



CEERA

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"Earth is one but the World is not one" – and hence the Earth is fast becoming a business in liquidation. From nurturing the Nature, we have been gradually moving to torturing the Nature.

National Law School of India University, Bangalore with the professed objective of providing socially relevant legal education has been rendering yeoman service of spreading environmental awareness by focusing on civic environmentalism.

The periodic publication of "March of the Environmental Law" is another manifestation of relentless pursuit of this prestigious institution.

I congratulate the efforts of CEERA.

"Earth is our mother. In spite of our desire to harm our mother, she will always love us forever."

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As the dedicated CEERA presents this issue, the reader would be exposed to a wide range of environmental issues as addressed and attempted to be analysed by law researchers and redressed by policy-makers and adjudicators at the highest level. They range from Climate Negotiations, through degradation and pollution of the river Yamuna, environmental concerns seen through the lens of Buddhism, application of the Principle of Extended Producers' Liability in the management of wastes and animals as sentient beings, to all the way upto international and domestic legal developments on the subject. Add to this, a brief review of latest research works on the subject and reports of rich and ever expanding range and reach of activities of this throbbing citadel of learning and research. It fills me with pride to witness and be part of this wonderful experience. When learning, researching and exercises on strengthening environmental legal capacity had shown an all-time alarming decline, CEERA, as the readers of this fascinating account of its efforts, would vouch, stands as an exceptional outfit to keep that spirit alive and continue to remain a beacon light to illuminate the minds of those committed to conservation and sustainable development.

Constant pouring of demands from both the Central and State Governments and the ever increasing desire of the academics, activists and entrepreneurs, for CEERA to enhance their environmental law capacity, has made CEERA engage in its mission, with renewed vigour. The issue on hand is testimony to that commitment and living up to that promise.

I doff my hat to this wonderful CEERA team.

"We cannot command Nature except by obeying her."
>> Francis Bacon

We are delighted to publish the 2016 edition of the March of Environmental Law. The previous year has been good for us, with publication, training, seminars and workshops organized by the Environmental Law centre at NLSIU. This year headlines are dominated by the Paris Agreement on Climate Change. I am personally concerned by the issue whether Consumerism and consumption culture has impacted the climate change? If you witness the growth model in India, especially on consumer spending, whether on marriages, parties, tourism, energy, electronics or household items, India is aping the West. We at ELC are seriously contemplating raising awareness on this issue in the days and months to come. The same is necessary true amongst the younger generation of people who tend to shop till drop!. The liability of producers from end of cycle to extending recyclers responsibility must be made part of environmental law compliance. The duty of Consumers must be highlighted with effective education models and structures of Governance in place, especially amongst the Urban Indian.

Happy reading! Hope to receive your support in all our endeavours.

"When the well is dry, we learn the worth of water."
>> Benjamin Franklin



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GREEN ARTICLES

KYOTO PROTOCOL AND PARIS AGREEMENT: A COMPARISON

Dr. Sairam Bhat^{}, Ms. Sharmila Raman Menon^{**}
and Aparna Nair^{***}*

Introduction:

The United Nations Climate Change Conference 2015 that took place from November 30th to December 12th at Paris has paved the way for a historic outcome through the 'Paris Agreement.' The agreement is looked upon as a watershed episode in the rising international crusade against climate change for it could realize the prolonged struggle of the international community in achieving a global consensus on the issue of climate change.

The endeavour takes its root from the United Nations Framework Convention on Climate Change (UNFCCC), one of the three conventions adopted at the Rio Earth Summit (1992), with the objective of formulating an international policy towards 'stabilization of greenhouse gas concentration in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.' The climate change conference that had resulted in the Paris Agreement was the 21st yearly meeting of the Conference of Parties (CoP) to the UNFCCC and the 11th session of the parties to the Kyoto protocol (1997).

The Path Tread So Far:

The journey of international climate change jurisprudence from the UNFCCC (1972) to the Paris Conference (2015) has observed several milestones. The 'Conference of Parties' (CoP), provided by the UNFCCC as a mechanism to annually address the burgeoning global concern towards reduction in greenhouse gas emissions has been instrumental in achieving them.

The Protocol that was adopted by the CoP 3 in 1997 at Kyoto (Kyoto Protocol) assumes greatest

significance in this regard for having developed the principle of 'Common But Differentiated Responsibilities and respective capabilities' (CBDR) wherein the developed countries (Annex I countries), being majority responsible for the greenhouse gas emissions to the then existing levels, were mandated to bear the onus of reducing the emissions by atleast 5% below the 1990 levels between 2008-2012. This 'top-down' approach made the 'developed nations' more accountable towards carbon emissions through binding reduction targets while the 'developing nations' including the significant contributors like China were kept out of the mainstream responsibility. The adverse effect of this differential treatment was that major emission contributors like USA and Australia declined to join the Protocol.

The Copenhagen Accord of 2009 under the CoP 15 saw the Annex I parties providing their 'quantified economy-wide emissions target' for 2020 and the non-Annex I nations making 'nationally appropriate mitigation action'. Moreover the developed nations agreed to support the developing nations through a 'long term finance' mechanism. It was in the Cancun Agreements of 2010, which was an outcome of the CoP 16, that these national plans were captured formally at the international level. In furtherance to this, a 'Green Climate Fund' was introduced whereby support was extended to the developing nations in order to adopt sustainable paths to low emission economies through finance, technology and capacity-building. These ventures had beckoned a shift in the approach from 'top-down' to 'bottom-up' framework, wherein nations including developing nations would make individual commitments towards climate change mitigation. However, the promises made therein fell substantially short of what was required to be achieved.

The real precursor to the Paris Agreement was the CoP 17 at Durban in 2011 which led to the establishment of the 'Ad hoc Working Group on Durban Platform for Enhanced Action.' It called for the initiation of a protocol which shall have legally binding effect over all the parties to the Convention. During the 19th CoP, the policy makers

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met at Warsaw to take forward the proposed idea. The parties agreed to identify the information required to be provided when the nations determine their contributions.

Another major leap towards the Paris Agreement was the 'Lima Call for Climate Action' at CoP 20 wherein both the developed and developing nations made pledges which contributed to the capitalization of the 'Green Climate Fund.' Moreover, Multilateral Assessment was carried out to evaluate the implementation of the previous CoP decisions, whereby many developed nations came forward to submit their emission targets. The foundation for the actions to be taken post 2020 was appreciated in the form of 'Intended Nationally Determined Contributions.' These relentless efforts finally took shape into the Paris Agreement in CoP 21 which reflects an amalgamation of the bottom-up approach which ensures wider participation with top-down rules that strengthens accountability.

Salient Features of the Paris Agreement:

The Paris Agreement stands apart from its predecessor efforts due to the existence of certain notable features. Some of the distinguishing aspects are as follows:

Collective Liability: By replacing the differential treatment accorded to the developed and developing nations in the erstwhile efforts with a common framework for all nations, the Paris Agreement made a fundamental difference in the approach towards mitigating the menace of climate change. The conjoint responsibility of all the parties is to aspire towards a goal of limiting the increase in global temperature below 2 degree Celsius above the pre-industrial levels and to prolong their efforts towards an ambitious long term objective of limiting it to 1.5 degree Celsius.

Individual Contribution: However in order to work out this mechanism, every nation is urged to individually undertake 'nationally determined contributions' which allows flexibility to accommodate different national capacities. The parties should accordingly pursue domestic measures at their national level in accomplishing these commitments.

Review Mechanism: The parties are expected to report on these domestic measures and strategies adopted towards achieving the target, every two years. The reports will be subjected to an 'independent technical expert review' and then to a 'multilateral examination'. This facilitates assessment of the country-level initiatives, which will bring in transparency and accountability in the system. This will also be a boost for the parties to enhance their national efforts to achieve the set goals.

Progression: In addition to the biannual reporting, the parties are also required to communicate their successive 'nationally determined contributions' every five years which shall showcase the progression from the previous commitment. This process would make the individual nations involved constantly and actively in their work towards achieving the long term objectives.

Mobilize Funds: In order to assist the developing countries in reducing emissions, the parties agreed to mobilize a sum of \$100 billion annually from 2020 through public and private financing. In furtherance to the Copenhagen Accord, a sum of nearly \$13 billion is already pledged by the nations to the Green Climate Fund, thereby acknowledging the responsibility of the developed nations to support and encourage the efforts of the developing nations.

Loss and Damage Mitigation: The agreement sought to enhance and strengthen the provisions of Warsaw International Mechanism for Loss and Damage, which was intended to facilitate the exchange of information and best practices between nations to deal with climate change induced losses and damages.

Transfer of Mitigation Outcome: A new mechanism for international carbon trading was introduced in the form of 'Internationally Transferred Mitigation Outcomes' (ITMO) which improved the erstwhile mitigation efforts by combining the elements of Clean Development Mechanism (CDM) and Joint Implementation (JI) under the Kyoto Protocol. Both public and private entities were allowed to voluntarily use the ITMOs

to meet the reduction target set under the nationally determined contributions. Unlike the 'offsetting' established under the CDM, this is sought to deliver 'an overall mitigation' in global emissions.

However the parties getting involved in such international carbon emissions trading are urged to avoid 'double counting' in order to preserve the integrity of the mitigation regime.

Greater Participation: Around 187 countries who are responsible for 97% of the global emissions are parties to the conference thus welcoming a more aggressive global action against climate change. These countries have already pledged their nationally determined contributions which will be further revised in the year 2020 in order to strengthen their emission reduction targets by the year 2030. Moreover, financial institutions, companies, investors etc. have also pledged their actions to help governments in the reduction mechanisms.

India and the Paris Agreement:

Being the fourth major contributor in global carbon emissions (after China, USA and EU), the commitments undertaken by India towards climate change mitigation will have a pivotal implication over the international community. It is worthy to note that the United Nations Environment Programme in their Emission Gap Report (2014) had recognized India as one of the target achieving countries, for having reduced the emission intensity of its GDP by 12 % between 2005 and 2010 despite there being no legally binding obligation. This has been the aftermath of the numerous initiatives undertaken by the Indian government like the Energy Conservation Act, 2001, National Environment Policy (2006), National Action Plan on Climate Change (2008) etc.

India became a signatory to the Paris Agreement on April 19, 2016. During the negotiations India had come up with her Intended Nationally Determined Contributions for the period 2021-2030. This included the reduction of emissions intensity of its GDP by 33-35% (from the 2005 level), achieving 40% cumulative electric power installed capacity

from non-fossil fuel based energy resources and creation of an additional carbon sink of 2.5 to 3 billion tonnes of CO₂ equivalent through additional forest and tree cover by 2030.

UNFCCC has already extended their helping hand to India by financing our mitigation and adaptation efforts to climate change. In this regard, the National Bank for Agriculture and Rural Development (NABARD) has been accredited by the Green Climate Fund as National Implementing Entity (NIE). The NIE is entitled to receive concessional loans, grants and other facilities.

At the G-20 Summit in 2015, India had announced a proposal to create a solar alliance with other countries. In pursuance of this invitation, 120 nations have shown interest to join the coalition proposed to be called the International Agency for Solar Policy and Application (InSPA), under the hegemony of India and France. The initiative is likely to place India as a global leader in solar power generation and distribution.

The Way Forward:

The Paris Agreement, 2015 is being described rhetorically as the silent revolution ever witnessed by the world, receiving an overwhelming consensus from among 196 world nations. Developed nations along with non-state actors have collectively pledged a large sum with a view to support the developing countries in pursuit of their commitments. This unprecedented response and co-operation is perceived as a key towards the potential success of the Paris Agreement.

Although the agreement was negotiated by representatives from 196 nations it would become a legally enforceable instrument only when at least 55 countries (representing 55% of the GHG emissions) sign and ratify it. In the midst of a cacophony of dissent from the critics who believe that the reduction targets are wholly unachievable, the fact that 177 world nations have signed the agreement on the Earth Day (April 22nd of 2016) and 15 of them have also deposited their instruments of ratification, evidently marks a new beginning to the aspirations of the world community towards sustainable development. It is

moreover noteworthy that the signatories include the most prominent emitters like USA and China who represent almost 40% of the global emissions. Through the US-China Joint Presidential Statement on Climate Change they have expressed their desire to join hands in working towards carbon reduction in crucial sectors. Some of the world nations who are non-signatories to the Paris Agreement include Chile, Iraq, Hong Kong, Ecuador, Kazakhstan etc.

Nevertheless, it is unfortunate that the 'nationally determined contributions' do not have any binding effect on the countries as they are voluntary commitments. The only mechanism envisaged in the agreement to make the system transparent and accountable is through 'name and shame' wherein the countries are asked to mandatorily report on their initiatives which could turn into a politically humiliating experience if they have failed to achieve their targets.

Though inadequacies seem to exist at the face of the agreement, it could be expected that the international co-operation would be strengthened to rectify these concerns through the next CoP (CoP22) which is scheduled to be held in November 2016 at Marrakesh in Morocco.

The United Nations Framework Convention on Climate Change (UNFCCC) was adopted during the Earth Summit at Rio de Janeiro in 1992. The Convention aimed at laying down a framework to maintain the greenhouse gas concentration in the atmosphere at such levels which would prevent interference with the climate change phenomenon. The parties to the Convention agreed to meet up annually to decide on the agenda to be charted for the implementation of the objectives of the Convention in the years ahead. The Kyoto Protocol was the outcome of the 3rd such Conference of Parties (CoP 3) to the UNFCCC at Kyoto in Japan in 1997; while the Paris Agreement was the result of the 21st session of the CoP at Paris in 2015.

The Kyoto Protocol is of great significance for the introduction of the principle of 'Common But Differentiated Responsibility' (Article 10) which requires every world nation to conjointly hold

responsibility towards greenhouse gas emissions, however mandated only the developed nations to bear the burden of reducing their emissions. The Paris Agreement, which is now considered as a historic leap in the global movement against climate change, also reiterates this same idea (Article 2) though using the new mechanism of 'nationally determined contributions'. The 'nationally determined contributions' permits the individual nations, both developed and developing ones, to undertake responsibility based on their individual national capacities. This shows a paradigm shift in the approach from top-down to bottom-up framework from Kyoto to Paris.

The developed nations were urged to take the lead by undertaking economy-wide absolute emission reduction targets in both the Kyoto Protocol and the Paris Agreement. However, the Kyoto Protocol had laid down obligations for the ANNEX I parties (i.e. developed nations) for achieving quantified emission reduction commitments and had excluded entirely the developing nations (including the significant emitters like China) from its dictates. Unlike its predecessor, the Paris agreement does not let off any of its parties from their responsibility towards the environment.

