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EDITORIAL

World Braille Day: -If we close our eyes for a couple of moments and imagine our life to be in that forever. We will get a small instance of how the blind people are surviving in this darkness. Being blind is a terrible disability. World Braille Day is celebrated on 4th January every year around the world to commemorate the birthday of Louis Braille and in the honor to recognize the revolution that Louis Braille brought in the lives of people who are blind or visually impaired. It aims to revive the usage of Braille among blind people and raise awareness among sighted people about the struggles faced by the blind. Louis Braille invented the Braille language which helps blind people to read as well as write. There are very few of them who could attend a blind school and can receive training on how to lead a life in darkness. Situations get more complicated if illiteracy and poverty attack together with the darkness and for the people who are residing in rural areas they do not have access to a normal school for normal kids how will they get a chance to get a blind school. In most of the cases people are completely unaware of the fact that there is a blind school for helping the blind people to live their life independently. Braille has made a difference in the lives of so many people who were blind.

Louis was the creator of Braille as a means of communication for people who are blind. Braille is said to be the key which has improved the social and economic opportunities to millions of people and has given a definite meaning to blind people so that they can be more independent and can educate themselves. Louis was born on January 4, 1809 in France. At the age of 3, he accidentally became blind. His father was a shoemaker and the young Louis enjoyed

playing in his father's workshop. It was during one of his playful adventures that Louis accidentally punctured his eye with a sharp tool used to punch holes in leather. Infection eventually set in and spread to his other eye, leaving Louis completely blind. With the support of a local priest and schoolteacher, Louis' parents were determined to allow Louis to develop his demonstrated intelligence. He was enrolled in a regular school where he learned by listening and excelled in his studies. By the age of 10, he earned a scholarship to the Royal Institution for Blind Youth in Paris, where he learned to read letters that were raised on a page.

It was at the Institute that Louis was first introduced to the idea of a coded system of raised letters. In 1821, a French army captain, Charles Barbier de la Serre, visited the school to introduce his invention, "*Night Writing*", intended for soldiers to communicate at night without speaking. It proved to be too complicated, and the army eventually rejected it. Louis was ten years old when he met Charles. However, Louis had a great desire to read and write properly, despite his disability. An attentive student, at the age of 15, he developed a set of symbols by making raised dots on a piece of paper. Louis had changed the lives of people who are blind forever, with his 6-dot communication system. Braille is a system of reading and writing by touch used by the blind. It consists of arrangements of dots which make up letters of the alphabet, numbers, and punctuation marks. The basic Braille symbol, called the Braille cell, consists of six dots arranged in the formation of a rectangle, three dots high and two across. The first ten letters of the alphabet are used to make numbers. These

are preceded by a number sign which is dots 3-4-5-6: Thus, 1 is number sign a; 2 is number sign b; 10 is number sign a-j and 193 is number sign a-i-c: There are no different symbols for capital letters in Braille.

It has been more than 200 years when the Braille Language was invented. It was a simple but yet was considered to be a sophisticated reading and writing system. This invention has brought a huge change in the life of blind and visually impaired people. The dots could be easily felt by hand, thus enabling even the blind to feel them and hence, read and write. We read by seeing the alphabets but in Braille system they feel by touch with their fingers. The fingers of blind people recognize the alphabets which are raised dots on a paper and can read and write. The language developed by Louis Braille is today known as the Braille language. Although the system was very useful for those with visual impairment, it was only 2 years after Louis's death in 1854 that the system was adopted by his school. Soon after its adoption, it grew very popular in the rest of France.

The World Braille Day is celebrated every year to recognize the efforts of Louis Braille. His simple yet effective invention made it possible for blind people to read, write.

Various NGOs as well as other organizations come together on this day to raise awareness about the apathy towards blind people and to help them be equal with the rest of the people. Various competitions are organized across cities for the blind. Awareness is also raised about the new technologies coming in the field

of Braille language on this day. The World Braille Day is taken as an opportunity by various organizations and philanthropic individuals around the world to help the blind. The World Braille Day in 2009 marked the 200th birthday anniversary of Louis Braille. It was celebrated around the world, including in France, where a special exhibition was organized in a museum dedicated to Louis Braille. In India, special coins were released with the image of Louis Braille in 2009.

Today, Braille is incorporated into many aspects of public life. Buildings with elevators have buttons with Braille markings. Even ATM machines in developed countries, now include Braille markings. Computers now incorporate the use of Braille through specialized displays, keyboards, and portable displays that connect to mobile phones. There are also printers for Braille, known as embossers. The following are the alphabets of Braille language.

a	b	c	d	e	f	g	h	i	j
k	l	m	n	o	p	q	r	s	t
u	v	x	y	z	w				

Vana Premi wishes, in our country Government start Schools for blind in every district with Braille system free of charge for blind and the blind should utilize this for their education, earning their livelihood and live a dignified life.

QMK

LETTERS TO THE EDITOR

Sir,

Van Premi stands as an example which are far and few, as far as forestry related magazines are concerned. I have been attending SFRC alumni meet since 2004. It was enjoyable meet in 2016. Introduction of Technical session in the meet was certainly a welcome change. Subjects touched were wide and diverse and it didn't serve the purpose which was set out in the convener speech. His envision of Formation of society of Foresters India (SOFI). " .. One , it prevails upon the forester to regulate himself in the best interest of forests and help evolving a healthy tradition and two, it makes him fearless to call a spade a spade and embolden him to look behind shoulders as to what others say or do. It helps eliminate arbitrariness, maneuvering, pressures, threats etc.. ... "Seems to me a tall order and a wish list . An association have to have objectives, which relates with reality and draw a line between advise (Opinions) and to work as pressure group. It could be to decimate knowledge, build skills and at best could try to build a public opinion. This is also difficult, if I take a cue from similar organization ' The Institute of Engineers (India), which is 96 year old and its members are Engineers from any faculty and not necessarily government employees. It has State center in each state and has built reasonable infrastructure. But, it is struggling to exists, even when it was established as knowledge Centre. Commonality of interest in which all the participants can participate can be the only base for establishing a formal or informal association. SOFI has very little to do with SFRC alumni a informal association. The Technical session didn't achieve much as clear objective were not set out and thus it achieved very little. It did not revoke any response from audience as the format was not allowed them to participate. Hence I will suggest to formulate a focused subject where in most of the participants in next meet may be able to share, suggest or opine to a Set out outcome, which can be useful for foresters and society at large. For example Eco tourism or forester's training. I have a strong view that the role of foresters has to change to encompass the whole gambit of managing Natural resources (land, water, vegetation, forest) and whole Eco system which produces Eco services. Actually, many forest officers have already proved that it is understood in right perspective only by foresters in this country. We chose to subordinate to a narrower role and we will continue to struggle, if we isolate ourselves only with government forests, which is the only resource, the politicians would continue to freely distribute to appease poor. It is become very complex as we failed the poor residing in and around forests. J.F.M. is a much delayed policy change and we foresters have lost an opportunity to connect the resource with these people. We have failed in assessing the demands of democracy and use these vast resources to connect with needs of poor in a way that would have ensured forests and people are in best of health and good relations.

