects of wildlife and forest offences that are linked to organized crime or corruption. Part one, section 1, of this Toolkit identifies and explores relevant international legal frameworks.²⁴

Great discrepancies exist within and among national wildlife, forestry, criminal and other laws. Many countries do not, or do not yet, comprehensively criminalize the many activities involved in illegal trade in wild fauna and flora. In some jurisdictions, the criminal law does not adequately capture attempts at committing offences or participation in these offences. In addition, it may not contain special provisions for corruption and money-laundering in the wildlife and forestry sectors. Consequently, the reform of legal and regulatory systems becomes a prerequisite for combating wildlife and forest crime. This may

²² Entry No.14 of the Union List in the VII schedule to the constitution

²³ Retrieved from <https://cites.org> visited on 04/06/2015

²⁴ Retrieved from <https://cites.org> visited on 06/06/2015

include creating clear definitions of illegal activities, including corrupt or improper allocation of concessions, establishing significant deterrent sanctions and specifying relevant control and enforcement powers at every stage in the commodity chain. Part one; sections 2 to 4, of the Toolkit identify the spectrum of wildlife and forest offences and related domestic provisions.

In addition to domestic and international frameworks, a number of regional and topic-specific initiatives to curtail wildlife and forest offences have emerged. These are identified and examined in part I, section 5.

Existing international law, insofar as it relates to illegal activities in the wildlife and forestry sectors, consists largely of agreements designed for environmental protection and the sustainable use of natural resources.

Purposes of agreement may deal with:

- Species protection, including measures to suppress illegal trade in those species, is important to prevent the extinction of particular animals and plants, and to prevent their unnecessary exploitation. Species protection measures, however, cannot prevent the destruction of natural habitats and entire ecosystems.²⁵
- Mechanisms to protect national parks, ecosystems or geographical areas are predominantly concerned with the preservation of a designated area of particular ecological, biological or natural value. These areas may be placed under international protection because of their rare or unique features, or their wild fauna or flora.
- Biodiversity protection involves conservation and habitat protection. Its purpose is to safeguard certain ecosystems or natural areas and all the species therein. The conservation of biodiversity usually involves the protection of designated lands, so-called conservation areas or reserves, from any encroachment. Habitat protection, in contrast, refers to the protection of human land use, including the sustainable development, income-producing opportunities and maintenance of the habitat.²⁶

Stockholm Conference

The U.N. Conference on Human Environment and Development at Stockholm in 1972 is considered to be the *Magna Carta* of environment protection and sustainable development. It was for the first time that the world community got together to deliberate seriously on an important issue of environment protection and sustainable development. This conference resulted in the "*Stockholm Declaration on the Human Environment*." The Declaration, besides preamble, consists of seven universal truths and twenty six principles. Principles 2, 3 and 4 has given emphasis to save natural resources of earth, wild animals and forest.

The Stockholm declaration on human environment proclaimed that man is both creator and moulder of his environment.

Principle 2, the natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of ecosystems, must be safeguarded for the benefit of the present and future generations through careful planning or management. It is submitted that both these principles recognize the concept of inter generational rights.

²⁵ Ben Boer, Ross Ramsay and Donald Rothwell, "International Environmental Law in the Asia Pacific" Kluwer Law International, London, 1998, p. 100.

²⁶ Id. p. 101.

Principle 3 provides that the capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored.

Principle 4 further provides that man has special responsibility to safeguard and wisely manage the heritage of wild life and its habitat. Nature conservation including wildlife, must therefore, receive importance in planning /for economic development.

Principle 5 the non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that all mankind shares benefits from such employments.

Convention on International Trade in Endangered Species of Wild Fauna and Flora

CITES is the principal international instrument to control and regulate international trade in protected species and to ensure that international trade in specimens of wild animals and plants does not threaten their survival.²⁷

In short, the purpose of CITES is to protect species of endangered wild fauna and flora (including products from them) by creating a control system for any trade and transaction in these species.

The Convention contains three separate Appendices of species, and sets out the control and reporting mechanisms applicable to them:

- Appendix I includes those species threatened with extinction and in respect of which commercial trade is not appropriate or sustainable. Any trade listed in Appendix I species requires prior permits from both the importing and the exporting country. Certificates are also required for the re-export of species.
- Appendix II includes those species not necessarily in danger of extinction but which may become endangered if trade in them is not strictly regulated, as well as those for which trade must be strictly regulated to permit effective control. An export permit is required for any trade in Appendix II species and must be presented to the importing State's Customs authorities.
- Appendix III includes those species that individual Parties choose to make subject to regulation and which require the cooperation of the other Parties in controlling trade. Trade in Appendix III species requires the Management Authority of the exporting State to issue an export permit, if it is the State that included the species concerned in Appendix III, or a certificate of origin, if it is another country.