While the Kyoto obligated the developed nations to reduce their emissions by at least 5% below the 1990 levels between 2008-2012, the Paris Agreement raised a collective responsibility of all the nations to aspire towards a common goal of limiting the increase in global temperature below 2 degree Celsius above the pre-industrial levels and to pursue their efforts towards a greater long term objective of limiting it to 1.5 degree Celsius.

One of the striking features that distinguish the Paris Agreement from the Kyoto initiatives is the recognition of the need to extend financial support to the developing countries in their endeavour towards effective implementation of their voluntarily agreed commitments. The Agreement reflected the need to put in place a 'Green Climate Fund' whereby the developed nations would mobilize a sum of \$100 billion annually from 2020 onwards, through public and private financing.

The Paris Agreement has another significant characteristic in the form of 'Internationally Transferred Mitigation Outcomes' (ITMOs) for facilitating carbon trading among nations. This can be perceived as an improvement of the Clean Development Mechanism (CDM) and the Joint Implementation (JI) suggested under the Kyoto Protocol. Under the ITMOs, both public and private entities are permitted to voluntarily undertake actions so as to meet the targets set by the individual nations.

Though the Kyoto Protocol was a breakthrough instrument for the revelation that it made on the menace of climate change and the global attention that it garnered, it failed to incorporate any mechanism to ensure effective enforcement of its provisions. With the creation of a periodic 'review mechanism' for the assessment of the domestic initiatives through 'independent technical expert review' and 'multilateral examination' the Paris Agreement brought in a sea change in this respect. The Agreement also requires the nation States to showcase progression from previous commitment in their successive 'nationally determined contributions'. This also acts as a check on the adequate enforcement of the obligations.

Paris Agreement unlike Kyoto Protocol is found to have made the grim realisation of the occurrence of climate change as a global phenomenon and has suggested measures to increase the ability to adapt to its adverse impact. While Kyoto Protocol focussed on the enhancement of energy efficiency, promotion of sustainable agriculture and development of research and technologies to reduce carbon emissions; Paris Agreement specifically aimed at reducing the increase in global average temperature to well below 2 degree Celsius above the pre-industrial levels.

The Kyoto Protocol having expressed an explicit disparity in its approach towards the developed and developing nations, failed to obtain support from the major emission contributors like USA, Australia etc. The Paris Agreement, on the other hand, received overwhelming global support, due to the fair and voluntary nature of its provisions. It received participation from around 187 world nations who are responsible for 97 % of the global carbon emissions.

THE ART OF LIVING FOUNDATION WORLD CULTURAL FESTIVAL CASE

Dr. Sairam Bhat and Mr. Mihir Asolekar***

The World Cultural Festival held on the Yamuna floodplains in New Delhi from 11th March 2016 to 13th March 2016 was organised by spiritual leader Sri Sri Ravi Shankar to celebrate the 35 years of completion of his Art of Living Foundation. Founded by Sri Sri Ravi Shankar in 1981, the Art of Living is an NGO working for the educational and humanitarian movement engaged in stress management and service initiatives. It is based on the philosophy that world peace cannot be achieved unless we have a stress-free life and we endorse ourselves to live a non-violent way.

The World Cultural Festival (hereinafter WCF) expected a gathering of 35 lakh people, and had a venue spread over an area of 1,000 odd acres. The event was set to be inaugurated by Prime Minister Narendra Modi and had the organisation's founder, Sri Ravi Shankar, along with the presence of other spiritual gurus, appearing as guest speakers for the event.

The NGT was hearing a petition brought before it asking for the cancellation of the WCF, on the grounds that the festival held would disturb the environment and the ecology of the Yamuna river and nearby areas.

In a 47-page report, the panel chaired by Shankar Shekhar, the Water Resources Secretary, and comprising other leading scientists like C.R Babu, Prof AK Gosain and Prof Brij Gopal, it has been stated that the ground has been completely levelled, compacted and has been hardened and devoid of water bodies or depression. The expert committee formed has stated how the compacting of the floodplain has affected the area. Leveling land to construct for the WCF has caused irreversible damage to the vegetation, organisms, water bodies, and floodwater retention capacity of the Yamuna Floodplains. Area where the grand stage has been

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erected and the area immediately behind it, has been heavily consolidated, with an external material used to level the ground. The main river channel has also been impacted by the preparation. There were physical changes that too occurred in the riverbed due to removal of vegetation, construction of roads and bridges, blocking the side channels, invariably disturbing the flow of the water, besides bringing in particulate matter. The floodwater's retention capacity has also been impacted. These water bodies control flood, help in groundwater recharge, support vegetation, fish and other biodiversity. The committee also stated the physical changes in the floodplains and its wetlands also include a change in the topography, directly affecting the diversity of habitats.

With respect to the case study put forth by the NGT, the Art of Living Foundation has said, "the NGT is yet to hear our application for reconstitution of the committee. Hence, it will not be logical to take the report of the committee in consideration". The Foundation further stated that the allegations put on it are unscientific, biased and unsustainable. AOL has claimed that the committee looking after the matter was prejudiced and biased. The Foundation has a problem with Prof. Brij Gopal and Prof C.R Babu. Foundation maintains that both these experts share close relation with the petitioner, Manoj Mishra. With respect to this, the complex question that arises is that whether AOL is doubting the capability and expertise of the expert committee. Another question that complicates the matter is that, even if Mishra's closeness to the two would deviate them from the righteous path, wouldn't they be outnumbered by the other five experts? The article posted by Subhayan Chakraborty in the Business Standard pointed out that the NGT has allowed the AOL Foundation a period of one week to respond to expert committees' report on the Yamuna damage. A bench comprising of NGT Chairperson Justice Swatanter Kumar allowed the NGT to respond to charges levelled against it by September 12. The NGT's order came after the AOL Foundation rejected to comply wholly with the orders of the Tribunal. The NGT, with respect

to Section 17 of the NGT Act, 2010, levelled a fine of Rs. 5 crores, based on the Committee's report.

However, this case has been taking a leap of twists and turns. As shown by the legal and environmental experts, working for the AOL Foundation, it is seen that the AOL Foundation has not caused any environmental damage to the Yamuna floodplains. Environment consultant Prabhakar Rao showed a 1986 survey of India map and claimed that the allegations of environmental damage to the wetlands along the Yamuna was 'wrong' since no such wetland existed there.

The NGT on March 9th pronounced its order against the AOL Foundation. The NGT stated, "for reasons of delay and laches on part of the applicant in approaching the Tribunal and for reasons of fait accompli, we are unable to grant prayer of prohibition order and a mandatory discretion for removal of construction and restoration of the area in question". The principles, as stated in the judgement of *S.P Muthuraman v. Union of India and Ors.* can be squarely applied to the facts and circumstances of the present case. Tribunal is dealing with the ecological, environmental and biodiversity damage done to the rivers and the floodplains by the activities of the AOL Foundation. The NGT further said, "we are unable to accept the contentions raised on behalf of the Delhi Pollution Control Committee, (hereinafter DPCC) that it was not obligatory upon the DPCC to grant and/or refuse to consent to the Foundation for making such constructions. It was expected of the Board to issue appropriate directions in exercise of its powers. The Board has failed to exercise due diligence and exercise to authority improperly in taking a stand that no orders were called from the Board in the facts of the cases. Section 25 read with Section 33A of the Water (Prevention and Control of Pollution) Act, 1974, a fine of Rs 1 lakh would be imposed upon DPCC".

The Foundation had submitted its application to various authorities for obtaining their permission. However, it did not get permission from the Delhi Police Department, Fire Department or the Ministry of Water Resource, River Development

and Ganga Rejuvenation Authority, which is the authority responsible for conservation, development and management and control of water pollution of Yamuna river. Further moving, the NGT has also accused the Foundation for not providing specific data, supporting documents or a plan with regards to the carrying of such levelling activities and other constructions. Hence, the NGT pronounced that the Foundation be held liable to pay compensation for not disclosing its entire project. The NGT further directed the Foundation to comply with the safety, construction stability and other requirements of all the authorities as well as to obtain permission from the Delhi Police Department.

It is evident from the documents placed on record by experts that the floodplains have been damaged and tampered while destroying the natural flow of the river, wetlands on the flood plains, which were in existence, as noticed in our judgements in the case of *Manoj Mishra v. Union of India and Ors.*, decided on January 13th, 2015.

The NGT further opined that the permission granted by the NCT of Delhi is of no consequence as it is not the competent authority for rights over rivers. The NGT reasoned out their judgement against the AOL Foundation by stating that “for the damage caused to the environment, ecology, and to the biodiversity, as well as to the aquatic life of the river, the Foundation shall be held liable for its restoration in all respect. In that and in existence of our power under Section 15 and Section 17 of the NGT Act, 2010, we impose an environmental compensation, initially of Rs 5 crores. This amount shall be paid before the commencement of the event by the Foundation”.

The NGT has concluded this case by ordering that the whole area in question shall be developed as a biodiversity park in terms of their judgement in the *Manoj Mishra* case. The cost thereof shall be paid by the Foundation and the DDA. Since the

DDA did not inspect the site prior to grant of permission nor during the operation, the NGT shall impose a fine of Rs. 5 lakhs on DDA for its default and non-performance of statutory duty.

Comment

This case has left everyone in the environmental fraternity spellbound and astonished. This case has revealed many questions and many other new facts have come up while the proceedings of this case were taking place.

Why did the DPCC raise such a contention that it was not obligatory upon them to grant or refuse the consent of the Foundation? It was expected of the Board to approve and give its discretion in this case. However, it is evident that no such action had been taken by the Board of the DPCC and thus, the Foundation was left free to act in any manner it liked. This is a very absurd and laid back move from the DPCC Board and being the body concerned with looking after the level of pollution and causes of pollution in Delhi and the NCR region, the Board should have considered the matter with a hawk's eye. Furthermore, the Foundation had submitted its application to various authorities for their permission. However, they had not got the required permission from the Delhi Police as well from the Fire Department and most importantly, from the Ministry of Water Resource and River Development, which is the apex body looking after the development, management and control of the Yamuna floodplains. The Foundation should have not started their construction work in the first place if they did not have the required permissions from the concerned authorities. Starting off with construction, the Foundation has violated the rules and other regulations set out to them by the authorities.

There are further complications raised in this case. The report by the committee was thrashed as being baseless and unscientific. However, there are witnesses who confirm the report by the committee. Local farmers have said that they had their farms where the pathway and the parking lot was built by the Foundation. The AOL Foundation maintains

that there were no floodplains in that area, and therefore they have not violated any environmental norms. However, the destruction of the crops and vegetation that the farmers are claiming to be theirs are also a violation of the environmental norms as well as the rights of these farmers. The farmers have also been deprived of their fundamental right to life and practice their profession.

This case has been taking a series of twists and turns. The AOL Foundation maintains that they would appeal in the Supreme Court. However, the NGT has absolute jurisdiction in areas related to environmental loss and damage to the environment and all their judgements should be held to be final.

Last, but not the least, there needs to be some stringent enforcement of these environmental laws and norms by the NGT as well as the Police Departments. Anyone found guilty of violation of these norms should be considered a criminal and likewise, actions should be taken against him.

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BUDDHISM AND ENVIRONMENT PROTECTION

*Manjeri Subin Sunder Raj**

Religion plays a very important role in the furtherance of the duty to protect the environment. The duty that is being cast upon us to protect the environment has to be taken seriously and it should be done in a religious way so as to ensure that our rights are protected as a result of it. How far does religion play a role in casting that 'duty' on mankind so as to ensure the protection of the environment? Does it play a more significant role than that which law can exert also needs to be addressed at the end.

The author would concentrate on Buddhism and environmental protection. The reason for dealing with it is the very fact that there are a lot of principles that we can attribute to it. Delving into the intricacies that the religion possesses and commands over its followers, a basic idea or framework as regards the concept of environment protection and the furtherance of the duty in the minds of the followers can be analyzed. Taking clue from those principles that further the idea of environment protection through religion and religious practices, changes that can be brought about in the present system of law can be identified.

Apart from all those considerations mentioned above, a firsthand knowledge of how the duty is being implanted in the minds of the followers can be analyzed. Religion by itself is a panacea to the woes related to environmental degradation and pollution and it would definitely be able to provide us with the much needed succor.

*All beings tremble before danger, all fear death.
When a man considers this, he does not kill or cause
to kill. All beings fear before danger, life is dear to
all. When a man considers this, he does not kill or
cause to kill.*

*He who for the sake of happiness hurts others who
also want happiness, shall not hereafter find
happiness. He who for the sake of happiness does
not hurt others who also want happiness, shall
hereafter find happiness.*

Dhammapada 54

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Buddhism- Its Origin

Buddhism commenced around 550 B.C. A Hindu prince by name Siddhartha was the founder of this religion. The early life of Siddhartha was one of opulence. He was well protected from the reality of life by his father Uddhodana, the King of the Shakyas, who ensured that his son did not get to see the harsh realities of life. Siddhartha however became curious about life outside his protected environs. It was only a matter of time before he realised that existence involved much suffering. Renouncing his comfortable life, leaving behind his wife and newly born son, he took to being a monk. He aimed to seek out a more meaningful existence and try to understand why all creatures suffer, and find out how they could escape from suffering. It was at the age of twenty nine that Siddhartha began the homeless life of a monk. He went alone to the forest in search of an end to suffering. He practiced penance and meditation for six years. After this period he achieved enlightenment under a Bodhi tree. The Buddha, or Enlightened One, as he came to be known, dedicated the remainder of his life travelling along the Ganges plains, teaching the path to enlightenment to whoever would listen. By the time he left this world, he had gathered a large following of monks, nuns and householders, organised into communities called *Sanghas*. His teachings were memorised by his disciples and passed down orally. In 80 B.C. they were written down in the collection of texts now known as the Pali cannon. The *Dhammapada* is the best known record of his teachings. It is a short collection of his sayings.

From India, Buddhism spread to countries throughout Asia, particularly Sri Lanka, Tibet, China, Korea, Japan, Vietnam, Cambodia, Thailand and Burma. Altogether there are about 500 million Buddhists today. Buddhism is more than a religion and is considered as a philosophy or a way of life. As the teachings provide a deep understanding of the human mind, Buddhism has also been described as a science of the mind. It has been successful in presenting an advanced and

effective psychological approach to life and its problems. These are the factors which may have increased its popularity in the West.