I had given a dummy copy of book ' Foot Prints of Development ' undergoing editing before publication to Mr. Sharma and Rao, I hope it is circulated amongst foresters of eminence and I hope it is interesting. We may agree to disagree, what has been my experience and my opinions, but it will force us to think and rethink, what forester think is the reason for losing the grip on administrating the FORESTS.

Sama

Sir,

This is in reference to Mr. R. K. Sama's letter dated 13th December 2016 to the Editor, *Vana Premi*, and a copy of which was so kindly marked to me. It is a response from Mr. Sama to my entreaty to XVII SFRC Alumni Meet, Hyderabad at the Technical Session held on 24th October 2016. A copy of speech was also published in the December issue of *Vana Premi*.

At the outset, I express my gratitude to Mr. Sama for his prompt and well-reasoned response on Society of Foresters. I wish many from the fraternity responded. It was a proposal mooted for intense debate and discussion within the fraternity to facilitate solutions to emerge. I made it clear in my speech "This is all loud thinking. We are not yet clear about the scope and content. A lot of ground work needs to be done" and requested the Members to over it seriously.

Looking at the issue dispassionately, Mr. Sama is only going by the trends in vogue. He did not reject the idea outright but appeared to have grave doubts about its success. If Institute of Engineers is alive for close to a hundred years though not in the best of health, it is no mean achievement. We also have institutions around which are vibrant and productive. Utility of an institution depends much on those who manage it and also those who are against it. All said and done, the proposal must find takers not only among foresters but also the political establishment. It is very difficult to bring them into loop because they will not encourage any move that would even remotely inconvenience them. But the odds should not deter one to walk the right path.

As regards Technical Session at Alumni Meet, I agree with Mr. Sama's observation that the debate should be focused on a subject, obviously referring to other issues mentioned. The context at the Technical session was different. It was the inaugural session at the Alumni Meets. I was selling the idea and requesting the Members to take the concept forward. Issues connected with forests that deserve debate at such forums can be too many. I raised only some as examples. SFRC alumni Meet was the first platform I got to ventilate my views after I mooted the issue in my Editorial in *Vana Premi*.

Forests are passing through a lean period. Once the people realize their importance and necessity, even if it is going to be a generation or two later, the proposal will find takers. Perhaps they will learn the hard way cursing their earlier generations for their utter callousness and irresponsible management of environment. I am an optimist and wish to espouse the cause I consider right even if odds are heavily stacked against.

I also compliment Mr. M. Padmanabha Reddy for his article "Forestry and Foreign Aid" (*Vana Premi* – December 2016). He succinctly put in fewest words how unwise and unproductive our Social Forestry Schemes have been during the last three decades. Frankly speaking, members of the fraternity in responsible positions are to blame for the fiasco. His statement "Now, it is time that foresters of the country should think afresh leaving behind the worn out slogan of people's participation which is hard to come. ... The general trend and mood of the people is immediate personal benefits and not participation" is an objective appraisal of the situation. Sooner we stop romanticizing people's participation, the better. Environment is much beyond and more crucial than the development everyone talks in the present era.

Regards,

JVSharma

IS CHANGE IN FOREST POLICY IMMINENT?

By
J. V. Sharma

The *Hindu* in its Hyderabad Edition dated 5th December 2016 published the news report "Environment Ministry postpones forest policy indefinitely" which says that the Ministry has decided to abstain from committing to a timeframe by which it would have a third of India's land under forest or tree cover which was a key promise of the Forest Policy. The report cited Mr. Anil Madhav Dave, Hon Minister for Environment, Forests and Climate Change furnishing a written reply to the Lok Sabha as "... The Ministry of Environment, Forest and Climate Change (MoEFCC) has not set up any time frame for formulation of the new Forest Policy and as of now, the draft version of the policy is not ready. The national goal is to have a minimum of one-third of the total land area of the country under forest or tree cover. However, no time limit has been prescribed to achieve this target."

The report went on to inform the readers that the MoEFCC had tasked the Bhopal-based Indian Institute of Forest Management, an affiliated organization, with reviewing and revising the existing forest policy and this was the first time that the policy was being re-looked since 1988 as it wanted to update the several changes in the forest laws and provide a forward-looking policy that talked about increasing India's forest cover and tackling the climate change. The organization had submitted its report and was available on the Ministry's website, as a "Draft National Forest Policy". It is further said that the Ministry had rejected the report on June 22 and claimed it had "inadvertently" uploaded the draft policy and claimed it to be so, when it was only a "study" by the IIFM. The draft policy, as *The Hindu* reported on June 22, made several suggestions including promoting the commercial use of wood, a greater role for industry in forest management and time-bound reviews of the progress being made in effectively managing the forests. It, however, had not explicitly mentioned the role of tribal in forest management and the protections accorded by the Forest Rights Act.

With the above news report, it is now evident that the MoEFCC had entrusted the IIFM Bhopal to undertake a study on Review and Revision of existing National Forest Policy, 1988 and the IIFM had submitted its draft forest policy proposals to the Ministry. It is further clear that the Ministry uploaded the "draft policy" on its website inviting comments and suggestions to be received before the end of June 2016. But the Ministry took a sudden U-turn within a few days withdrawing its notice which is now said to have been issued "inadvertently". The Ministry further sought it to be called a "study" rather than "Draft National Forest Policy". The Ministry vehemently contends that the draft forest policy is not ready yet.

It will be of interest for the readers to know that the title of the document prepared by the IIFM is "Draft National Forest Policy, 2016" The document further places on record; "The draft of the National Forest Policy, 2016 has been prepared by the Indian Institute of Forest Management, Bhopal (IIFM) based on village level focus group discussions, regional and national level consultations, inputs from various stakeholders and analysis of primary and secondary datasets carried out during the years 2015 and 2016. We are grateful to the Ministry of Environment, Forest and Climate Change, Government of India (MoEF&CC) for entrusting this task to IIFM, and acknowledge the financial support received for it from the UNDP."

Saving a full scale discussion on the substantive issues in the draft forest policy *vis-à-vis* the existing National Forest Policy, 1988 to a future date, it is perhaps important now to know why the MoEFCC, having called it the "Draft National Forest Policy, 2016" and inviting responses from the public, reneged from the move so quickly and now emphatically argues that the draft forest policy is not ready yet. This *faux pas* seen in the context of my own experience in the matter, gives rise to more questions than answered.