Nairobi Declaration

The Nairobi Declaration further contended that though there had been partial achievements to bring environmental awareness in these years, yet, the problems of soil pollution, water pollution, deforestation and increasing trends of desertification had reached alarming proportions.

Earth Summit (1992)

The United Nations Conference on Environment and Development (UNCED), popularly known as **Earth Summit**, was held in June, 1992 at Rio de Janeiro. This was the largest UN conference ever held and it put the world on a path of sustainable development which aim at meeting the needs of the present without compromising the ability of future generations to meet their own needs. The Earth Summit was inspired and guided by a remarkable document of 1987, *i.e.*, Brundtland report. The Earth Summit forced the people worldwide to re-think how their lives affect natural environment and resources and to

²⁷ United Nations, *Treaty Series*, vol. 993, No. 14537. CITES was opened for signature in Washington, DC, on 3 March 1973 and entered into force on 1 July 1975.

confront a new environment that determines the surroundings in which they live. Some of the major achievements of Earth Summit lie in the form of following documents which it produced:

The Rio Declaration on Environment and Development: A series of principles defining the rights and responsibilities of States in this area.

Agenda 21: A comprehensive blue print for global actions to affect the transition to sustainable development.

Forest Principles: A set of principles to support the sustainable management of forests worldwide.

Two legally binding conventions, i.e. : The Convention on Climate Change and Convention on Biodiversity, which are aimed at preventing global climate change and the eradication of biologically diverse species. These conventions were signed by the representatives of more than 150 countries.

Forest Principles

They are set of non-legally binding authoritative principles to support the sustainable management of forests worldwide. Forests play a very important role in development as well as in preserving the ecology. Section II of Agenda 21 contains specific recommendations for combating deforestation. There is an urgent need for consistent action for conserving and sustaining forest resources. Many experts and States have expressed their dissatisfaction with the end result because no legally binding convention on forests emerged from the Rio Conference.

United Nations Convention against Transnational Organized Crime

Several recent United Nations reports suggest that criminal organizations have diversified into the illegal markets for wild fauna and flora, attracted by high profits and low risks.²⁸ Serious and organized forms of wildlife and forest offences, such as trafficking in tiger products,²⁹ ivory, exotic birds, caviar, *inter alia*, may fall within the scope of the United Nations Convention against Transnational Organized Crime.³⁰ Since its inception, the Convention has become an important and nearly universal tool in preventing and combating organized crime, including illegal trade in wild fauna, flora, and their parts and derivatives.

The effects of wildlife and forest offences are often transnational in nature, and given the frequent involvement of organized criminal groups in these undertakings, there is considerable potential for invoking the Convention against Transnational Organized Crime in a legal response to the cross-border aspects of wildlife and forest offences. Indeed, the General Assembly of the United Nations confirmed that the Convention:

constitutes an effective tool and the necessary legal framework for international cooperation in combating such criminal activities as the illegal trafficking of protected species of wild flora and fauna, in furtherance of the principle of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).³¹

A ministerial level conference of developing nations in 1992 at Kuala Lumpur, Malaysia adopted certain far-reaching declarations, for example, setting up of an international "green fund" for greening the earth.

²⁸ United Nations, Economic and Social Council, "Illicit trafficking in protected species", para. 28.

²⁹ Brendan Moyle, "The black market in China for tiger products", pp. 124-141.

³⁰ United Nations, *Treaty Series*, vol. 2225, No. 39574. Adopted on 15 November 2000; entered into force on 29 September 2003.

³¹ United Nations General Assembly resolution 55/25 of 15 November 2000. See further Mara E. Zimmermann, "The black market for wildlife", pp. 1657-1685.

It was provided that each country should have 30% of its area with forests by 2000 AD with a higher share of developed nations.

United Nations Convention on Biodiversity

The Convention on Biological Diversity³² focuses predominantly on habitat protection by endeavouring to balance the need for economic development with the protection of biodiversity, especially through the nomination of reserves in developing countries. The principal emphasis of the Convention is on the sustainable development and use of natural resources (article 1), including wild fauna and flora, recognizing “the interaction between habitats and human populations.”³³

In relation to wild fauna and flora, the Convention seeks to protect ecosystems, including forests. To this end, the Convention requires States Parties to, *inter alia*, take steps to limit activities that threaten the extinction of species or the degradation of ecosystems within their territory. Specifically, the Convention calls on States Parties to take active steps in the rehabilitation and restoration of degraded ecosystems, to create and enforce laws and regulations to protect threatened species, to establish special protection areas, and to conduct environmental impact assessments of development projects (articles 8 and 9).³⁴

The other convention, i.e., on biodiversity requires the States to take Steps for protection and sustainable use of the world's diverse plant and animal species. Section II of the Agenda 21 contains specific recommendations to improve the conservation of biological diversity and the sustainable use of biological resources, as well as to support the Convention on Biological Diversity.