Buddhism and Environment Protection

Buddhism teaches that the idea of separateness is an illusion. A Buddhist-oriented context does not abstract or separate the individual from the whole because the individual is understood, from the outset, as existing within ontology of inter-dependence¹. On explaining this concept, Buddha brings about a co relation as between man and nature. The health of the whole is inseparably linked to the health of the parts, and the health of the parts is inseparably linked to the health of the whole, is what was taught by Buddha. Basing his teaching on such a simple principle it was quite easy for Buddha to make the masses realise that they being a part and parcel of nature, it was quite imperative that they for their own well being, protect nature. It is through this idea conveyed, that the people came to realise their role in protecting the environment and the need and necessity for protecting the same. From the teachings propagated by the Master it came to be understood that caring for the environment begins with caring for oneself. Buddhists might describe this as the ecological significance of spiritual practice².

Buddhism throws light on the noble eight fold path. It consists of right vision, right thought, right speech, right action, right livelihood, right efforts, right mindfulness and right concentration. This has been said to lead to *moksha*³.

Buddhist practice brings about a sort of harmony as between oneself and others. The importance that 'nature' has been showered upon with makes us realise as to how far we are subject to nature and that we are at mercy to nature. If one treats nature as a friend and teacher, one can be in harmony with other

1 Ronald L. Massanari, "A Problematic in Environmental Ethics: Western and Eastern", 18 Buddhist-Christian Studies 37 (1998) at p.50, available at <http://www.jstor.org/stable/1390435>, accessed on 08/10/2016.

2 John D'Arcy May, "Zen with Teeth: The Contributions of Buddhists and Christians to Preserving the Earth", 18 Buddhist-Christian Studies 213 (1998) at p.213, available at <http://www.jstor.org/stable/1390458>, accessed on 08/10/2016.

3 Liberation.

creatures and appreciate the interconnectedness of all that lives. This simple teaching brought forth a newer meaning to life and living.

To live simply and appreciate the natural cycle of life was one of the most important lessons that were taught by the Buddha. It was taught that craving and greed would only bring unhappiness. The reason attributed to the same was the fact that demands for material possessions can never be satisfied and people will always demand more. In their demanding so, they would definitely threaten the well being of the environment. This is why the real solution to the environmental crisis begins with the individual. Once the individual has brought his needs and wants under control, there would naturally be a lesser pressure upon nature to provide those needs, had there been such needs. But with that being under control, nature would be in a better position as when compared to the other, as man would not exert much strain over nature as such for obtaining and satisfying his needs.

According to Buddhism, the way you earn your livelihood forms part of the Buddhist way of life. Likewise not killing, not stealing, not taking more than you need etc will have a direct relation to one's following of the principles of Buddhism. A livelihood that avoids harming others, such as trading in weapons, meat, alcohol or poisons is in harmony with nature. It is such things that ultimately lead to the balance between nature and man.

The natural relationship between deep ecology and Buddhism has been emphasized by many Buddhist monks such as His Holiness the Dalai Lama, Venerable Thich Nhat Hanh, Venerable Kim Teng, and Venerable Phra Phrachak. According to the Vietnamese monk Venerable Thich Nhat Hanh *"Buddhists believe that the reality of the interconnectedness of human beings, society and nature will reveal itself more and more to us as we gradually recover - as we gradually cease to be possessed by anxiety, fear, and the dispersion of the mind. Among the three - human beings, society, and nature - it is us, who begin to effect change. But in order to effect change we must recover ourselves, one must be whole. Since this requires the kind of environment favourable to one's healing, one must*

*seek the kind of lifestyle that is free from the destruction of one's humanness. Efforts to change the environment and to change oneself are both necessary. But we know how difficult it is to change the environment if individuals themselves are not in a state of equilibrium"*⁴.

To lead a moral life, be mindful and aware of thoughts and their actions and to develop wisdom and understanding is the path of a Buddhist advocate. Buddha asked his followers to follow a way of life based upon the five precepts-

- 1) I undertake the precept to abstain from killing living beings
- 2) I undertake the precept to not take what is not given
- 3) I undertake the precept to abstain from sexual misconduct
- 4) I undertake the precept to abstain from false speech
- 5) I undertake the precept to abstain from liquor that causes intoxication and heedlessness.

From the very first one itself, we can understand the importance that Buddha has attributed to life and living things. They not only include man but also all forms of living things whether it is plants or animals. The words of Maha Ghosananda⁵, *"When we respect the environment, then nature will be good to us. When our hearts are good, then the sky will be good to us. The trees are like our mother and father; they feed us, nourish us, and provide us with everything; the fruit, leaves, the branches, the trunk. They give us food and satisfy many of our needs. So we spread the Dharma (truth) of protecting ourselves and protecting our environment, which is the Dharma of the Buddha. When we accept that we are part of a great human family - that every being has the nature of Buddha - then we will sit, talk, make peace. I pray that this realization will spread throughout our troubled world and bring humankind and the earth to its fullest flowering. I pray that all of us will realize*

4 <http://www.arcworld.org/faiths.asp?pageID=3>, accessed on 21/10/2016.

5 *Ibid.*

peace in this lifetime and save all beings from suffering”.

“The suffering of the world has been deep. From this suffering comes great compassion. Great compassion makes a peaceful heart. A peaceful heart makes a peaceful person. A peaceful person makes a peaceful family. A peaceful family makes a peaceful community. A peaceful community makes a peaceful nation. A peaceful nation makes a peaceful world. May all beings live in happiness and peace”, too convey the same idea.

Respect for life and the natural world is essential as was taught by Buddha. One can be in harmony with other creatures when living. It is also then that we learn to appreciate the interconnectedness of all that lives. What is involved in this is that we develop openness to our environment and relate ourselves to the world with awareness and responsive perception. To enjoy without possessing and mutually benefit each other without manipulation is obtained. However, the Buddha was no romantic idealist. It was thus that He saw and realized that suffering forms a part and parcel of every living thing. He saw creatures struggling for survival in a precarious world. He saw death and fear, the strong preying on the weak. He also saw impermanence. To live simply, to cherish tranquillity, to appreciate the natural cycle of life was being taught by the Buddha. It was said that in this universe of energies, everything affects everything else. Nature is an ecosystem in which trees affect climate, the soil, and the animals, just as the climate affects the trees, the soil, and the animals and so on. Nothing exists without such an interrelation and it is exactly this interrelation that brings about a sense of unity and interdependence.

It is said that we can see the need to change from the attitude of dominating nature to an attitude of working with nature when we realise the fact that nature is our friend. We are an intrinsic part of all existence. This should be our outlook in place of seeing ourselves as in control of all existence. This puts on us an added as well as an extra responsibility so that we work for the betterment of the environment selflessly. The Buddha taught that the

balance of nature is achieved by the functions of the forest. Survival of the forest is vital to the survival of natural harmony, balance, morality, and environment. It has been constantly reminded to us by Buddhist teachers, the importance of living in tune with nature, to respect all life, to make time for meditation practice, to live simply and use nature as a spiritual force. Buddha himself stressed the four boundless qualities: loving-kindness, compassion, sympathetic joy (delight in the well-being of others), and equanimity (impartiality). Frugality, as a virtue in its own right, was explained by the Buddha. It was said that skilful living avoids waste. Moreover we should try to recycle as much as we can. Buddhism advocates a simple, gentle, nonaggressive attitude toward nature. It specifies that reverence of all forms of nature should be cultivated amongst people. Buddha used examples from nature to teach. In his stories the plant and animal worlds are treated as part of our inheritance, even as part of ourselves. This shows the importance being attached to them and how important they are as far as we humankind is concerned.

The Dalai Lama's quote aptly describes the importance of life. *“Whether they belong to more evolved species like humans or to simpler ones such as animals, all beings primarily seek peace, comfort, and security. Life is as dear to the mute animal as it is to any human being; even the simplest insect strives for protection from dangers that threaten its life. Just as each one of us wants to live and does not wish to die, so it is with all other creatures in the universe, though their power to effect this is a different matter”*⁶.

In *Kutadanta Sutta*, Buddhism points out that it is the responsibility of the government to protect trees and other organic life. It is described in the Sutta⁷ on Buddhist polity named, 'The Ten Duties of the King'⁸. The *Kutadanta Sutta* points out that the government should take active measures to provide

⁶ *Ibid.*

⁷ A single teaching by the Buddha given in response to a specific need or theme of daily life. The sutta (also known as 'sutra') are collected in the Sutta-Pitaka, one of the three pitakas (baskets) that make up the Pali canon or Tripitaka ('three baskets').

⁸ Dasarajadhamma.

protection to flora and fauna. It is said that one should live in the environment without causing any harm to it⁹.

*“Whatever breathing creatures there maybe
No matter whether they are frail or firm,
With none excepted be they long or big
Or middle-sized, or be they short or small
Or whether they are dwelling far or near
Existing or yet seeking to exist May beings all be of
a blissful heart”*¹⁰.

It is to be understood that Buddhism is completely disinclined to the notion that nature and all created things exist for the benefit of mankind. It considers mankind as being a part of the entire cosmic order. But it does not consider mankind being in a position of dominance. It is of the view that as any other form of sentient existence, humans too are subject to the natural order of the universe, on similar lines. Since it views humans as an integral part of nature, Buddhism is eco-centric rather than anthropocentric. The importance given to nature makes it clear that both mankind as well as nature are placed on the same plane and no predominance of any one over the other is provided.

The interdependence of all entities and events has been strongly emphasised by Buddhism. There is no entity animate or inanimate and no event however trivial which is not in some way interconnected with every other. The linkages and inter-linkages are all-pervasive. This interdependence of all the elements that we can see as part and parcel of the earth make us feel that we are one common thing. In the exposition of the Thai monk Buddhadasa Bikkhu, *“the entire cosmos is a cooperative. The sun, the moon and the stars live together as a cooperative. The same is true for humans and animals, trees, and the Earth. When we realise that the world is a mutual, interdependent, cooperative enterprise then we can build a noble environment”*¹¹.

It is noted that one's actions determine one's future as surely as 'the wheel follows the foot of the ox that draws the carriage'¹². Buddhism specified certain basic virtues of rulers like generosity, morality, non-violence, and friendliness¹³. The ideal king is expected to protect not only people but quadrupeds and birds¹⁴. It is interesting to note that one of the most famous exponents of Buddhism, King Asoka, in his 5th Pillar Edict stated that he had placed various species of wild animals under protection. This is one of the earliest recorded instances of a specific governmental policy of conservation. In Sri Lanka, edicts were issued that not a drop of water was to be permitted to flow into the sea without first serving the needs of agriculture. There were also royal edicts prohibiting the felling of virgin forests. All these throw light upon the fact that Buddhism has tried to bring about a much needed harmony as between humans and nature. The importance of it being clearly understood, it has been from time to time put to practise and people have surely reaped benefits from such activities.

Thich Nhat Hanh says that *“A human being is an animal, a part of nature. But we single ourselves out from the rest of nature. We classify other animals and living beings as nature, as if we ourselves are not part of it. Then we pose the question, 'How should I deal with Nature?' We should deal with nature the way we deal with ourselves . . . ! Harming nature is harming ourselves, and vice versa”*¹⁵.

Emancipation from suffering is that which Buddhism instils in every individual mind. It is not the pursuit of power and possessions which shows the route to that emancipation. But it is the very opposite – the rejection of the pursuit of those materialistic goals which are so greatly imperilling the human future. Thus it can be said that conquest of the natural environment, of other species or of other groups of the human family is thereby the

9 Pupphavagga in Dhammapada.

10 Suttanipata - This contains a further expression of goodwill towards all forms of life.

11 Judge Weeramantry, “Buddhist Contribution to Environmental Protection”, available at <http://www.asiantribune.com/index.php?q=node/6210>, accessed on 10/10/2016.

12 Sutta Pīṭaka.

13 Dasa Raja Dharmaya.

14 Cakkavattisihanada Sutta.

15 <http://www.all-creatures.org/articles/an-tpr-buddhist.html>, accessed on 04/10/2016.

very reverse of the ideals which Buddhism teaches. Co-existence is vital and this requires a recognition and respect of those other species and groups and not an attempt at dominance. Thus it is portrayed clearly that what is needed is a symbiotic relation as between man and nature and not a situation wherein man tries to assert his supremacy over all other forms of life. As far as environmental protection has been concerned, Buddhism has been the inspiration in recent times for much practical work. It is often used against governments which seek to improve their economies by rapid 'development'. This is because those policies would surely damage the environmental heritage. The practical movements Buddhism has inspired in several countries are of importance to the rest of the world. There have been examples of Buddhism playing its role in protecting forests in Thailand. Buddhist scriptures encourage universal compassion as one of the most important virtues that one should possess. Buddhist teachings are overwhelmingly friendly toward non-humans- both animals as well as plants and also include within its sphere inanimate things. It is on the vast conception of universal love and compassion for all living beings that the Buddhist moral conduct is built on. It was from India that Buddhism inherited ahimsa.

Later on, it added some uniquely Buddhist expressions of this universal moral ideal, such as '*metta*'¹⁶ and '*karuna*'¹⁷. '*Metta*'¹⁸ is a Pali word. It can be translated as universal loving kindness, friendliness, benevolence, amity, friendship, kindness, love, sympathy, and active interest in others, with good will free from expectation and possessiveness. It is one of the ten '*pāramitās*'¹⁹ of the Theravada school of Buddhism. The practice of '*Metta*' is a way of helping an aspirant of Buddhism

to lead a good life. It also helps in the development of a sense of universal compassion. All these would ultimately lead towards the goal of Enlightenment. The term '*Metta*' indicates friendship and nonviolence. But most importantly it means a strong desire or wish for others to be happy. It is quite interesting to note that by others it means not only humans, but all beings. It is a specific form of love, the type of caring for others independent of self interest. It is due to this very nature that comparisons have been made to the love of a mother for her child or conversely the child for his for her parent, a selfless love absent of all self interest.

It can be said that salvation is the ultimate aim as far as Buddhism is concerned. It is a practical religion wherein the acts of kindness and generosity are critical as far as salvation is concerned. The people are considered to be merely one small ephemeral part of an interconnected and interdependent universe as per the Buddhist philosophy. The core of Buddhist spiritual practice is love. This encompasses within itself the attributes of kindness and compassion. It abhors killing and thereby strictly condemns it. Buddhism entails a philosophy that is sensitive to the pains and needs of animals. It can be seen that this philosophy is not merely peripheral one. It belongs 'to the core of the tradition' forming 'the foundation of Buddhist morality' and thereby occupies a high pedestal.