I happened to attend a Workshop on Review and Revision of National Forest Policy conducted by Indian Institute of Forest Management, Bhopal at Telangana State Forest Academy, Dulapally, Hyderabad on 3rd September 2015. After the Workshop, I had sent a mail to the Director, IIFM on 24.09.2015 wherein besides ventilating my views on some aspects of the issue, expressed fears about the exercise undertaken by the IIFM in words "To share my view on the RR of NFP frankly, I have an apprehension that there is much behind this exercise that does not meet the eye. The existing NFP is not that bad or outdated to need a revision, particularly so when some of the key items of the policy remain either unaddressed or grossly flouted. With the recent experience of Review of Forest & Environmental Laws by a High Level Committee under TSR Subramanian, it is difficult to digest the present Forest Policy revision on its face value."

The Director, IIFM promptly acknowledged my mail on the same day and allayed my fears stating "Thanks for your interest and detailed comments and suggestions. Let me clarify that there are no hidden agenda or any specific instructions to us at IIFM. We are trying to make the process as transparent as possible and have comments from all stakeholders possible. We will look at the issues raised by you and will get back to you and also seek your inputs." His promise to get back to me and seek inputs reassured me to some extent that it could be an academic exercise undertaken by the IIFM and not at the behest of the MoEFCC. The next day I thanked the Director for prompt response and for the promise made and conveyed my readiness to contribute my bit. That was the last I heard from IIFM. The promised communication from the Institute eluded me and the draft National Forest Policy, 2016 prepared by IIFM came into public domain in June 2016 followed by

Ministry's somersault and subsequent denial of draft policy being ready. What amused me to no end is the Director, IIFM's assertion that there are no hidden agenda or any specific instructions to IIFM, (obviously for the Revision and Review of the policy) on one side and the Institute's candid expression of gratitude to MoEFCC for entrusting the task to IIFM. Eyebrows are bound to rise for the inconsistency.

Now, it is necessary for me to explain why I could not digest the very idea of revision and review of the NFP, 1988. A few excerpts of my mail to the Director, IIFM dated 24th September 2015 are reproduced below and I hope they will clarify the apprehensions entertained by me to great extent:

"Let me express my fears in this regard. The Supreme Court of India, in its Civil Original Jurisdiction, while disposing I.A. Nos. 1868, 2091, 2225-2227, 2380, 2568 and 2937 in Writ Petition (Civil) No. 202 of 1995 (T. N. Godavarman Thirumalpad Vs. Union of India & Ors.), in the operative portion of the its Order dated 6th January 2014 directed the Union of India to appoint a Regulator with offices in as many States as possible under sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 as directed in the Order in the case of *Lafarge Umiam Mining Private Limited* and file an affidavit along with the notification appointing the Regulator in compliance of the direction by 31st March 2014."

"The above order was necessitated when the Government did not comply with an earlier Order dated 6th July 2011 of the Court in the same case wherein it laid down certain guidelines in Sub-paragraphs (i.1) to (i.5) of paragraph 122 of the Order, be followed in all future cases in respect of Environmental Clearances under Environment Protection Act, 1986. The Honorable Court, in essence, found that that the EIA Notification 2006 is beset with deficiencies and there is conflict of interest in MoEF exercising ultimate powers in granting both the Forest Clearances under FCA and Environmental Clearance under EPA. Above all, the Court felt that the spirit of National Forest Policy 1988 is not adequately addressed. I reproduce below Sub-paragraphs (i.1) and (i.3) for clarity:"

"(i.1.) The time has come for this Court to declare and we hereby declare that the National Forest Policy, 1988 which lays down far-reaching principles must necessarily govern the grant of permissions under Section 2 of the Forest (Conservation) Act, 1980 as the same provides the road map to ecological protection and improvement under the Environment (Protection) Act, 1986. Principles / guidelines mentioned in the National Forest Policy, 1988 should be read as part of the provisions of the Environment (Protection) Act, 1986 read together with the Forest (Conservation) Act, 1980. This direction is required to be given because there is no machinery even today established for implementation of the said National Forest Policy, 1988 read with the Forest (Conservation) Act, 1980. Section 3 of the Environment (Protection) Act, 1986 confers a power

coupled with duty and, thus, it is incumbent on the Central Government, as hereinafter indicated, to appoint an appropriate authority, preferably in the form of regulator, at the State and at the Central level for ensuring implementation of the National Forest Policy, 1988."

"(i.3.) The basic objectives of the National Forest Policy, 1988 include positive and proactive steps to be taken. These include maintenance of environmental stability through preservation, restoration of ecological balance that has been adversely disturbed by serious depletion of forests, conservation of natural heritage of the country by preserving the remaining natural forests with the vast variety of flora and fauna, checking soil erosion and denudation in the catchment areas, checking the extension of sand dunes, increasing the forest/tree cover in the country and encouraging efficient utilization of forest produce and maximizing substitution of wood."

"It is a landmark judgement and curiously the Central Government continues to defy the order. The order was not complied within the time stipulated i.e. 31st March 2014 and the situation continues to be the same till today. Evidently, the Central Government should be seeing the NFP '88 as a red rag and the present exercise of review and revision could be an effort to dilute its provisions, a la HLC."

"Hence the need to be wary of the impending threats, the environment in general and the forests in particular, are exposed to."

Since the discussion took place at the workshop where I was present, it is only appropriate that I reflected upon issues deliberated which I conveyed to the Director, IIFM as below:

"Some views aired at the Workshop:

Coming to the substantive issue of Review and Revision of Forest Policy, participants raised some points to which my responses are:

1. It is said that stipulation in NFP of aiming at one-third of geographical area under tree cover is not supported by any scientific evidence. It is true that the evidence does not find place in the Policy Document. To be frank, no authenticated study appears to have been made in support of the stipulation. None the less, efforts have been made by zealous foresters to substantiate the need by logic, experience, example, threat perceptions & abstract calculations. I have seen even senior foresters engaging in rhetoric on this issue. What is conveniently forgotten is that India is a populous country with no effective measure in place to control the spiraling population. It almost quadrupled from the time of Independence. That itself should clinch the issue in favor of keeping sizeable extent of land under vegetation. The next consequential issue is; Why 33%? Why not 30 or 40 or 50 or 25 or 10 ...? In this context, it needs to be appreciated that what we are trying to determine otherwise is the capacity of the flora to create a comfortable environment for all the life-forms. It is not only for humans but to all life-forms we live with. The scope and variability is

very huge & imponderable and we do not have any reliable inventory of the life-forms or their environmental parameters and needs. Having been convinced of the indispensability of good environment, it cannot be wished away nor ignored simply because of our inability to spell out specifics. It is under these circumstances, an educated guess and enlightened reasoning should come handy. That is what the policy makers did. In my view, they did a wonderful job balancing our limited land resource on one side and unimaginably wide range of environmental needs on the other. When I was confronted with a similar situation nearly a decade ago, I collected some base data of human life requirement and tried to work out the human environmental need and incorporated in an article published in *Vana Premi* of AP Retired Forest Officers Association. I do not claim it to be foolproof or a flawless scientific explanation and my limited objective was to drive home the point that we need lots of tree growth for healthy living. I reproduce the excerpts of the article below for your perusal, not so much for its worth but to plead for forests.