The Convention on Biological Diversity, known informally as the Biodiversity Convention, is an international treaty that was adopted in Rio de Janeiro in June, 1992. The Convention has three main-goals :

1. conservation of biological diversity (or biodiversity);
2. sustainable use of its components; and
3. fair and equitable sharing of benefits arising from genetic resources.

In other words, its objective is to develop national strategies for the conservation and sustainable use of biological diversity. It is often seen as the key document regarding sustainable development. The Convention entered into force on 29th December, 1993.

The Convention recognized for the first time in international law that the conservation of biological diversity is “a common concern of humankind” and is an integral part of the development process. The agreement covers all ecosystems, species, and genetic resources.

The convention reminds decision-makers that natural resources are not infinite and sets out a philosophy of sustainable use. While past conservation, efforts were aimed at protecting particular species and habitats, the Convention recognizes that ecosystems, species and genes must be used for the benefit of humans. However, this should be done in a way and at a rate that does not lead to the long-term decline of biological diversity.

As provided in the World Summit on Sustainable Development, 2002, this goal would include actions at all levels to:

³² United Nations, *Treaty Series*, vol. 1760, No. 30619. Adopted on 5 June 1992 and entered into force on 29 December 1993.

³³ Ben Boer, Ross Ramsay and Donald Rothwell, *International Environmental Law in the Asia Pacific*, p. 111.

³⁴ Cf. Debra J. Callister, “Corrupt and illegal activities in the forest sector: current understandings and implications for the World Bank”, background paper for the 2002 Forest Strategy (Washington, DC, May 1999), p. 26.

1. Enhance political commitment by endorsing it as a priority on the international political agenda, taking full account of the linkages between the forest sector and other sectors through integrated approaches;
2. Support of the United Nations Forum on Forests, with the assistance of the Collaborative Partnership on Forests, as key intergovernmental mechanisms to facilitate and coordinate the implementation of sustainable forest management at the national, regional and global levels, thus contributing, inter alia, to the conservation and sustainable use of forest biodiversity;
3. Take immediate action on domestic forest law enforcement and illegal international trade in forest products, including in forest biological resources, with the support of the international community, and provide human and institutional capacity-building related to the enforcement of national legislation in those areas;
4. Take immediate action at the national and international levels to promote and facilitate the means to achieve sustainable timber harvesting, and to facilitate the provision of financial resources and the transfer and development of environmentally sound technologies, thereby addressing unsustainable timber-harvesting practices;
5. Develop and implement initiatives to address the needs of those parts of the world that currently suffer from poverty and the highest rates of deforestation, where international cooperation is welcomed by affected Governments;
6. Create and strengthen partnerships and international cooperation to facilitate the provision of increased financial resources, the transfer of environmentally sound technologies, trade, capacity-building, forest law enforcement and governance at all levels, and integrated land and resource management to implement sustainable forest management, including the Intergovernmental Panel on Forests (IPF)/Intergovernmental Forum on Forests (IFF) proposals for action;
7. Accelerate implementation of the IPF/IFF proposals for action by countries and by the Collaborative Partnership on Forests, and intensify efforts on reporting to the United Nations Forum on Forests to contribute to an assessment of progress in 2005;
8. Implement the Convention on Biological Diversity's expanded action-oriented work programme on all types of forest biological diversity, in close cooperation with the Forum, Partnership members and other forest-related processes and conventions, with the involvement of all relevant stakeholders.

PEOPLES RESPONSE AND ROLE OF NGO'S

The role of NGO's (non-governmental organizations) in this regard is very important. The scientific and academic community has contributed their share in environmental decisions by new researches. For example, National Environmental Engineering Research Institute.

In this regard the name of Mr. M.C. Mehta comes in the forefront who single-handedly has filed a number of public interest litigations in the Supreme Court relating to different aspects of the environment protection. Thus, the environmental activists, lawyers and judges have made their significant contributions. Local people of the municipality (*e.g.*, in Ratlam) have raised their voice against the local authorities for the non-performance of their duties. Thus, in India, the people have responded to the environmental issues at local level, zonal level, and State level and at the national level in different ways.

"CHIPKO" movement and "APPIKO" movement (in Karnataka) for saving the forests for exploitation are the examples of peoples' responses for the protection of environment by their involvement. In

Kerala, at the grassroots level, the campaign against the Silent Valley Project was led by Kerala Sastra Sahitya Parishad (KSSP). The Society For Protection of Silent Valley filed a PIL against the government to stop the execution of the project. There has been sustained agitation by certain environmentalists and social workers against the Narmada Valley Project. The movement is known as Narmada Bachao Andolan (NBA) or Save the Narmada Movement, which has been led by Baba Amte and Medha Patkar. The Tehri Bandh Virodhi Sangharsh Samiti (TBVSS), led by Shri Sunder Lai Bahuguna has been protesting against the construction of the Tehri Dam due to its adverse environmental effects.