The Buddha and his disciples regarded natural beauty as a source of great joy and aesthetic satisfaction²⁰. The importance that has been rendered to the concept of Ahimsa in Buddhism can be understood by the number of principles that are present which demand the existence of such a virtue in man. A few are reproduced for the sake of

16 Loving-kindness.

17 Compassion.

18 '*Maitri*' in Sanskrit.

19 The term *Pāramitā* means perfect or perfection and refers in Buddhism to the cultivation or perfection of virtues as a way of purifying Karma.

20 Lily de Silva, "The Hills Wherein My Soul Delights- Exploring the stories and teachings", in Martine Batchelor, Kerry Brown (Eds.), *Buddhism and Ecology*, Motilal Banarsidass Publishers Private Limited, New Delhi (1994), p.27; For further reading see Allen Hunt Badiner, *Dharma Gaia: A Harvest of Essays in Buddhism and Ecology*, Parallax Press, Berkeley, CA, 1990.

a better understanding of the same. *'If a person does not harm any living being... and does not kill or cause others to kill- that person is a true spiritual practitioner'*²¹. All beings tremble before danger, all fear death. When a man considers this, he does not kill or cause to kill. All beings fear before danger, life is dear to all. When a man considers this, he does not kill or cause to kill. Whosoever tries to find happiness through hurting other beings, will not find happiness²².

One who, while himself seeking happiness oppresses with violence other beings who also desire happiness, will not attain happiness hereafter. One who, while himself seeking happiness, does not oppress with violence other beings who also desire happiness, will find happiness hereafter²³. He who, seeking his own happiness, punishes or kills beings who also long for happiness, will not find happiness after death²⁴. The eating of meat extinguishes the seed of great compassion²⁵. *"If a man can (control) his body and mind and thereby refrains from eating animal flesh and wearing animal products, I say he will really be liberated"*²⁶. As a mother even with own life protects her only child, so should one cultivate immeasurable loving-kindness towards all human beings²⁷. Buddhism has its own story of Creation, with its own kind of Eden, but with one key difference: *"In the Buddhist mythological Eden, the Earth flourishes naturally, but greedy desire leads to division and ownership of the land that in turn promotes violent conflict, destruction, and chaos. In short, in the Buddhist myth of first origins, human agency destroys the natural order of things"*²⁸.

Taking into account some of the recent developments that have taken place as a result of the growing knowledge about the imminent danger that environmental pollution poses to the whole of mankind, it can be seen that there are various steps that have been initiated in order to ensure protection of the environment and safeguard it against the onslaught of many a threats. The Mongolian Buddhists announced the first draft of Eight Year Eco Action Plan in May, 2010. The Eight Year Action Plan will include promoting the use of traditional construction practices for monasteries, providing solar energy to monastic communities, raising public awareness on forest fires, educating young monks and members of the lay community on environmental practices, reducing waste, and looking for the ancient ecological teachings that can be found in the ancient sutras which were hidden during the 60 years of communist rule last century²⁹.

Thus a symbiotic relation between mankind and nature can be experienced as from the teachings of Buddhism. Being part of nature, man has to ensure that his actions do not in any way cause harm to the fine balance, lest it leads to the complete breakdown of the relation and in his disappearance from the face of the Earth. A short prayer said by His Holiness The Dalai Lama³⁰ conveys the nature of the action that is intended by mankind.

*"For as long as space endures,
And for as long as living beings remain,
Until then may I, too abide
To dispel the misery of the world".*

21 Dhammapada.

22 Ibid.

23 Ibid.

24 Ibid.

25 Mahaparinirvana Sutra.

26 Surangama Sutra.

27 The Metta Sutta.

28 Available at <http://edition.cnn.com/2008/WORLD/asiapcf/01/27/economy.about.religion/index.html>, accessed on 02/10/2016.

29 <http://www.arcworld.org/news.asp?pageID=397>, accessed on 20/10/2016.

30 "A Zone of Peace: Excerpts from the Nobel Peace Prize Lecture of HH the Dalai Lama", in Martine Batchelor, Kerry Brown (Eds.), Buddhism and Ecology, Motilal Banarsidass Publishers Private Limited, New Delhi (1994), p.114.

PROTECTING ANIMAL RIGHTS AND THE ROLE OF SUPREME COURT IN INDIA: AN OVERVIEW

*Veada Noopura V T**

“The moral progress and strength of a nation can be judged by the care and compassion it shows towards its animals”- Mahatma Gandhi

It is a known fact that man has always used and misused animals for his greed and to meet his own ends and this is a common phenomenon all over the world. Using animals for entertainment and other purposes in the name of religion, customs and traditions are something that cannot be ignored in a country like India. It's a common question that arises to any sensible person as to why were animal rights neglected so far? Exact reasons are yet to be known, but one of the reasons maybe such that the world was so busy concentrating on the rights of humans that it took so long to hear the out cries of animals in pain. As it is said that it is never late than ever, The Supreme Court of India in a couple of recent judgments have ruled out the anthropocentric approach and upheld the rights of animals.

In *Ramesh Sharma v. State of Himachal Pradesh*¹ and *Animal Welfare Board of India v. A. Nagaraja and Others*² recognized the pleas made on behalf of the animals and banned any sort torture and use of animals for religious purposes including Jalikattu and animal sacrifices that betrayed not only the spirit of Constitution but also Articles 51A (g) and (h). This paper tries taking a peek into the facts and findings of the above said judgments and to examine the Jurisprudential approach of Indian judiciary not only in upholding the rights of animals but also in incorporating logical reasoning into the age old customs, traditions and religious practices, keeping in mind some of the International initiatives to uphold the rights of animals in India.

*Ramesh Sharma v. State of Himachal Pradesh*³: An Overview

Sacrifice of animals in religious ceremonies as already said is a common phenomenon all over the world and the rights of animals are grossly violated in the name of religious sacrifices. Considering this a group of animal lovers filed a petition to save thousands of animals that were slaughtered in the name of religion in the state of Himachal Pradesh. The petitioner proved with photographs and other evidences as how animal sacrifices are performed and considering the same they also said that the state has not taken enough measures to take care of the innocent animals. The petitioner highlighted that this practice is not even in conformity with Article 51A (h) of the Indian Constitution. Innocent animals are beaten up and treated mercilessly and forced to be dead in the name of religion that they don't even know that exists. Along with which the petitioner also explained the whole process of how a buffalo is killed. Sometimes it takes 25 long minutes to kill a buffalo and they also try to escape from the butcher by running astray, putting people lives into risk. Therefore they are mercilessly beaten and chili powder is thrown into their eyes to visibly disarm them. Therefore the petitioner prayed the court to lay some emphasis on the rational and scientific thinking into these dogmatic age old practices.

While deciding this case, the Hon'ble Court considered if animal sacrifice is a quant essential part of Hinduism or not? For which it also referred to *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt*⁴ and held that there is no mention of animal sacrifices but they are certain morals imbedded in the values of religion itself and therefore it depends on one's discretionary powers to decide if a practice is humane or not. But they also held that there are many religious practices which are based on dogmatic practices and beliefs which were held in *Durgha Committee Case*⁵ and

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1 MANU/HP/0934/2014.

2 2014(6)SCALE468, (2014)7SCC547, 2014 (5) SCJ 614, 2014(4)ABR556, 2014(4)BomCR26, 2014(2)KLT717(SC), (2014)4MLJ 89.

3 *Ramesh Sharma v. State of Himachal Pradesh* MANU/HP/0934/2014.

4 *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt* AIR 1954 SC 282.

5 *The Durgha Committee v. Syed Hussain Ali and Ors*, 1962 SCR (1) 383..

that is where the scientific and logical thinking of a human would be required. Well, this may also raise a doubt for any reader that if the court would be violating Article 26⁶ of the Indian constitution, but one should know that if these practices are not an integral part of a religion then they do not have a say to justify the religious sacrifices.

Referring to the same in *Shri Govindlalji Maharaj etc v. State of Rajasthan and Ors*⁷ the Hon'ble Supreme Court said that the courts will decide if a religious practice is an integral part of religion or not through thorough enquiry of the historical background and spirit of the religion. Along with which the court held that even if a practice is a part of religious customs and usage even then they cannot be justified if they are violating human rights, human dignity, social equality and if it's dogmatic and unjustifiable under the provisions of the Indian Constitution. The Constitution of India has always promoted only granted religious rights based on rational and scientific practices. Therefore animal Sacrifices cannot be treated as an integral part of religious practices. The court further interpreted saying that a practice is considered integral part of the religion only when non practice of a particular act changes the whole character of the religion, in this case Hindu religion. Here it was held that banning animal sacrifices did not change the character of Hindu religion and therefore animal sacrifice can be banned. At the same time the court also highlighted the basics of Hindu scriptures like Vedas, Puranas and Upanishads which says to “love all the living creatures, to serve others and to never hurt” and does not make any distinction between an animal and a man when it comes to compassion and love. There are no instances where gods who guide the mankind for good, will ever ask for brutal killings of innocent animals.

Keeping the above in mind the court said that there are enough evidences to prove that these animals are made to suffer the most and are killed in a

barbaric way and therefore it is against the basic principles of Hindu religion and therefore animal sacrifices has to be banned. The court also said that India has a history of “Ahimsa” starting from Buddha's Buddhism⁸ and Mahaveera's Jainism, Asoka's approach to conservation of innocent animals⁹ etc. India also owes independence not only to its freedom fighters but also to Gandhi's practice of “Ahimsa”. The court further quoted *Sardar Syedna Taher Saifuddin Sahib v. State of Bombay*¹⁰ and *Prevention of Cruelty to animals (Slaughter House) Rules, 2001* in which it bans killing of animals in front of other animals as it makes a devastating impact on the animals watching it and if the law bans slaughtering of animals in sight of other animals then how can they be slaughtered in sacred and holy places like temples, that to in sight of human beings who includes kids, old age people etc. This would not only be violation of animal rights but also Human rights. It held that religion must not be made a tool to carry out the untold miseries of innocent animals. Therefore the court said that it has invoked the 'Doctrine of Parens Patriae' which means acting as a legal protector to those who are unable to protect themselves, in this case referred to as animals. The court did mention that animals also have emotions and feelings just like humans and putting them in agony in the name of religion would never be advisable. By saying the above the Court also issued mandatory directions prohibiting and banning any sort of animal or bird sacrifice in temples and other public places.

Animal Welfare Boards of India v. A. Nagaraja:*¹¹** ***An overview

This judgment was delivered on May 7, 2014 this case basically deals with the rights of animals not only under the constitution of India but under the other Indian Laws, Culture, tradition, religion, and

6 Article 26- Freedom to manage religious affairs- “Subject to public order, morality and health, every religious denomination or any section thereof shall have the right...”,

7 *Shri Govindlalji Maharaj etc v. State of Rajasthan and Ors*, AIR 1963.

8 Waldau, 2000a, The question of non-violence in Hinduism and other traditions, *International Journal of Hindu Studies* 4:1: 104-106 (review of *Subverting hatred: The Challenge of nonviolence in religious traditions*).

9 Waldau, 2000b. *Buddhism and Animals Rights*. In *Contemporary Buddhist Ethics*, ed. D. Keown, The Curzon Critical Studies in Buddhism Series, 81-112, Richmond, Surrey, England: Curzon Press.

10 *Sardar Syedna Taher Saifuddin Sahib v. State of Bombay*, AIR 1962 SC 853.

11 *Animal Welfare Boards of India v. A. Nagaraja*, (2014) 7 SCC 547.

ethnology¹². This judgment aimed at banning the bull-taming sport 'Jallikattu', which is a practice in Tamil Nadu and in Maharashtra. The case is analyzed keeping in mind the PAC Act of 1960 and the Tamil Nadu Regulation of Jallikattu Act of 2009. The AWBI is a Board that is statutorily setup under the PCA Act for the promotion of animal welfare, argued for abolition of the legendary practice called Jallikattu which violates various provisions of the PCA Act, (Sec 3¹³, Sec 11(1) (a) and (m)¹⁴ and Sec 22) and put bulls in great pain and agony in the name of a sport.

The main contention of the AWBI was that the practices like Jallikattu do not have any historical, cultural or religious significance in the states where they were practiced and the central legislation like PCA Act would override all such practices if any, unless the President of India gives a special consent under the Article 254 of the Indian Constitution. But the arguments put across collectively by bull race organizers argued that these were the practices that have been integrated in the culture and tradition of the people and that the game is played from almost three centuries and it cannot be banned. They also submitted that this practice is also a great source of income to the state because it attracts a large number of spectators and generate monetarily. They also submitted that enough care and protection will be taken to avoid any sort of pain or injury to the animal participating in the sport. They further prayed that the state can only regulate this practice and cannot ban. Even the state

of Tamil Nadu presented before the court and said that it would take enough efforts to make sure no bulls are harmed during Jallikattu and avoid any sort of cruelty to animals. But ironically the State of Maharashtra did not make any representation in the case therefore the same was taken by the court as a deemed consent to ban such practices.

The main issues that were put forward for consideration was, Whether practices like Jallikattu and bullock-cart racing is harmful to bulls and do they violate PCA Act or not? Do these practices have any sort of historical or cultural justification or not? If animals, like bulls have right to life under the Article 21 of the Indian Constitution? Answering all the above questions the court held that practices like Jallikattu and other sports was of course harmful to bull's lives because these sports take place in restricted environments and the bulls are also restricted from exercising their natural instincts. Finally talking on cultural and traditional significance of these practices the court held that the argument put across by AWBI is beyond and above any culture or tradition. The court further interpreted that even if practices like Jallikattu or other similar sports were part of our Indian culture now they have to be give way to execute PCA Act because the Constitution of India says to 'develop the scientific temper, humanism and the spirit of inquiry and reform' in Article 51A (h). Keeping this in mind the court went further beyond and said that Right to Life under Article 21 does not mean mere animal existence but a life with dignity, worth and honor and therefore it held that the dignity of animals must be protected against any odds and therefore TNRJ Act is invalid and any sport like Jallikattu will stand illegal.

In this case it is note-worthy to mention that the court for the first time placed the non-human animals under the preview of rights. It is a known fact that value of non-human animals is merely limited to its instrumental value to human beings and not beyond it¹⁵. The individual interests or the feelings of these animals are not considered by humans. The existence of an animal always depends

12 Menaka Gandhi v. Union of India, (1978) 1 SCC 248 : AIR 1978 SC 597; State of A.P. v. Challa Ramakrishna Reddy, (2000) 5 SCC 712 : AIR 2000 SC 2083; Kartar Singh v. State of Punjab, (1994) 3 SCC 569, P 448.

13 The Prevention of Cruelty to Animals Act, 1960, Sec-3 reads, "It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering".