"It indicates that the public opinion does change according to needs and time. Likewise, the dissenters of Forest Policy too need to be receptive to the changing needs and changing role of forests. It should therefore be sufficient to confine the debate to the present day needs on how much tree cover should India have? The objective of keeping one-third of land area under tree cover is justifiable by logic as well as on scientific basis. India's population, which was around 33 crores when the first National Forest policy in Independent India was made, had exceeded one billion mark now. This phenomenal increase in population exerts compounded stress on environmental resources. Hence the need to boost up the extent of tree cover to meet the challenges of increased population. This apart, when developed nations with far lesser population and abundant resources are not prepared for less than one-third of land area under tree cover, India with its huge population and severe constraints of land resource, simply cannot afford to settle for any lesser figure. So much so far, for the logic."

"Coming to the environmental needs derived on scientific basis, the country has a population of 1.02 billion and with its two-child norm; it is likely to out-beat China in another two decades. Situation warrants defining our priorities and requirements not only to suit the needs of the day but also the future needs. Environmental planning is not like a five year plan or a scheme of fixed duration. Environment is an eternal concern –as long as the country and the people have to survive."

"To sustain a healthy human life and its purposeful activity, it is necessary to ensure basal metabolic rate and aerobic respiration process. A normal human body breathes about 15 to 18 times per minute exchanging 500 ml. of air. The Atmospheric Air inhaled comprises of components in percentages of N₂+Inert gases- 78.88, Oxygen- 20.85, CO₂- 00.03 and water- 00.24. The expired Air exhaled comprises of components in percentages of N₂+ Inert gases- 74.90, Oxygen- 15.30, CO₂- 03.60 and water- 06.20. The aerobic respiration process of Glucose + Oxygen yields CO₂ and water."

"Important by-product of this activity is the release of energy mostly in the form of heat. A normal human being releases about 10,000 kilo-joules of energy, on an average per day, including the periods of intense activity and rest (sleeping). Human body needs 720 liters of atmospheric air, in ideal composition per day of which Oxygen will be 150 liters. When these standard requirements are projected for the entire nation, the total atmospheric air requirement is 7,34,400 million liters of which Oxygen component alone will be 1,53,000 million liters per day."

"The atmospheric air requirement calculated above is exclusively for human consumption. There are other countless life forms which also cannot survive without air. Every living creature and plant life needs air in right proportion. There are checks and balances in nature and their overall impact, in ideal form, is the atmospheric equilibrium. Any disturbance caused to this equilibrium is likely to trigger a chain reaction adversely affecting the environment at large. The emphasis here is to highlight the point that immeasurable quantities of pure atmospheric air, probably in astronomical quantities, can be ensured only by keeping as much area as possible under tree cover and the prescription of one-third land area under tree cover, is very modest and is rather minimum imaginable."

2. One participant at the Workshop very enthusiastically questioned the failure of achieving the objective of having one-third land area under tree growth. This failure does not need answer. It needs introspection. Though the foresters cannot increase the extent under tree cover, they could strive that it is not reduced at least. Unfortunately reduction is a fact –the Forest Departments are no mean contributors to this digression. Cases in point are loss of forest land under FRA and diversions under FCA.

3. Emphasis by many participants at the Workshop was on loss of forests in quality and extent. There is all the need to understand the forests not only in the context of flora and fauna but also in the wider sense of physical and a-biotic characteristics of hills, rivers, topography, soil etc. not to speak of more popular features of ecology, biodiversity, climate change, etc.

4. I noticed two participants, evidently stakeholders from outside the forest fraternity, articulating tribal rights. I beg to submit that I have a different perception of the whole issue and it may need a separate workshop for itself. All the same, I am of opinion that the tribes, by and large, do enjoy their traditional rights over NTFP in most States. FRA shifted the balance heavily in their favor to the detriment of forests. The issue needs to be addressed seriously without romanticizing it. Community Forest Rights of FRA need a re-look."

"Key areas needing discussion:

In my opinion there are two important areas which need serious discussion. One is Forest-Tribal equation and the other is Forests & public participation. There is ample reason to conclude that the Forest –Tribal equation is romanticized beyond the limit on the basis of fertile imagination and

for populist reasons. It is a matter on which a final word cannot be said at the drop of the hat. It needs to be discussed threadbare taking the ground reality into account. Fact and fiction are woven together and they need to be separated with objectivity and without sentiment. My articles on this issue are attached for perusal.

The second issue is equally contentious as it is pre-supposed that forests cannot be protected and managed without people's participation. Public participation *per se* is not bad and is in fact desirable. JFM and CFM are being experimented for nearly two decades. Thousands of crores were spent on forestry projects and most of it is a debt repayable. General perception among the public is there are no matching results. Participation for gain and without the responsibility/accountability is undesirable. People have not reached that stage yet to shoulder the responsibility. This issue too needs serious discussion. Forests are to lose heavily if things are taken forward without proper exercise, -case in point management of CFM & CFR areas."

"Changes suggested:

As I stated earlier, the National Forest Policy 1988 is not that deficient as to need a full scale revision. Should there be a revision at all, it should better be to make the Policy more forthright, expressive, and assertive in key areas to ensure meaningful compliance. I am of the opinion that the Preamble of the Policy can be strengthened by a brief mention of:

- a) Constitutional Provisions of Articles 48-A and 51-A (g). And Article 51 (c).
- b) Judicial Pronouncements of Supreme Court that breach of environment amounts to violation of Art. 21 (protection to Life); Public Trust Doctrine applicable to forest; and intergenerational equity."

"Following suggestions may be put to wide ranging discussions:

1. Among the Basic Objectives under 2.1 of the NFP '88, the 5th objective regarding "Meeting the requirements of fuel-wood, fodder rural and tribal populations", may require reconsideration. Condition of forests has worsened from 1952 to '80. They have shrunk in size and in content and they are under pressure. People living in and around forests certainly depend upon the forest for their needs and there is no shying away from the responsibility. Moot question is whether the depleted forests can meet the demand. Further, even the forest dependent farmers are moving away from their traditional farming methods. These developments need to be tracked closely and dependents need to be identified. The Objective needs to be modified with emphasis on regulation and constraints of availability.
2. Protective staff is finding it extremely difficult to safeguard the forests. Reasons could be many, the result being scant respect for regulatory mechanism. Another Objective may be added under 2.1 "to strengthen and to evolve if necessary, stringent procedures for effective regulatory mechanism."

3. Para 2.2 can be made emphatic by adding "Environment is sacrosanct and cannot be compromised under any circumstances."

4. Para 3.2 can be deleted.

5. It is time we come out of the old mindset that tribal are totally dependent upon forests for their sustenance. They are full-fledged farmers what with lands vested under FRA. Benefits that accrue from forests can only be marginal or supplemental. Para 3.5 can be suitably modified.

6. In view of the poor condition of the forests, the 'strategy' in various sub-paragraphs of Para 4 may require suitable changes. Policy must be more forthright on crucial issues of management by adding "No further reduction in area under forests is permissible except for defence and strategic purposes." Policy document should be practical without being overambitious and populist. It should speak out against issues like unrestricted grazing etc.

7. Forests occupy about 20% of the geographical area of the country. Taking the forest fringe areas into account, the forest-impacted territory may easily exceed a quarter of TGA in which the forester has an active role. Yet, the forester is not very popular on account of his regulatory functions. That he is not associated with welfare measures in the area will only make him more unpopular. Primacy of the Forest Department and that of the forester should be ensured in such forest areas by entrusting it with administrative responsibility and as a nodal agency in all developmental and welfare activities.

"Given the importance of Forest Policy recognized by the Supreme Court, it is only logical that the Policy becomes the bedrock of all forest related activities. Hence the need to make it comprehensive and purposeful. Kindly consider the points stated above and I will be looking forward to hear from you in this regard."

It is no longer a secret that vast extents of forest lands were diverted for non-forest purposes and the UPA Government was particularly hostile to forests. Diversions of forest lands during the 10-year UPA rule were more than double the forest area lost in 24 years from 1980 to 2004. As if this disservice is not sufficient, the UPA brought in the Forest Rights Act to crown its performance which had cost the nation very dearly not only in terms of unimaginable quantum of forest lost but rendered the whole concept of forest and environmental management meaningless and irrelevant. They made the situation so alarming that serious attempts were made to identify the NO-GO zones of forests so that the remaining forest areas could be conveniently diverted circumventing the Forest Conservation Act successfully. It is not an unknown fact that forests in India are shrinking fast in extent as well as content and hardly 10 – 12% of the forests can qualify to be NO-GO areas which otherwise means branding the remaining 88-90% forests as expendable. This was an unfinished agenda for the UPA. The successor BJP Govt. started as a serious player vowing to set right everything that was wrong of the previous regime and the suave MoEF Minister, Mr. Prakash Javadekar announced his arrival with changing the name of his Ministry from MoEF to MoEFCC, the newly added last two letters standing for Climate Change. Ironically, his newfound interest in Climate Change appeared to have evaporated soon; the change in name was all that we heard of

his substantive contribution. He appeared to have seen great wisdom in Jairam Ramesh-Jayanthi Natarajan-Moily legacy and people who entertained hope in the turn of fortunes of forests for good were left in lurch. He appointed a High Level Committee to review the Forest & Environment Laws. Environmentalists had no clue of reasons which prompted the Government to go for review because the disease in forest sector was more a case of 'no honest compliance' of existing laws rather than their inadequacy.

It has therefore to be construed that there is an agenda behind the move beyond the pale of common man. We have by this time become too familiar with the hue and cry raised by vested interests and their henchmen that forest laws are casting a debilitating effect on developmental agenda. Spot clearances, single window clearances, Sops for investors, Liberal concessions on tax liabilities, Allotment of vast extents of land for developmental projects (obviously forest lands – Or else where is land available outside forests in India?) etc are the words we hear every day. Persons in power, irrespective of their political colour, make foreign jaunts to solicit customers for investment like artists (!) walking the ramp. It gives a sickening feeling to behold and even much worse to appreciate.

One can see a significant departure in transacting business from the past. The previous dispensation used to steam-roller the system to clinch the issue the way they desired. They ignored the criticism even if there was any. Consequences were disastrous because the people felt that the Govt. did not attach any importance to their sentiments or advice and often acted arbitrarily. They lost the power and lost it miserably. The present regime, gaining by the bitter experience of the UPA, do not naturally want to be seen blatantly hostile to forests and therefore appear to have changed the tactic as well as strategy. While their objective is not much different, or equally reprehensible, they appear to consider it prudent and even safer to change the rules of the game itself and shift goalposts to justify that the action taken is consistent with the letter and spirit of the rules and procedure. High Level Committee, Review of Forest Laws are part of the stratagem and the Review of National Forest Policy now on the block could as well be part of the same game.

Then, what surprises the observers is why the Draft Policy placed in public domain for comments is withdrawn so suddenly and why the MoEF is not prepared even to acknowledge it as draft policy? Does the incumbent Minister Mr. Anil Madhav Dave have a different perception of the issue? When he said that the draft forest policy is not ready, he explicitly means that the exercise for a Review and Revision of the existing policy is very much in progress. Damocles sword continues to hang on forests.

“PASSED, BUT FAILED IN ETHICS” (“KAAM YAAB, LEKINNAAKAAM BA-AQLAAQIYAAT”)

By

Dr. B. Raghotham Rao Desai

In the thirties and forties of earlier Century (in the then Nizam's Dominions, to which Gulbarga and Aurangabad Regions belonged as well), we had a subject called “Ethics(Akhlaaquiyaat)” through Middle and High Schools. It was the idea of Sir Raas Masood (grandson of Sir Syed Ahmed Khan, founder of Aligarh University) on being appointed as ‘Director of Public Instruction (Naazim-e-Taalimaat)’ after his decades of studies at Cambridge/Oxford. Of course the subject was taught in Urdu-medium, (as any other subject, except, of course, English literature) as per the then State-policy! Though the marks scored in that subject did not merit for the rank, yet to secure a pass was necessary, and if a student failed he was made to appear during next annuals to pass it while pursuing studies in the higher class. And as he or she left Middle School or High School, without passing it, the TC (Transfer Certificate) would carry the following unpleasant remark:

“Passed, but Failed in Ethics” (“Kaamyaab, lekinNaakaamba-Aqlaaqiyaat”)

Poor chap would then become a victim to butts, jeers and jokes of others in the class and school as “devoid of ethics”. Even members of the faculty, instead of commiserating, would have a dig at

him and ridicule him whenever that student committed a bloomer or was at fault by any chance!

Having had to be inevitably put up to converse/ study simultaneously in four or even five languages from my childhood till I left Osmania University (viz., Kannada at home as mother tongue; Telugu after stepping out the threshold of our residence since I was born and had grown in Telangana; Urdu and English on entering the corridors of the Government Schools/colleges; not to mention about Hindi, under the tutelage of Hyderabad Rajya Hindi Prachar Sabha, which was of immense help when I had to study Sanskrit at Intermediate and graduation levels as an ‘allied classical language’ between 1950 and ‘54).