14 The Prevention of Cruelty to Animals Act, 1960, Sec- 11 (1) (a) and (m) read, "If any person (a) beats, Kicks, Over-rides, Over-drives, Over-loads, tortures or otherwise treats any animal so as to subject to be so treated: (m) Solely with a view to providing entertainment confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object or prey for any other animal (...) he shall be punishable, in the case of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees and in case of a second or subsequent offence committed within three years may extend, to one hundred rupees or with imprisonment for a term which may extend, to three months, or with both."

15 Nathan Nobis, On David Degrazia's "On the Question of Personhood beyond Homo Sapiens", available at http://www.Morehouse.edu/factstaff/nnobis/papers/DeGrazia_comments.htm (Last visited on 30 August 2016).

on its worth to a human and this notion was broke down by court clearly in this judgment. Earlier there were attempts to protect rights of the animals in zoos, circus and in temples but a clear cut picture as to how Article 21 must be read with the help of PCA Act was not defined. As animals lack the ability of mental development they are incapable of protecting themselves and needs another human to protect them and therefore the same was recognized by the court in this remarkable judgment.

It is to be noted that as a living being (inspite of it being a human or a non-human creature) who has the ability to feel emotions and pain must be included under the ambit of rights failing which the concept of rights itself stands invalid and unjustifiable. But it is very important to know that rights can only be enjoyed when there is a duty attached to it and rights and duty is correlative. Non-human animals fail to fulfill this aspect of the legal jurisprudential requirement¹⁶. Like for an example if a person is granted a right to life is expected not to take away another man's right to life but it would be irrelevant to expect this from a non-human animal as it does not have the same intellect or the ability to think like a man. Therefore the question that arises here as to why and how can such an absolute right be guaranteed to non-human animals? The above means that non-performance of one's duty will lead in punishment but the same cannot be executed in a case of non-human animals. We also know that no non-human animals will fulfill any of these criteria to enjoy the rights conferred to them. It would be relevant to quote some of the prior experiences that the world has encountered when it comes to grant absolute rights to animals. There are instances where the crop eating beetles and the wild animals harming humans were given permissions to be killed or exiled to a far of place where the living conditions are extreme. In a similar such circumstance the New York Appellate court held that there cannot be legal rights conferred to an animal, in this case a captive chimpanzee because they cannot be held liable for their wrong deeds¹⁷.

16 Jeremy Bentham, Introduction to the Principles of Morals and legislation 144 (1789).

17 The people of the State of New York ex rel. The Nonhuman Rights Project, Inc., on Behalf of Tommy v. Patrick C.Lavery, No. 518336, 2014 WL 6802767 (N.Y.App.Div.Dec.4, 2014); See also David Grimm, Chimpanzee 'personhood' fails on appeal, SCIENCE MAG, December 4, 2015, available at <http://news.sciencemag.org/plants-animals/2014/12/chimpanzee-personhood-fails-appeal> (Last Visited on 1st Sept 2016).

Therefore it is very clear that the rights of animals were generally pushed aside based on manmade 'nature of rights' and the set 'conception of personhood'. As a response and to tackle this issue we can also see people trying to compare animals with a man or child suffering from disabilities, who do not fulfil the criteria of a normal man nor can they perform their duties like a sane man¹⁸. This argument concludes saying that if an animal is to be treated in par with a man suffering from disabilities then such men are also to be exempted from the ambit of personhood¹⁹. To consider and uphold the right to life the Supreme Court of India has always looked into the different facets of life and the same was also considered in the above case and therefore making a brave effort to extend Article 21 to non-human animals too in India.

A Glimpse of the International Framework

The Supreme Court of India while delivering some of the above judgments relating to animal rights in India has also tried to take a peek into the existing International framework for animal rights. It recognized and quoted the 'five freedoms' that are set out in the Universal Declaration of Animal Welfare (UDAW), which was a campaign led by World Society for the Protection of Animals (WSPA), which has also been referred to as a basic document while drafting PCA Act. To recognize the importance of animal health and its well being the Supreme Court of India has also recognized the World Health Organization of Animal Health (OIE). But the Apex Court of India has expressed a grave need to establish a proper international mechanism to avoid further animal abuse, and passed a powerful statement like “the international community should hang their head in shame, for not recognizing their rights all these ages, a species which served the humanity from the time of Adam and Eve²⁰”.

Conclusion

Taking a peep into the above mentioned facts one can know that India is one among the most 'Animal

18 Edd Doerr, *Ape and Essence*, 54 (4) THE HUMANIST 44.

19 See Jeremy Bentham; PETER SINGER, Animal LIBERATION: A New Ethic For our Treatment of animals (1995) p. 234; PAOLO CAVALIERI AND PETER SINGER, The Great Ape Project: Equity beyond Humanity (1993) pp 284-288.

20 *Ibid*.

rights' sensitive country. There are many landmark judgments that have been passed which invokes not only the rational and scientific method of reasoning but also puts a check on dogmatic age old traditional practices of religion. But the issue that haunts many legal professionals is that the implementation part of it. Many a times the Indian Legal System has failed to bring a balance between the purpose and spirit of the law enacted and the attention paid for its implementation. Even though there are guidelines and specific directions laid, the enforcing agency either take it too light during implementation process or many a times they omit the required part due to various institutional failures. As one is linked to another here a landmark judgment would just be confined to judgment and fail to get operational-ized. Therefore establishing a monitoring committee to keep a check on the law in paper and the way it is operational-ized is very important. A work of a watch dog is yet to be thought of, but till then there are continuous violations of animal rights as the activities go underground. To conclude would like say that, the court from time to time must keep a check on the operations of the judgments delivered and direct the concerning authorities and institutional bodies to comply with them for better execution of laws.

EXTENDED PRODUCERS RESPONSIBILITY FOR WASTE MANAGEMENT

*Mr. Divyesh Pratap**

Extended Producer Responsibility is a concept where manufacturers and importers of products should bear a significant degree of responsibility for the environmental impacts of their products throughout the product life-cycle, which includes impacts from the use and disposal of the products. According to OECD, Extended Producer Responsibility (EPR) is “an environmental policy approach in which a producer's responsibility for a product is extended to the post-consumer stage of a product's life cycle”¹. This new concept leads to the

shifting of responsibility from Government authorities for management of waste, to the producers or manufacturers of the product, that will become a waste after a certain period of time or using it up to a certain specified limit. EPR is covered under the principal of “Polluter Pays” under which the “polluter” also includes the producer along with the consumer, and EPR plays a vital role in manufacturing and distributing the product in a eco-friendly way. In India the concept of EPR as a waste management strategy was implemented way back in 2001. Based on the principles of EPR Batteries (Management and Handling) Rules, 2001 were introduced to deal with the issues of end-of-life of used lead acid batteries. In 2016, the EPR mechanism is further strengthened through the inclusion of mandatory EPR provisions in waste management regulations. The Plastic Waste Management Rules 2016² and the e-waste (Management) Rules, 2016³ mandates the producers and manufacturers to take the responsibility of management and handling of the waste generated by the products manufactured by them.

Extended Producers Responsibility in various Jurisdictions

EPR is commonly applied in as a waste management program all around the world. Each country has their specific layout, but at the core it is all the same, that is, requiring the producer to take more responsibility for managing the product at the end of the useful life of the product. Among EPR programs, there is a range in the degree that manufacturers assume responsibility for end-of-life product management as compared to others in the product chain such as retailers, consumers, local governments and recyclers. EPR principals are found across the globe, a few examples are noted below:

Canada: Canada has a long experience of different approaches applied for implementation of EPR at National level as well as provincial level. At present there are no national Legislations for EPR at National level but there is a National Policy framework⁴ for the same. In Canada each province can also frame their regulations and norms for

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1 OECD (2001) Extended Producer Responsibility: A Guidance Manual for Governments, OECD, March, Paris, 164.

2 G.S.R. 320 (E) [18-03-2016] : Plastic Waste Management Rules 2016.

3 G.S.R.338 (E) [23-03-2016] : e-waste (Management) Rules, 2016.

4 Canada-wide Action Plan for Extended Producer Responsibility, approved in principle, October 29, 2009.

regulating EPR for management of waste disposal and recycling.

United States: There are no nationwide mandatory EPR programs in the United States, but there are several US-wide voluntary programs, namely for batteries, cars and carpets. Attempts to create national programs for drink containers and electronics (the "NEPSI process" from 2001-2004) was made but the same was not materialized. At the state level, especially for electronics, there are a number of proposed and operational regulations in place that employ various elements of EPR.

European Union: The European Commission has explicitly applied the principle of producer responsibility in two key Directives at EU level⁵. The End-of-Life Vehicles Directive addresses vehicles and end-of-life vehicles, including their components and materials. It requires Member States to encourage manufacturers to work on design for end-of-life, to use less hazardous substances, and to increase the use of recycled materials. The Waste Electrical and Electronic Equipment (WEEE) Directive, Article 6 outlines the requirement of producers to develop a systems to treat WEEE using the best available treatment, recovery and recycling techniques in accordance with European Community law. Producers are also required to finance at least the collection, treatment, recovery and environmentally sound disposal of WEEE from households, deposited at collection sites.

Germany: As an EPR mechanism the environmentally sound disposal and recovery of end-of-life vehicles in Germany are governed by the End-of-Life Vehicles Act⁶. The Act obliges the Manufacturers and importers of vehicles to take back all end-of-life vehicles of their brand from the last registered owner free of charge. The Manufacturers / producers are also liable for disposal and recycling of the vehicle. From 2006, manufacturers, importers, distributors and the disposal industry are obliged to make sure that at

least 85% by an average weight of an end-of-life vehicle are reused and recovered and at least 80% are reused and recycled.

In addition to these countries Taiwan also enforced take-back law for four large home appliances (TV sets, air conditioners, washing machines and refrigerators) in 1998. In Japan, the Specified Home Appliance Recycling Law, covering the same products as the Taiwanese program, has been in force since April 2001. Take-back of computers was also fully enforced in October 2003 in a separate regulation in Japan.

Extended Producers Responsibility in India

India has huge informal sector involved in collecting and recycling of waste. In 2016, the government of India introduced a number of rules which deal with solid waste management. These legislations lay down much emphasis EPR by involving producers and manufacturers in management of waste along with the municipal corporations and other governmental authorities. In 2001, The Batteries (Management and Handling) Rules, 2001 mandated that manufacturers are required to collect back their products through a collect back system or through Deposit Refund Scheme (DRS)⁷ system, for recycling or organized smelting. Retailers are also obligated to sell used batteries to registered smelters only. Among few recently introduced legislations, The Plastic Waste Management Rules of 2016 holds responsible, producers and generators, both in plastic waste management system. It also introduced collect back system of plastic waste by the producers or brand owners, as per extended producer responsibility. In particular, these rules obliges the producers, importers and brand owners who introduce the plastic carry bags, multi-layered plastic sachet, or pouches, or packaging in the market, to establish a system for collecting back the plastic waste generated due to their products. In 2106 e-waste (Management) Rules, the EPR provisions which already existed in 2011 e-waste Rules are further strengthened and emphasized. New approaches for

5 The Waste Electrical and Electronic Equipment (WEEE) Directive 2002/96/EC and the End-of-Life Vehicles (ELV) Directive 2000/53/EC.

6 End-of-Life Vehicles Act (Altfahrzeug-Gesetz) of 21 June 2002 (Federal Law Gazette I p. 2199), which entered into force on 1 July 2002.

7 In Deposit Refund Scheme, the producer charges an additional amount as a deposit at the time of sale of the electrical and electronic equipment and returns it to the consumer along with interest when the end-of-life electrical and electronic equipment is returned.

collection mechanism have been adopted by producers under EPR i.e. collection point/centers, take back system for collection of e-waste. Deposit Refund Scheme is included to incentivize collect back system of waste management. Producers can also exert the responsibility collectively by setting up a collective Producer Responsibility Organization (PRO) for implementing the EPR norms of the 2016 e-Waste Rules. In other waste management regulations also EPR is gaining strength and is used as strategy of effective management and handling of solid waste in India.

The Way Forward

EPR in a global practice and is considered to be an effective step in management and handling of waste across the world. By involving the manufacturers/producers and by extending the responsibly of the manufacturers / producers beyond the factory premises and also by incentivizing collection, re-use and recycling of waste by the manufacturer/ producer, makes them more aware of the issues related to end-life management of their product. It also makes the manufacturers consider the minimization of costs associated with the end-life management of product, which also includes reducing the cost by changing the design of the products and designing it in an eco-friendly way. EPR norms have the potential to prompt eco-design changes; it also makes the industries more responsible corporate citizens and fulfils their corporate Environmental Responsibility as mandated by Law.

LEGISLATIVE UPDATES

INTERNATIONAL FRAMEWORK

Agreement between Bolivia and the UN Department of Economic and Social Affairs

For the past six years, under the leadership of Bolivia, there were many inter-governmental negotiations which took place at the General Assembly to promote the Earth Centred Principle of Harmony with Nature. There have been seven resolutions of Harmony with Nature till now. These concentrate on the fact that recognition of the intrinsic value of nature is the most important factor and the fundamental basis of actions should not be solely grounded and based on human interests and welfare.

With the advent of Earth Jurisprudence, earth is conceived as an interconnected community of life. This has helped in realising the importance of a mutual relationship based existence. Moreover, it has also been able to picture Mother Earth as a living being, with rights. Keeping in mind the 2030 Agenda for Sustainable Development, Bolivia reaffirmed its commitment to achieve those goals and live in harmony with nature. A sum of Rs. 40,000 USD was contributed by Bolivia to achieve those goals.

The activities that were to be carried out included supporting participation of experts in different fields to further advance and conceptualize an eco-centric way of living in tune with nature, support the work undertaken by member nations of the UN and promote an understanding of an earth centred paradigm.

NATIONAL FRAMEWORK

The Mines and Minerals (Development and Regulation) Amendment Bill, 2016

While the Mines and Minerals (Development and Regulation) Act, 1957 was enacted to govern the development and regulation of mines and minerals, the need arose to amend the same so as to ensure that certain challenges posed were tackled. One representation was in relation to S. 12A(6) which provided that the transfer of mineral concessions shall be allowed only for concessions which are granted through auction, wherein certain industry associations stated that it did not allow merger and acquisition of a company having captive leases. The other sought clarification as regards areas for dumping of mining wastes in view of the observations made by the Supreme Court of India.