I would like to make a statement at this juncture as follows:- We learn our mother tongue from our parents and immediate family and neighbors in the aural (relating to the ear or the sense of hearing) or ‘shravana’ mode — never being sensitized to any aspect of grammar; by grasping aspects of syntax, vocabulary and pronunciation — merely being exposed to it day after day throughout the formative years of our life! And India is a country of several

languages, most of which happen to be alive. As they share an invisible link with the associated language, we can interpret our glorious literature, tradition, culture, arts and architecture better. A little effort and utilization of modern technology and media, coupled with human effort can keep the link to languages alive and pass them on to posterity.

Having dealt the episode in a lighter vein, let us now discuss a few auxiliary moral issues of grave concern which indeed happen to be quite weighty as well, taking umbrage under an ancient adage: "As the ego swells with the success, the head becomes stiff and refuses to look around, the gait also assuming an affected stateliness." It is but natural to be carried away by the adulation and comforts conferred thereupon, even though the said trait happens to be an object of criticism and disdain. Another noteworthy point here is that the vice of ego further affects not only the person who had cultivated it, but also most of those who surround him, such as the family, relatives and close friends! After that the first behavioral change one comes across is his assumption that he knows

everything and pretends to talk authoritatively, believing that he is superior to everyone around. He even goes to the extent of mocking and ridiculing others very unethically, oblivious to the fact that quite a few in the audience might be very learned and far more knowledgeable. With bloating ego he tends to become more and more insensitive, his delusion misguiding him to believe that all others are but 'lowly insects', forgetting the capriciousness of that phase he is in!

So intoxicating indeed happens to be that condition, the person becomes delirious, which makes him immune to an extent that he does not feel even a tinge of shame, when elders and more knowledgeable, quietly avoid argument and humbly prefer to move aside and stay in the backstage, sensing the futility of continuing the talk, vowing: never to have a long spoon to sup with the devil. Perversion of superciliousness so started not only clings to him stubbornly but more often than not transmits even down the generations, like a hereditary disease. So, beware and observe ethics through and through!

***The tree does not bother about "Flowers that fall" it is always busy "New Flowers Blossom".
Life is not about what we lost so far. It's about
"what we can still grow"***

ROLE OF JUDICIARY IN CONSERVATION OF ENVIRONMENT

By

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Introduction; "Environment" includes water, air and land and the interrelationship which exists among and between water, air, land and human beings, other living creatures, plants, micro-organisms and non-living entities.

Environment may be broadly understood to mean our surroundings. It can be divided into non-living and living components. The Environment provides resources which support life on the earth and which also help in the growth of a relationship of interchange between living organisms and the environment in which they live.

Importance through the ages; Over the ages it is found that importance of environmental conservation was considered as vital ingredient in the livelihood practices. The environmental conservation was duty based as can be seen from the Hindu mythology. The Vedas, Puranas, Upanishads and other ancient scriptures of the Hindu religion contain description of trees, plants, wildlife and their importance to people. Yajnavalkya Smriti prohibited the cutting of trees by prescribing punishment. Evidence from civilizations of Mohenjodaro and Harappa has further proved that the small population lived in consonance with the ecosystem and their

needs maintained harmony with the environment. Thus, the Hindu society was conscious of the adverse environmental effects caused by deforestation and extinction of animal species.

During the Medieval period, the contribution of Mughal emperors has been the establishment of magnificent gardens, fruit orchards and green parks, which were used as holiday resorts, palaces of retreat or temporary headquarters during the summer season but they did not contribute much towards conservation of environment.

A general survey of early environmental legislation during the British era reveals that apart from the forest laws, nineteenth century legislation also partially regulated two other aspects of Indian environment such as water pollution and wildlife. These laws, however, had a narrow purpose and limited territorial reach. Some of the early efforts include the enactment of the Shore Nuisance (Bombay and Kolaba) Act of 1853 and the Oriental Gas Company Act of 1857. The Indian Penal Code, enacted in 1860, imposed a fine on a person who voluntarily fouls the water of any public spring or reservoir. In addition, the Code penalized negligent acts



with poisonous substances that endangered life or caused injury and proscribed public nuisances. Laws aimed at controlling air pollution were the Bengal Smoke Nuisance Act of 1905 and the Bombay Smoke Nuisance Act of 1912. In the field of wildlife protection, early legislation was limited to specific areas and particular species, thereby aiming at the conservation of biodiversity. It is clear that legislative measures were taken by the British Government for prevention of pollution and for conservation of natural resources. Although critics point out that the British enacted these legislations, not with the object of protecting the environment but with the aim of earning revenue for themselves, it should be regarded as the first step towards the scientific conservation of natural resources. Despite the fact that these measures were made with ulterior motives, British-enacted legislations have contributed significantly to the growth of environmental jurisprudence in India. In the early years of Indian independence, there was no precise environmental policy. Government tried to make attempts only from time to time as per the growing needs of the society. The period of 1970s witnessed a lot of changes in policies and attitudes of the Indian Government when its attitude changed from environmental indifference to environment friendly attitude and many steps were taken to improve environmental conditions.

During the year 1972 in conformity with United Nations mandate, the government of India felt the need to establish a National body to have coherence and coordination in environmental matters, and for this purpose

National Committee on Environmental Planning and Coordination (NCEPC) was established in the Department of Science and Technology. The NCEPC is an apex advisory body in all matters relating to environmental protection and improvement.

Steps taken to conserve Environment; As part of its campaign on green environment, Indian Parliament has enacted nationwide comprehensive laws. One of the major environmental enactments came just two years after the Stockholm Conference in 1974. The Water (Prevention and Control of Pollution) Act was passed for the purpose of prevention and control of water pollution and for maintaining and restoring the wholesomeness of water. The Water Act represented India's first attempt to deal with an environmental issue from a legal perspective.

From this period onwards, the Central Government has been considered as highly environmentally active. In 1976, the Constitution of India was amended to insert a separate fundamental duties chapter. The 1980s witnessed the creation of many eco-specific organizations. In the year 1980, the Forest (Conservation) Act was passed for the conservation of forests and to check on further deforestation. The Air (Prevention and Control of Pollution) Act of 1981 was enacted by invoking the Central Government's power under Art 253. The Air Act contained several distinguishing features. The preamble of the Air Act explicitly reveals that the Act represents an implementation of the decisions made at the Stockholm Conference. Also, a notification

relating to Noise Pollution (Regulation & Control) Rules was made in the year 2000 with the objective of maintaining Ambient Air Quality Standards in respect of noise.

In the wake of the Bhopal gas tragedy, the Government of India enacted the Environment (Protection) Act, 1986(EPA). The laws that existed prior to the enactment of EPA essentially focused on specific pollution (such as air and water). The need for a single authority which could assume the lead role for environmental protection was answered through the enactment of EPA. It is in the form of an umbrella legislation designed to provide a framework for Central Government to coordinate the activities of various central and state authorities established under previous laws. It is also in the form of an enabling law, which delegates wide powers to the executive to enable bureaucrats to frame necessary rules and regulations.