The highlights of the Bill are

- Transfer of captive mining leases granted otherwise than through auction in order to facilitate legitimate business transactions are allowed.
- This was done in order to facilitate legitimate business transactions.
- “used for captive purpose” shall mean the use of the entire quantity of mineral extracted from the mining lease in a manufacturing unit owned by the lessee.
- A new definition for “leased area” has been added to expand its scope.

- “leased area” means the area specified in the mining lease within which mining operations can be undertaken and includes the non-mineralised area required and approved for the activities falling under the definition of mine as referred to in clause (i);

The Regional Centre for Biotechnology Bill, 2016

India in 2006 had an agreement with the UNESCO in regard to establishing a Regional Centre for Biotechnology Training and Education in India. This aimed to serve the member countries of UNESCO. A Regional Centre for Biotechnology Training and Education in Faridabad, Haryana was established through an executive order in 2009. To provide a legislative backing for the same is the intent of the present Bill.

The Bill

- Aims to provide the Regional Centre the status of an institution of national importance.
- Such an institute is one which imparts scientific or technical education, and is empowered to grant degrees.
- It states that the objectives of the Regional Centre shall be
 - to disseminate and to advance knowledge by providing instructional and research facilities in such branches of biotechnology and related fields
 - to provide capacity-building through education, training, research and development;
 - to facilitate transfer of knowledge and technology relating to biotechnology;
 - to create a hub of biotechnology expertise and to address human resources needs in the countries in the region;
 - to promote and strengthen international co-operation to improve the social and economic conditions and welfare of the people;
 - to promote and facilitate a network of satellite centres in the region as well as within India.
- The functions of the Regional Centre shall be
 - to establish infrastructure and technology platforms which are directly relevant to biotechnology education, training and research;

- to execute educational and training activities including grant of degrees;
- to produce human resource tailored to drive innovation in biotechnology;
- to undertake research and development and scientific investigations;
- to collect universally available information with a view to setting up data banks for bio-information;
- to collect and disseminate, through networking, the relevant local knowledge in the field of biotechnology, ensuring protection of intellectual property rights of local stakeholder communities;
- to disseminate the outcome of research activities;
- to promote collaborative research and development;
- The Regional Centre will have the following authorities, namely, the Board of Governors, the Programme Advisory Committee, the Executive Committee, the Finance Committee, the Board of Studies; and such other authorities as may be declared by the Statutes to be the authorities of the Regional Centre and specified functions are allotted to them as well.
- There shall be a review of the functioning of the Regional Centre once in every four years by persons of eminence to be appointed by the Central Government.
- They shall maintain a fund as well, which includes all money provided for by the Central Government, fees and other charges received by the Regional Centres and grants, gifts, donations, benefactions, bequests or transfers as well.

Mr. Manjeri Subin Sunder Raj

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The Plastic Waste Management Rules, 2016 - A Legislative Update

The Government of India notified new Plastic Waste Management Rules, 2016 (vide G.S.R. 423(E)), on 25th May, 2016 by scrapping the previous Plastic Waste (Management and Handling) Rules, 2011. These rules not only apply to the municipal areas but also extend to rural areas. The Environment Minister of India hopes that this a

major step in revamping the existing Waste Management Laws and at the same time join hands with the popular “Swatch Bharat” mission. The main high lights of The Plastic Waste Management Rules, 2016 are as follows:

- This rule applies to every waste generator, local body, gram panchayat, manufacturer, importers and producers, which includes guthka, tobacco and pan masala packing units and excludes the plastic manufactures operating in SEZ's areas.
- The new plastic rules insists on using natural shade plastic bags without any added color pigments, and if color pigments are added then it insists on following the prescribed Indian Standard: IS 9833:1981 for safety.
- The thickness of the plastic carry bags have been increased from 40 microns to 50 microns.
- The rule insists that plastic manufacturer to have a valid registration form issued by the concerned Pollution Control Board or Pollution Control Committee to sell or supply plastic as a raw material.
- The rules say that plastic should not be used as a material to store, pack or sell guthka, tobacco and pan masala.
- It encourages and facilitates the collection and recycle of plastic waste. The recycled plastic to be in conformity to the Indian Standard: IS 14534:1998 titled as Guidelines for Recycling of Plastics.
- The jurisdiction is extended not only to urban and municipal areas but also to rural and village areas.
- The provision of thickness is not to be applied for Compostable Plastics and the manufacturer to obtain a certificate from the Central Pollution Control Board before manufacturing or selling the same.
- The rule specifically says that a Plastic waste Recycler to be channelized and registered as in conformity with Indian Standard: IS 14534:1998, set for recycling of plastics.
- The rules promote the use of plastic waste for road construction as laid down under Indian

Road Congress guidelines. The above method is not only a gainful use but also addresses the plastic waste disposal problem.

- Solid Waste Management Rules to be referred and followed in disposal of Plastic waste.
- The rules highlight the role of local bodies in collection, segregation, transportation, processing and disposal of plastic waste with the help of waste pickers and civil society.
- The rules insist on collecting plastic waste management 'fee' by the local bodies through pre-registration of manufacturers and producers to establish an effective mechanism to manage the plastic waste.
- The rules try to involve the manufacturers and producers by entrusting more responsibility on the waste generators, imposes collection of 'user charge' by the concerned authorities from the waste generators.
- The rules insist the producers to work on modalities to self manage plastic waste involving State Urban Development Departments within a period of six months of publishing the rules.
- The rules highlight the role of Producers and Generators in managing the plastic waste by introducing 'Buy back' system as an extended responsibility of the manufacturers. Rules also insist on operating the system in conformity with the Solid Waste Management Rules.
- Rules say manufacture and use of non-recyclable multilayered plastic to be phased out in two years time.
- The rules prohibit manufacture and use of multilayered plastic packing six months from the date of publishing this rule.
- Every manufacturer or producer to print name, registration number and thickness of the carry bag or a multilayered packing. The same applies to the name and certificate number manufacturer of compost able plastic.
- Each recycled plastic carry bag to bear a mark “recycled” as laid down in the “Guidelines for Recycling of Plastics” and conform to Indian Standard: IS 14534: 1998.

- As prescribed in law the rules entrust the power of executing the law to State Pollution Board and Pollution Control Committee in urban areas and Gram Panchayats in rural areas.
- It also imposes a duty upon the street vendors not to sell or use the plastic carry bags for dispensation of any commodity, and a fine will be imposed as mentioned under the by-laws of the local bodies.
- A shop keeper or a street vendor selling or using plastic carry bags must register himself by paying plastic waste management fee of minimum rupees forty eight thousand @ rupees to be paid every month for the same. Only the registered vendor has the right to sell or use the plastic carry bags.
- A State Level Monitoring Committee or a State level Advisory Body to be established for monitoring and better implementation of these rules constituting a state level advisory committee consisting of a Secretary, Director from State Dept. of environment, Member Secretary from the State Pollution Board or Pollution Control Committee, Municipal Commissioner, One Expert from local body, one expert from Non-Governmental sector involved in waste management, Commissioner, Value Added Tax or his nominee, Sales tax Commissioner or Officer, Representative of Plastic Association, Drug Manufacturers Association, Chemical Manufacturers Association, one expert from the field of Industry, One expert from the field of academic institution, Director, Municipal Administration.
- The above mentioned State Advisory Body to meet once in six months.
- Every person engaged in recycling or processing of plastic waste to prepare and submit an annual report as prescribed in the law.
- The CPCB to submit a consolidated annual report on use, management and disposal of plastic waste and forward the same to Central Government with the necessary recommendations.

Ms. Veada Noopura VT

E- Waste (Management) Rules, 2016

The Ministry of Environment, Forest and Climate Change has notified the E-Waste (Management) Rules, 2016, this notification replaces the previous e-waste (Management & Handling) Rules, 2011. The said notification came into force from October 1, 2016. The new notification has restructured the Management and Handling of electronic waste in India by introducing certain new provisions in law for effective handling of electronic waste. Some of the key changes and new provisions brought in by the new Rules of 2016 are:

- The applicability of these rules now includes Manufacturers, dealers, refurbishers and Producer Responsibility Organizations (PRO) and also includes components, consumables, parts and spares of electrical and electronic equipment specified in Schedule I of the Rules.
- The E-waste rules will now include Compact Fluorescent Lamp (CFL) and other mercury containing lamps.
- Collection has been made an exclusive responsibility of the Producers, they are liable for setting up collection centers or points, and they can also come up with a buy back mechanism for e-waste collection
- The responsibility of collection of e-waste can also be delegated to the dealers, who in turn will collect the e-waste on behalf of the producers by providing consumers a box.
- Refurbisher is entrusted with the responsibility to collect e-waste generated during the process of refurbishing and channelise the waste to authorised dismantler or recycler through its collection center
- Provision for Pan India Extended producers Responsibility (EPR) Authorization by CPCB has been introduced replacing the state wise EPR authorization.
- Target based approach for implementation of EPR has been adopted on the basis of existing international best practices and also flexibility is provided through non-mandatory provisions for easy implementation of EPR.

- E-waste exchange options are introduced and a mechanism of Deposit Refund Schemes(DRS) is also introduced, as an additional economic instrument wherein the producer charges an additional amount as a deposit at the time of sale of the electrical and electronic equipment and returns it to the consumer along with interest when the end-of-life electrical and electronic equipment is returned.
- Health care facilities which have turnover of more than one crore or have more than twenty employees, are included in the definition of bulk consumers. Bulk consumers are also mandated to file annual returns.
- To prevent leakage of e-waste to informal sector during transportation, new system is introduced, whereby the transporter shall be required to carry a document prepared by the sender, giving the details as per Form 6
- Roles of the State Government has been also introduced in the Rules in order to ensure safety, health and skill development of the workers involved in the dismantling and recycling operations. They are also supposed to prepare an integrated plan for effective implementation of these rules.
- The role of Urban Local bodies is to collect and channelise the orphan products to the authorized dismantler or recyclers, for effective implementation of the Rules.
- New provision of Liability for damages caused to the environment or third party due to improper management of e-waste has been introduced in the 2016 rules including provision for levying financial penalty for violation of provisions of the Rules.
- There are many other significant changes that are brought in the 2016 Rules, the above points highlights only the key changes. With the sudden rise in the electronic waste generation the 2016 Rules seems to be a positive step taken by the government in order to cope up with the sudden need of curbing the improper handling and management of e-waste in India.

Mr. Divyesh Pratap

Electrotherm(India) Ltd.v. Patel Vipulkumar Ramjibhai and Ors. AIR 2016 SC 3563

Public Hearing- Expansion of Plant - Environment (Protection) Act, 1986 - Section 3(1) and 3(2); Environment (Protection) Rules, 1986 - Rule 5(2)

The Appellant had set up a Steel Plant for manufacturing various products after having received No Objection Certificate from the Gujarat Pollution Control Board. They had set up the Plant and begun manufacturing process and later applied for Environmental Clearance as well, which was granted as well by the Ministry of Environment and Forests, Government of India,

The Appellant thereafter, applied for an expansion of their plant. They were of the opinion that Public hearing for the previous project was held and that the proposed expansion would be within the existing industrial premises and no extra land would be required, and therefore there was no need to conduct another public hearing.

The respondent in this case approached the High Court of Gujarat, in public interest, and sought revocation of Environment Clearance granted to the Appellant for expansion of its plant. It was submitted that by expanding the plant the capacity as well as the activities increased substantially. This, it was contended, was against the EIA Notification of 2006.

The High Court allowed same and wanted a Public Hearing to be conducted again. The appellants approached the Supreme Court against this order. The Supreme Court directed the CPCB to file a status report. The report mentioned that pollution standards were not being complied with.

The Supreme Court held that Public consultation /public hearing is one of the important stages while considering the matter for grant of Environmental Clearance. Taking into account the expansion of the plant, the court laid down that the previous public hearing does not hold good now and directed the concerned to conduct a public hearing within three months.

Animal Welfare Board of India v. People for Elimination of Stray Troubles & Ors

MANU/SCOR/29286/2016

The Animal Birth Control (Dogs) Rules, 2001

In reference to the growing number of incidents of attacks by stray dogs, and cases that had been filed on its basis for and against culling of stray dogs, the Court had directed the Chief Secretaries of each state to act in accordance with the law.

The Court directed that for the dogs to be sterilized or vaccinated, the procedure laid down as per law shall be carried out and no organization shall create any kind of hindrance. It laid down that the AWBI need oversee that the same is carried out in a proper way without any difficulties.

Diwan Singh and Ors. v. Union of India and Ors.

MANU/GT/0130/2016

The case has been filed seeking restoration of water bodies in Dwarka, New Delhi, which are in need of restoration/revival and protection. The applicants claimed that the Central Ground Water Authority had notified South West District of NCT Delhi as a notified area for control and regulation of ground water.

Permission to take ground water was made permissible only for the purpose of using it for drinking purposes and that too, under certain conditions. In spite of this, it is alleged that the authorities have not shown any inclination or taken effective steps to tackle the situation.

They also put across that the Ministry of Water Resources, River Development & Ganga Rejuvenation had been approached and a list of the water bodies was handed over. They put forth that a request was made to the Ministry to direct the Delhi Development Authority to revive the water bodies. The applicants also put across that such a report had been made and even then the DDA is unwilling to carry out the same.

The Court looked into the report and found that it states that the water bodies are subjected to illegal dumping, flow of sewage water, blockage of drainage channel leading to the water bodies being adversely affected and there is a complete absence of any maintenance like desilting, dredging etc.

The court highlighted the decision of the Hon'ble Apex Court - *M.C. Mehta v. Union of India & Ors*

(2004) 12 SCC 118 wherein it was held that there is a constitutional mandate on the State and its machinery to protect the environment including forest, lakes, rivers and wildlife and to have compassion for living creatures.

The Court allowed the application and gave the following directions

1. The DDA shall inventorize all the water bodies and prepare a comprehensive management plan for water bodies and their management and revival in Dwarka.
2. Constitute a team to monitor the progress of identification, documentation, revival and monitoring of water bodies in Dwarka
3. The Chief Executive Officer of Parks and Garden Society shall be nodal officer of the Committee. The Committee shall monitor the progress of implementation of the Plan prepared by DDA, besides monitoring the implementation of CGWB recommendations of 2016.
4. The Revenue Department of Government of NCT, Delhi shall take steps to include water bodies, as already identified in the Report of the CGWB, in the revenue records. Each of the water bodies so identified, shall have zone of influence/catchments clearly stated/demarcated.
5. The Government of NCT Delhi shall take all steps within their power and in accordance with law and constitute the State Wetland Authority as expeditiously as possible and in any case not later than three (3) months from the date of pronouncement of this judgment.
6. The Government of NCT Delhi should submit proposal for declaration of the water bodies/wet lands that have been already identified and recorded in the revenue records for their declaration as wetlands under the Wetlands (Conservation and Management) Rules, 2010. This exercise should be completed in respect of the already identified water bodies/wet lands within next 3 months.
7. The MoEF & CC shall after receipt of proposal from the Government of NCT Delhi within 2 months thereafter notify the wetlands under the Wetlands (Conservation and Management) Rules, 2010. The Government of NCT Delhi

and DDA should ensure that all the water bodies that have been already identified or will be identified in terms of the directions contained herein above, no invasive land use, particularly, those related to construction, creation of infrastructure of roads, buildings within the wet land and the zone of influence/catchment in the future planning of Dwarka area shall be permitted.