Apart from this, several notifications and rules have also been made, some of which include the Hazardous Wastes (Management and Handling) Rules in 1989, the Biomedical Wastes (Management and Handling) Rules in 1998, Recycled Plastics (Manufacture and Usage) Rules 1999, Environment (Silting for Industrial Projects) Rules 1999 and the Municipal Solid Wastes (Management and Handling) Rules in 2000. In addition to these eco-specific legislations, realizing that there is no comprehensive legislation dealing with biodiversity in India, and to fulfill its international obligation under the Convention on Bio-Diversity, the Government of India has enacted the Biological Diversity Act, 2002.

The Constitution of India did not contain any direct and specific provision regarding the protection of natural environment. Perhaps, the framers of the Indian Constitution, at that time, considered it as a negligible problem. That is probably why it did not even contain the expression environment. However, in fact it contained only a few Directives to the State on some aspects relating to public health, agriculture and animal husbandry. These Directives were and are still not judicially enforceable.

Nevertheless, on a careful analysis of various provisions prior to the 42nd Constitutional Amendment, reveals that some of the Directive Principles of State Policy showed a slight inclination towards environmental protection. It can be inferred from Art 39(b), Art 47, Art 48 and Art 49. These directive principles individually and collectively impose a duty on the State to create conditions to improve the general health level in the country and to protect and improve the natural environment. As can be seen from the above there are plethora of laws to protect and conserve the environment, but still the protection measures are woefully inadequate.

Role of judiciary; The judiciary, to fulfill its constitutional obligations was and is always prepared to issue appropriate orders, directions and writs against those persons who cause environmental pollution and ecological imbalance. This is evident from a plethora of cases decided by starting from the *Ratlam Municipality Case*(AIR 1980 SC 1622 = (1980) 4 SCC 162) This case provoked the consciousness

of the judiciary to a problem which had not attracted much attention earlier. The Supreme Court responded with equal anxiety and raised the issue to come within the mandate of the Constitution.

The Supreme Court, in *Rural Litigation and Entitlement Kendra v. State of U.P.* (AIR 1985 SC 359) ordered the closure of certain limestone quarries causing large scale pollution and adversely affecting the safety and health of the people living in the area. Likewise, in *M.C. Mehta v. Union of India* (AIR 1987 SC 965), the court directed an industry manufacturing hazardous and lethal chemicals and gases posing danger to health and life of workmen and people living in its neighborhood, to take all necessary safety measures before reopening the plant. In an attempt to maintain the purity and holiness of the River Ganga, tanneries polluting the sacred river were ordered to be closed down.

In *S. Jagannath v. Union of India* (AIR 1997 SC 811), the Supreme Court has held that setting up of shrimp culture farms within the prohibited areas and in ecologically fragile coastal areas has an adverse effect on the environment, coastal ecology and economics and hence, they cannot be permitted to operate. In *Vijay Singh Puniya v. State of Rajasthan* (AIR 2003 Raj 286), the High Court of Rajasthan it was observed that any person who disturbs the ecological balance or degrades, pollutes and tinkers with the gifts of nature such as air, water, river, sea and other elements of the nature, he not only violates the fundamental right guaranteed under Art 21 of the Constitution, but also breaches the fundamental duty to protect the environment

under Art 51A (g).

The right to live in a clean and healthy environment is not a recent invention of the higher judiciary in India. The right has been recognized by the legal system and the judiciary in particular for over a century or so. The only difference in the enjoyment of the right to live in a clean and healthy environment today is that it has attained the status of a fundamental right the violation of which, the Constitution of India will not permit. The Indian Supreme Court, being one of the most active judiciaries in the world, also created a landmark in the quest of international judicial activism by developing the concept of right to healthy environment as a part of right to life under Art 21 of our Constitution.

A foundation for the application of the **Precautionary Principle**, the Polluter Pays Principle and Sustainable Development, having been laid down, the three principles were applied together for the first time in by the Supreme Court in *Vellore Citizens Welfare Forum v. Union of India* (AIR 1996 SC 2715), a case concerning pollution being cause due to the discharge of untreated effluents from tanneries in the state of Tamil Nadu. The Court, referring to the precautionary principle, **polluter pays principle** and the new concept of onus of proof, supported with the constitutional provisions of Art. 21, 47, 48A and 51A (g) and declared that these doctrines have become part of the environmental law of the country.

The **Public Trust Doctrine**, evolved in *M.C. Mehta v. Kamal Nath* (1997(1)SCC 388) states that certain common properties such as rivers,

forests, seashores and the air were held by Government in Trusteeship for the free and unimpeded use of the general public. Granting lease to a motel located at the bank of the River Beas would interfere with the natural flow of the water and that the State Government had breached the public trust doctrine.

The Courts in India have played a distinguishing role in gradually enlarging the scope of a qualitative living by applying various enactments of environmental protection.

The Supreme Court of India, apart from being environmental friendly, has given birth to a wide range of doctrines and principles have in turn been adopted and implemented throughout the country.

Godavarman case; A Civil Writ Petition titled T N Godavarman Thirumulpad Vs. Union of India and Others (W.P. (C) No. 202/1995) was filed in 1995 to address timber felling in the Nilgiri range of Tamil Nadu. But subsequently, its scope has expanded manifold. The most significant order dated 12.12.1996 defined 'forest' for the first time to be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of the Forest Conservation Act. The Court further explained the term 'forest land', and stated that the word forest land occurring in section 2, will not only include 'forest' as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. It reiterated that prior approval of the Central Government is required for any non-forest

activity within the area of any forest in view of the new definition of forest. In accordance with section 2 of the Act, all on going activity within any forest in any State throughout the country, also needs prior approval of the Central Government.

The plethora of judgements cover saw Mills and wood based Industries, Plantations, Social Forestry and Compensatory afforestation, Protected Areas, Working plans, Encroachments, on-timber forest Produce, Mining.

The most important strategy was the formation of Central Empowered Committee (CEC) in 2002 for monitoring the implementation of Apex Court's orders. It is perhaps the first of its kind where the Supreme Court has delegated its power to a non-statutory body to perform part of their own functions.

The Apex court evolved the concept of Net Present Value (NPV) in the context of use of forest land for non-forestry activity. The calculation of NPV is on economic terms and is payable at the time of diversion of forest land for non-forest activity in addition to Compensatory Afforestation which is mandated under the Forest Conservation Act. The issue of non-utilization of monies collected by States for compensatory afforestation received the attention of the Apex Court which first led to formation of Compensatory Afforestation Fund and then formation of an authority to manage the fund known as Compensatory Afforestation Fund Management and Planning Authority in 2004.

The Godavarman case may be the single largest intervention by any Court in the World on any

single issue. The case is being heard since last sixteen years and is now heard two days a week by two separate benches of Supreme Court called GREEN BENCHES.