8. Management Plan shall also be prepared for greening of the area with local indigenous species through the Horticulture Department of DDA.
9. The Committee shall file a periodic report after every 6 months before the Tribunal on the progress achieved in implementation.
10. No domestic sewage/industrial effluent should be permitted to flow into the water bodies and any domestic sewage which is flowing into the water bodies such domestic sewage should either be diverted into sewerage network in the area or trapped by constructing individual septic tanks by the house holds.

Mr. Manjeri Subin Sunder Raj

Assistant Professor of Law, NLSIU

BOOK REVIEWS

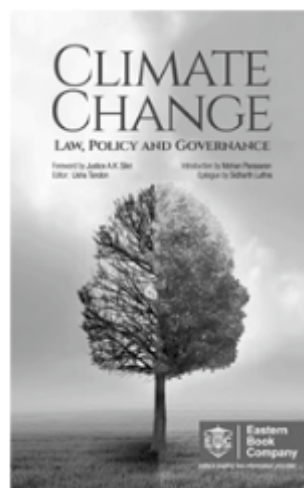
Climate Change: Law, Policy and Governance

Edited by Usha Tandon,

Eastern Book Company, 2016

To address an area which has been the cynosure for quite a long time, buoyed by the advent of the recently concluded Paris Negotiations, is by itself quite a challenge. This book, an outcome of the International Conference on “Mitigation of Climate Change: Law, Policy and Governance”, tries to throw light on a number of issues in the broad area of climate change through its twenty chapters.

The book, a compilation of the articles that were presented at the International Conference, has been able to highlight the concepts and provide for an analysis of the same in its preliminary articles. Taking off from these, which have been pretty good in providing a much needed introduction as regards the whole theme, the book further proceeds by incorporating articles that deal with specific countries, to name a few, India, China, Indonesia, Nigeria etc. These provide a picture in the minds of the reader and throw light on how the UNFCCC and the Kyoto Protocol is implemented in the respective domestic levels. The articles to the end deal with the human rights aspect of climate change and discuss



about the impact as well as the mechanisms to combat the ill effects of climate change.

The articles have been chosen well and arranged in a way so as to provide a clear roadmap for any reader who wants to get an insight in the area. It is felt that a reflection as regards the area which squarely deals with climate change has been able to bring to light that social science,

including law has a great role to play as far as mitigation and adaptation of climate change is concerned. Science and technology alone does not provide the know-all as regards the topic and the book has been able to capture this thought well.

The greatest challenge posed, when one comes up with a book which happens to be a compilation of articles, is to ensure that the reader is provided with a seamless run, which has been made possible by the Introduction and the Epilogue which makes it easier for the reader to connect the different articles. These surely do drive home the point and act as the connecting dots.

Mr. Manjeri Subin Sunder Raj

The Domestic Politics of Global Climate Change

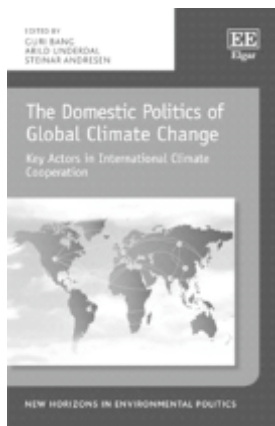
Edited by Guri Bang, Arild Underdal and Steinar Andresen,

Edward Elgar Publishers, 2015

Climate Change has been one of the focal points in recent times in the international scenario; more so in the environmental law regime. Necessitated by the plight that humankind finds itself in, quite a lot of literature has found its way to identify, assess and provide ways to ameliorate the crisis.

This book, part of the New Horizons in Environmental Politics series, tries to provide a much needed platform to critically analyse the changes that have been occurring, worldwide, as regards the politics of climate change. It tries to connect the political, economic and ethical aspects of environmental policy, governance and regulation and has been successful in so far as to highlight the thread that binds all of them together. By incorporating research material related to seven different legal systems, the editors have been able to provide a wide picture of the whole scenario. The choice of legal systems covered too plays a great role in providing completion to the work. The editors have been quite objective and struck a right balance in their selection.

From Brazil to India and China as well as the EU, Russia and the US, the editors have ensured that they do provide a somewhat complete picture of various initiatives and steps taken by the said nations.



The article contributors too have been able to provide a well-researched write-up on their respective legal systems. The book provides for a seamless dissemination of information in so far as it

first puts across an analytical framework of the current scenario and then proceeds to detail the similarities and differences in the discussed domestic policies. The authors have also been instrumental in bringing forth the idea by resorting to a case study approach, done meticulously, which is able to chart the trajectory followed by the respective legal system.

This has been further accentuated and embellished by the fact that the editors have been successful in knitting the different set of articles by penning down both the introduction as well as the conclusion. A word need be mentioned about the conclusion, here, to the effect that the comparative analysis that forms a part of the same stitches the book together.

Mr. Manjeri Subin Sunder Raj

International Environmental Law, Policy and Ethics

Alexander Gillespie, Oxford University Press, 2014

Does the international community, as a whole, aim at protecting the environment is a pertinent question that flashes before each and every one of us. Or, is it assumed as a matter of fact that the international community does indeed, take steps to protect the environment. These are the two questions that form the rationale behind this very book, which in so far as is possible, tries to break the shackles of a restricted mind and puts across that, quite alike individuals, nations too, come up with a plethora of laws aimed to protect the environment, but agonisingly fail to do so!

The book is able to provide and come up with a refreshing take on environmental protection and the attributes that further the same. The book focuses on the most suitable ethical basis for dealing with environmental problems that plague the world.

By focussing not only on the old ethics that are related to environment conservation, but also the new ones, the book delves into as to how these ethics have evolved,

existed and emerged.

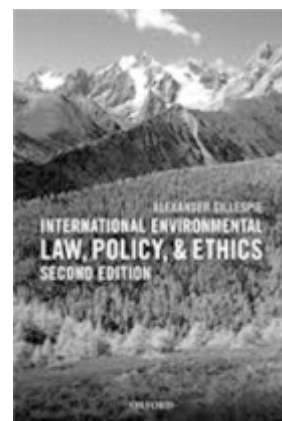
By dividing the book into eleven specific parts, the author has been able to put across and discuss specific areas which have not been thought of much, let alone be discussed at length, in the fashion as it has been so, in this work.

The different areas discussed do give a concise take augmented by the introduction as well as the concluding observations that the author has

been very keen to add as part of the same, separately. This enables the reader to focus his thoughts and grasp as to what the author is trying to convey.

The choice of areas too works in favour of the book being a good read as they really do matter as far as environmental protection is concerned. The concluding observations too encapsulate the whole idea behind the book and add much needed depth.

Mr. Manjeri Subin Sunder Raj



PROGRAMMES AND ACTIVITIES OF ENVIRONMENTAL LAW CENTRES, NLSIU

1. 15TH JULY TO 11TH AUGUST, 2015 : NORDIC SUMMER SCHOOL ON LEGAL LANDSCAPE OF RIGHTS IN INDIA



The Commons Cell, NLSIU organised Four week Summer School International Course on “Legal Landscape of Rights in India” in collaboration with the Nordic Centre in India (NCI). 12 students from the Nordic Countries were part of a month long Summer School. The Course module covered various aspects of rights in India. The lectures were delivered by faculty from the Law School as well as renowned faculty from across India. Prof M K Ramesh and Dr. Sairam co-

ordinated the whole exercise. The whole idea was to provide the students a better understanding of the landscape of rights in India, the challenges to actualisation and the remedial measures that were in place.

2. 2nd & 3rd July, 2015 : TWO DAY TRAINING PROGRAMME FOR IFOS OFFICERS, AT INDIRA GANDHI NATIONAL FOREST ACADEMY, DEHRADUN

A Two Day Training programme on Environmental Governance and related aspects was organised by CEERA and Commons Cell, NLSIU for 80 IFoS Trainees who were at the fag end of their training programme. The programme concentrated more on practical aspects of environment lawyering and the participants were divided into 8 groups of ten members each and had to role play an allotted case study. To provide them a picture of the related law, lectures were delivered beforehand on topics related to the subject. After the case presentations made, clarifications and a brief review of the same was done. Dr. Sairam Bhat and Mr. Manjeri Subin Sunder Raj dealt with the sessions.

3. 9th & 10th July, 2015 : TWO DAY NATIONAL SEMINAR ON ENERGY LAW AND POLICY IN INDIA, NLSIU AND CENTRE FOR SUSTAINABLE DEVELOPMENT, BANGALORE, SUPPORTED BY MINISTRY OF NEW AND RENEWABLE ENERGY (MNRE), GOVT OF INDIA



The Two Day Seminar aimed at highlighting various issues related to Energy Law Management, Investment and Implementation for Law teachers, law practitioners, researchers, students, Government Officials, Entrepreneurs and other interested parties. The workshop was conducted by CEERA under the guidance of Dr. Sairam Bhat, in association with Centre for Sustainable Development of which Dr. Srinivas Ravindra is the Executive Director. The same is sponsored by the Ministry of New and Renewable Energy, Government of India.

4. 11th July, 2015 : TRAIN THE TRAINERS WORKSHOP



Environment impact assessment process was conducted by CEERA in association with citizens consumer and civil action group and CREAT, Bengaluru.

5. 7th & 8th January, 2016 : TWO DAY NATIONAL SEMINAR ON "LAW AND PRACTICE IN REAL ESTATE IN INDIA" UNDER MHUPA CHAIR ON URBAN POOR AND THE LAW



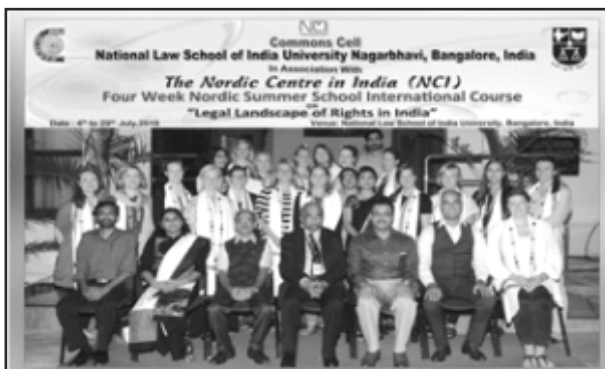
The MHUPA Chair on Urban Poor and the Law, NLSIU Bengaluru, in association with CREDAI Bengaluru had organised a two day National Seminar on Law and practice of Real Estate in India on 7th and 8th January 2016. It attracted participation of over 75 persons, drawn from the legal academic fraternity, Research Scholars, Administrators, the Real estate Sector and various target groups active in this field, beside students of law. The two day Seminar cum Brainstorming session sought to engage different stakeholders to reflect upon the issue, that continue to remain outstanding in the real estate sector against the backdrop of the New Real Estate Bill and to explore the scope for integrating learning about it as a part of academic curriculum in law School. It was emphasized that there is an imminent need to develop real estate law as a full course curriculum and be made a part of academic exercises. It was opined that the seminar was an insightful exercise which brought together experts from different sectors to discuss a topic of contemporary importance.

6. 16th January, 2016–ONE DAY BRAINSTORMING WORKSHOP TOWARDS EVOLVING LEGAL STRATEGIES FOR ADDRESSING THE FARMERS' DISTRESS OVER 'PRICE'



The Agricultural Law Unit of Commons Cell headed by Prof. M K Ramesh, in association with the Karnataka Agricultural Pricing Commission conducted one day brainstorming session, which aimed to have a look at various factors responsible for the “agrarian crisis”, farmers not getting a “fair and just price” in the market leading to farmers suicide. This brainstorming tried to examine the gaps in the law, policy and practice. There were around 50 people who represented the government, farmers, NGOs, Organic farming community, academicians, research scholars and students. T.N Prakash Kammaradi, KAPC Chairman delivered a keynote address followed by an open house session to have a clear picture of the problems faced by farmers, Govt and the local people in agricultural pricing sector, which was moderated by Prof Babu Mathew and H. S Ashokanand (IAS). In the post lunch session an expert panel from various backgrounds addressed the problems raised in the open house. At last, NLSIU was asked to prepare a draft policy which can be tabled in front of the State Government and other stake holders, and later adopt as a policy on agricultural pricing.

7. 4th to 29th July, 2016: NORDIC SUMMER SCHOOL ON LEGAL LANDSCAPE OF RIGHTS IN INDIA



The Commons Cell, NLSIU organised Four week Summer School International Course on “Legal Landscape of Rights in India” in collaboration with the Nordic Centre in India (NCI). 19 students from the Nordic Countries were part of a month long Summer School. The Course module covered various aspects of rights in India. The lectures were delivered by faculty from the Law School as well as renowned faculty from across India. Prof M K Ramesh and Dr. Sairam co-ordinated the whole exercise. The whole idea was to provide the students a better understanding of the landscape of rights in India, the challenges to actualisation and the remedial measures that were in place. Field trips were organized to DEWAT, BOSCO, ISKCON (Midday Meal Programme) and other places as a part of the programme. Dr. Amita Prasad, Additional Secretary, MoEF (CC) was the Chief Guest for the Valedictory session on 29th July, 2016. She interacted with and addressed the students. She admired the display of publications of CEERA and expressed her desire to subscribe to the publications.

8. 14th to 16th July, 2016 : INTERNATIONAL CONFERENCE ON “LIBERALIZATION AND GLOBALIZATION : CHANGING LEGAL PARADIGM



India went through the process of Liberalisation, Privatisation, and Globalisation of its economic policies in 1991, and has undergone vast changes in its legal and economic landscape since the early 1990s. With this opening up of the economy completing 25 years in 2016, the occasion is ripe to examine its impact on India specifically, on the various laws enacted and amended subsequent to liberalisation. Keeping this in mind NLSIU conducted a Three Day International Conference on

Liberalization and Globalization: Changing Legal Paradigm on 14-16 July, 2016. The conference was attended by more than 150 participants out of whom around 50 were from outside India. Apart from the plenary sessions wherein invited speakers spoke elaborately on their research work, specifically keeping in mind the objectives of the conference, the conference had around 100 paper presentations as well. As an outcome of the conference, it has been decided that a book be brought out containing the best research papers, presented during the conference, which would ink the future course that India need adopt. NLSIU Book Series – 2 on Energy Law and Policy in India was released on the occasion. Hon'ble Mr. Justice J Chalmeswar was the Chief Guest of the Valedictory session and he addressed the gathering on 16th July, 2016.



9. CONSULTATIONS, CAPACITY BUILDING ETC.

Consultation on exploring avenues for transforming un-productive terrains into productive ones and market access to secure fair price to the farmer for his produce held with GRAMA, July 4, 2015.

- An informal consultative meeting organized by the Agriculture and Law Unit of the Commons Cell in NLSIU, engaged experts drawn from Agriculture, land administration, environment, forestry, ecology, environmental economics, environmental law, media and Civil Society Organisations to deliberate and chalk out strategies and programmes of action. Organisations like GRAMA, should bring together members of the local farming community, deliberate over their requirements and the nature of the terrain as to evolve a Strategic Plan of Action that would transform their fallowed lands, into productive ones and transform their lives by getting access to markets and secure fair, just and equitable price for their produce. In all these exercises of GRAMA, Sri. A.N.Yellappa Reddy, Mr. Ashokan and and Dr. M.K. Ramesh, assured assistance, by way of facilitating contacts, consultations and in planning at various stages of execution
- (i) In 2015 Consultation, Capacity-Building and Advice on various provisions of Biodiversity Law to a number of State Boards: (- Karnataka, Chhattisgarh, Telangana, Odisha, Uttarkhand and Madhya Pradesh, in dealing with the legal issues raised by
 - (a) Industry;
 - (b) Research and Academic Community and
 - (c) Judiciary

- (ii) Advicing the Government of India . on Climate Negotiations: legal framework for a protocol/agreement or agreed outcome with legal force under the United Nations Framework Convention on Climate Change

10. 12th October, 2015 : ONE DAY NATIONAL SEMINAR TO MARK 10 YEARS OF THE RIGHT TO INFORMATION ACT GOOD GOVERNANCE – THE RTI WAY



A one day national seminar was conducted at the NLSIU campus on 12th October, 2015, to mark ten years of the Right to Information Act, which came into force on this day in 2005. This seminar was jointly conducted by NLSIU, Bangalore and KSLU, Hubballi. The programme began with an inaugural session, which was graced by the Hon. Vice Chancellors of NLSIU and KSLU, Prof (Dr) R VenkataRao and Prof (Dr) TR Subramanya, Prof VS Mallar (Founding Faculty member, NLSIU), Prof (Dr) V Vijayakumar (Professor of Law, NLSIU), and Prof (Dr) M K Ramesh (Professor of Law, NLSIU). The Chief Guest for this session was Mr. AKM Nayak, IAS and Former Chief Information Commissioner, KSIC, who provided the participants with a practical view of the Act. Padma Shri Prof (Dr) NR MadhavaMenon was the Guest of Honour and delivered the special address. The 4th edition of the In Law Magazine was released by the dignitaries during this session. The inaugural session was followed by a group photograph and a common session in Krishnappa Memorial Hall. This session was chaired by Prof (Dr) V Vijayakumar (Professor of Law, NLSIU), and was included as speakers Mr. Ashokanand, IAS, and Dr. SairamBhat (Associate Professor of Law, NLSIU). Emerging issues and the challenges in implementation were discussed. After lunch, parallel presentation sessions were conducted in five halls, with each hall having a chairperson, a co-chairperson and a moderator. Participants were given the opportunity to present their papers and were also given suggestions on other aspects that could be included in their papers by the chairpersons, most of whom had conducted some research on the RTI Act. The presentations were followed by discussions among the participants in each hall, on the various issues that had been dealt with. The programme ended

with the Valedictory ceremony, in which the participants were addressed by the Chief Guest, Hon. Nadoja Justice Dr. S R Nayak, and the Hon Vice Chancellors of NLSIU and KSLU. The resource persons were then presented with mementos. The concluding remarks and the vote of thanks were delivered by Dr. SairamBhat. The National Seminar was a huge success, and was widely attended by students and faculty members from various universities across India. There was also participation from members of PSUs and state organs. The participants appreciated the effort that the faculty had put into, to pack such vital and important information into such a small window of time. Overall, all participants were of the opinion that this programme was worth the time, and the effort spent in coming to the NLSIU campus, and expressed interest in attending future such programmes conducted by NLSIU. Seminar Coordinator: Dr. SairamBhat, Associate Professor of Law, NLSIU Assistant Coordinators: Ms. Anita Yadav, Research Associate, NLSIU; Ms. AshwiniArun, Research Assistant, NLSIU; and Ms. Baba R S.

11. 26th November, 2015 : HALF DAY BRAINSTORMING SESSION ON EVOLVING ROBUST LEGAL AND ADMINISTRATIVE SAFEGUARDS FOR SUSTAINABLE MANAGEMENT OF WATER RESOURCES



This half day brainstorming session aimed to throw light on the evolving legal regime and the administrative safeguards that has to be adopted for sustainable management of lakes and other water bodies in Karnataka. The session aimed to facilitate active members from the government, academics and NGO's to deliberate on the existing problem and come up with suggestions. A group of over 50 members took part in the deliberations and open house discussions presided by experts.

12. 8th to 12th February, 2016 : FIVE DAY CAPACITY BUILDING WORKSHOP ON ENVIRONMENTAL LEGISLATIONS: INTERPRETATION AND ENFORCEMENT FOR CPCB OFFICERS

This programme was held between 8th and 12th February, 2016. This programme was conducted in



collaboration with CEERA and Central Pollution Control Board. The program had 14 participants coming from various State Pollution Control Boards and experts and Scientists from Central Pollution Control Board. There were many experts from both Government and Non-Government sector. On the first day there was a formal inauguration which was presided by dignitaries like Hon'ble Mr. Justice N Santosh Hegde, Vice Chancellor Dr. R Venkata Rao and Registrar Dr. O V Nandimath of NLSIU, along with Professors like Dr. M K Ramesh, Dr. Sairam Bhat.

13. 2nd March, 2016 : ONE DAY NATIONAL SEMINAR on "RELIGION, ENVIRONMENT AND HUMAN RIGHTS"

One day National Seminar on Religion, Environment and Human Rights was held on 2nd March, 2016 in collaboration with Arunodaya Institute of Legal Studies in Krishnnappa Memorial Hall, NLSIU.



A formal welcome was extended by Prof. M K Ramesh, followed by felicitation to dignitaries on stage which included Prof. (Dr.) Venkata Rao, Prof. (Dr.) P Ishwara Bhat, Prof. (Dr.) C. S. Patil, Prof. (Dr.) M.K. Ramesh.

In the same occasion "Journal on Environmental Law Policy and Development" from CEERA and Module

book on Corporate Law from DED was released by the dignitaries. This was followed by three technical sessions in which students, faculties, researchers and experts from different institutions presented papers on the above theme. Valedictory session and Certificate distribution was scheduled at 3.45pm in which Sri. Y R Sadashiva Reddy, Prof. (Dr.) R Venkata Rao, Sri. K L Shivalingaiah, and Ms. Sridevi (AILS) were present. It was a successful event in which all the stakeholders were satisfied with the outcome and the incomparable collaboration.

14. 23rd April, 2016 : WORKSHOP ON RIGHT TO INFORMATION ACT: “CHALLENGES AND TRENDS IN THE IMPLEMENTATION OF RTI”



The Workshop on Right to Information Act “Challenges and Trends in the Implementation of RTI” was held at the Krishnappa Memorial Hall of NLSIU on 23rd April, 2016. The Workshop was organized by the Legal services Clinic under the Mentorship of Prof. Sairam Bhat. The Programme began with Prof. Sairam Bhat delivering the welcome Address. The Invited Expert Speakers for the 1st Session were Prof. Madubhushi Sridhar who is presently the Central Information Commissioner and Prof. V. Vijayakumar, Professor of Law, NLSIU and Former Vice Chancellor, TN Dr. Ambedkar Law University which was on the Trends in the Implementation of RTI. The Session was a blend of the Foundation and the Practical Implication of the RTI Act. This session gave the Participant a Bird's eye view of the Objective of the Act.

Second session had a variety of speakers on different Facets of Drafting an RTI Application. Dr. Prashant Desai covered the Aspects of what an RTI Application should contain which was followed by Prof. Sairam Bhat and Ms. Arpitha H.C exposing the Participants to RTI Applications by way of Case Studies Mr. Y.G Muralidharan who is the Founder Trustee of the Consumer Rights Education and Awareness Trust enlightened with the Citizen's Perspective.

There was a Question and Answer Round and the Participants did have a very enthralling session with Prof. Sridhar and Prof. Sairam taking over the Dias. The Concluding session has Professor R. Venkata Rao, VC, NLSIU felicitating Prof Sridhar.

15. 25th and 26th October, 2016: CONSULTATIVE CONFERENCE ON BIODIVERSITY GOVERNANCE FOR STATE BIODIVERSITY BOARDS: CHALLENGES & PROSPECTS



The Environmental Law Centres, NLSIU Bengaluru, in association with National Bio-Diversity Authority (“NBA”), Chennai had organised a two day Consultative Conference on Biodiversity Governance for State Biodiversity Boards Challenges and Prospects on 25th and 26th October, 2016. It attracted participation of representative of State Biodiversity Boards of 19 States, various expert members of National Biodiversity Authority, Researchers and Academicians. In this two day Consultative Conference cum capacity building program the representatives of the State Boards reflected on the difficulties and problems concerning different aspects of governance, experienced by them and the representatives of NBA highlighted the problems of compliance experienced by the Researchers, Enterprises etc. To delve on aspects of interpretation of law and case-law a problem solving session was organised. Presentations were made by representatives of Four State Boards, showcasing their achievements and as models for emulation by the rest of the states. It was opined that the Conference was an insightful exercise which brought together experts to discuss a topic of contemporary importance.

16. 5th November, 2016 : ONE DAY WORKSHOP ON ECO CLUB – ECO SAVIOUR : ENVIRONMENTAL LAW EDUCATION: AWARENESS AND SENSITIZATION



The Environmental Law Clinic, NLSIU Bengaluru, had organised a one day Workshop on Environmental Law Education: Awareness and Sensitization on 5th November, 2016.

It attracted participation of over 120 persons, drawn from the legal academic fraternity, Research Scholars, students of schools and colleges pursuing the cause of resource conservation and environmental protection, beside students of law. The one day Workshop sought to engage various people to reflect upon the issue of environment protection by promotion awareness and sensitising people at the grass root level. The Workshop facilitated structuring/forming an Eco-Club or Nature Club in the respected institutions of the participants and also network among them. The ELC, NLSIU has agreed to actively support and mentor the Eco Clubs in their future activities. ELC has also sought suggestions from the participants on its ongoing mobile application development project, which aims at inclusive participation of citizens in reporting incidences of environmental harm. Many institutions, which do not have an Eco Club, have agreed to come up with one such club under the mentorship of NLSIU and take forward the cause of promoting environmental awareness and sensitization.

PUBLICATIONS AND JOURNALS

1. MARCH OF THE ENVIRONMENTAL LAW JULY 2015

ISSN 0974-7-44



2. JELPD (3) 2016 - JANUARY 2016

ISSN (o) 2348-7046



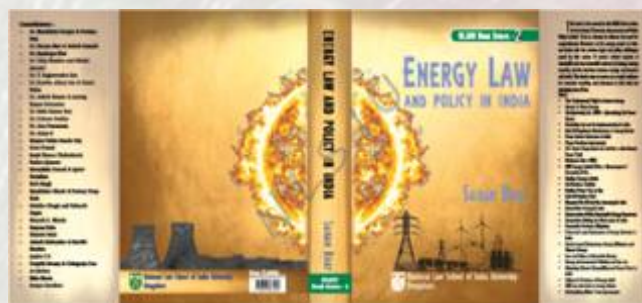
3. CONTRACTS, AGREEMENTS AND PUBLIC POLICY IN INDIA

ISBN 978-93-83363-37-7



4. ENERGY LAW AND POLICY IN INDIA

ISBN 978-93-83633-43-8



5. RTI AND GOOD GOVERNANCE

ISBN 978-93-83363-45-2





NLSIU e-Journal on Environmental Law Policy and Development [JELPD]



Vol. 4 2017

ISSN (O) 2348-7046

CALL FOR PAPERS Vol. 4 2017

JELPD is a peer-reviewed, interdisciplinary journal, jointly published by the Commons Cell and the Centre for Environmental Law Education, Research and Advocacy (CEERA), a research wing on Human Rights and Environment, at the National Law School of India University, Bangalore, on its website www.nlsenlaw.org.

JELPD aims to be a forum that involves, promotes and engages students, scholars and anyone interested in environmental law, to express and share their ideas and opinions. The Journal also plans to feature guest articles by eminent scholars as well as articles by students, thereby providing an interface for the two communities to interact.

Submissions, under the following categories, are welcome.

1. Articles (Long Articles- between 8000-10,000 words including footnotes and Short Articles- between 5000-6000 words including footnotes)
2. Book Reviews (1000-2000 words including footnotes)
3. Case Commentaries (1000-3000 words including footnotes)
4. Comments/Articles on Policies / Documents / Draft Bills / Law Commission Reports / Committee Reports (3000 to 5000 words including footnotes)

SUBMISSION GUIDELINES:

1. Submissions are to be made only in electronic form. They are to be sent to jelpd@nls.ac.in with copies to bhatsairam@nls.ac.in and andsubin@nls.ac.in.
2. Details about the author, including qualifications and institutional affiliations, if any, are to be detailed in the covering letter.
3. Only original work need be sent. It is presumed that, once the work has been sent, that it is the original work of the author so named and that it has not been published anywhere else.
4. All work need be sent in MS Word format- (.doc or .docx)
5. The author should maintain a uniform mode of citation throughout the whole work.

Scope and relevance: The work must be on contemporary legal issues on environment. The language used must be formal and clear, adhering to the submissions guidelines of the journal.

REVIEW PROCESS

The submissions received would be reviewed and the Editor(s) would determine whether the subject matter fits within the scope of the Journal and also would assess the quality of the manuscript. The decision on publication will be solely the discretion of the Chief Editor and it takes a minimum of 1–2 weeks after the deadline.

JELPD

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Last date for Submission : December 15, 2016

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