Samata case;

IN 1987, Samata, a non-governmental organization closely associated with 10 community-based institutions in 300 villages of Srikakulam, Visakhapatnam and East Godavari districts, began to work for the rights of the tribal people as it found them being alienated from their lands and exploited by non-tribal people and the state, in contravention of the Fifth Schedule of the Constitution and various Central and State government laws. After a protracted struggle - in the form of *dharnas*, rallies, picketing and meetings - and several rounds of petitions to various Central and State departments, Samata decided to approach the courts. It first filed a case in the local courts and later in the Andhra Pradesh High Court in 1993 against the State government's move to lease tribal land to mining companies. When the High Court dismissed the case, Samata filed a Special Leave Petition in the Supreme Court. After a four-year legal battle, it won a historic judgment, which declared null and void the transfer of land in the Scheduled Areas for private mining and upheld the Forest (Conservation) Act of 1980, which prohibits mining in reserved areas. The main issue in the Samata case was whether or not the word 'person' in Section (3)(a) of the Mines and Minerals (Regulation and Development) Act included the government. The Supreme Court held that indeed it did, and that the state should adhere to the laws and principles governing the

tribal areas, as any other person. Known popularly as the Samata judgment (*Samatha v. State of Andhra Pradesh and Others* (1997) 8 SCC 191) it nullified all mining leases granted by the State government in the Scheduled areas and asked it to stop all mining operations. Only the State Mineral Development Corporation or a cooperative of the tribal people, it ruled, could take up mining activity and that too in compliance with the Forest Conservation Act and the Environment Protection Act. It also recognized the Constitution (73rd) Amendment and the Panchayat (Extension to Scheduled Areas) Act, under which gram *sabhas* are competent to preserve and safeguard community resources, and reiterated the right of self-governance of *Adivasis*. The judgment said: "It would also be open to the appropriate legislature, preferably after a debate/conference of all Chief Ministers and Ministers concerned, to take a policy decision so as to bring about a suitable enactment in the light of these guidelines so that there emerges a consistent scheme throughout the country in respect of tribal land under which national wealth, in the form of minerals, is located."

Approaches to the issues and solutions;

Instead of an adversarial setting where the judge relies on the counsels to produce evidence and argue their cases, the PIL cases are characterized by a collaborative problem-solving approach. Acting either at the instance of petitioners or on their own, the Supreme Court has invoked Article 32 of the Constitution to grant interim remedies such as stay orders and injunctions to restrain harmful activities in

many cases. Reliance has also been placed on the power to do complete justice under Article 142 to issue detailed guidelines to executive agencies and private parties for ensuring the implementation of the various environmental statutes⁴ and judicial directions. The tool of a 'continuing mandamus' has been used to monitor the implementation of orders by seeking frequent reports from governmental agencies on the progress made in the same. The adjudication and monitoring of environmental cases has also benefited from the inputs of fact-finding commissions and expert committees which are constituted to examine a particular environmental problem. In several cases, the Court also relies on the services of the leading members of the bar who render assistance in their capacity as 'amicus curiae'. The involvement of expert committees and amicus curiae is needed to gain an accurate understanding of an environmental problem and to explore feasible solutions. For instance, court-appointed committees have conducted substantial empirical research and provided valuable insights in cases that have dealt with vehicular pollution, solid waste management and forest conservation.

If one examines the judicial approach in cases involving environment-related objections against the construction of infrastructural projects, there have of course been different approaches taken by different courts in the past. One can broadly conceptualize these judicial approaches under three categories. The first of these can be described as a 'pro-project' approach wherein judges tend to emphasize the

potential benefits of a particular project or commercial activity. The second approach can be described as that of 'judicial restraint' wherein judges defer to the determinations made by executive agencies and experts with regard to the environmental feasibility of a project. The third approach is that of rigorous 'judicial review' wherein judges tend to scrutinize the environmental impact of particular activities. It is in this form of judicial interventions that the services rendered by expert committees, amicus curie and public-spirited NGOs prove to be a valuable asset. The different judicial approaches that have been outlined above have of course evolved over the last three decades or so and it would be instructive to refer to some examples.

An example of 'judicial restraint' would be the Kerala High Court judgment in the *Silent Valley case* (1980) where the Court refused to second-thought on the State government's position relating to the environmental impact of a hydel-power project. The judgment mentions that the project was unanimously supported by the legislature of Kerala and it would be improper for the judiciary to interfere. However, this led to an agitation and subsequently there was a re-think on the viability of the project.

A relatively robust standard of 'judicial review' is discernible from the litigation related to the *Tehri Dam* (1992) {*Tehri Bandh Virodhi Sangharsh Samiti v. State of Uttar Pradesh*, (1992) Supp 1 SCR 44} and the *Dahanu Taluka Environment Protection Group v. Bombay Suburban Electricity Supply Company*, (1991) 2

SCC 539 both of which had reached the Supreme Court. Even though the eventual decisions were in favor of the project proponents, the Court did inquire into diligence of the government in ascertaining the environmental impact of the proposed projects. Even though it is argued in some quarters that the Courts lack the technical expertise needed to gauge the relevant reports and data, it must be said that the judges are well-equipped to assess whether the concerned agencies have taken all necessary steps to study and ascertain the potential environmental costs. An example of the Supreme Court adopting a rigorous standard of judicial review is in the *Calcutta Taj Hotel Case (1987) (AIR 1987 SC 1109)* where the Court inquired extensively into the government permission granted for the construction of a medium-rise hotel against objections that the building would interfere with the flight path of migratory birds.

In the ensuing years, there appears to be a growing consensus amongst the media and in academic circles that the general approach of the higher judiciary in environmental litigation can be described as 'activist' in nature. A prominent example of such activism in evaluating the environmental impact of commercial activities justified in the name of development is

the decision given in the *Dehradun Valley case (1985) (Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh and others, AIR 1985 SC 652)*. In that case, the court itself appointed a committee to look into the adverse effects of the illegal and indiscriminate mining activities being carried out in the Uttarakhand region. The

respondent government was also asked to show the national importance of the lime-stone procured from those quarries so as to determine whether the demand could be satisfied by mining in other areas. A similar approach was adopted in *Tarun Bharat Sangh, Alwar v. Union of India (1992) (AIR 1992 SC 514)* where the court adopted a firm stand against the owners of mines that were being operated inside the reserve forest areas. In both the cases mentioned above, the court appointed independent committees of experts to ascertain the environmental impact of the commercial activities that were being undertaken.

Coming to issues relating to pollution control, Bhopal Gas Leak tragedy was perhaps the most important trigger for the evolution of environmental jurisprudence in India. Noted academic UpendraBaxi has observed that the Bhopal Gas Leak involved two disasters, one being the huge loss of life and secondly the absence of a clear legal framework to bring relief to those affected by the same. It was in this setting that the Supreme Court evolved the doctrine of absolute liability. The concept of 'absolute liability' was articulated in the *Oleum Gas Leak Case*, reported as *M.C. Mehta v. Union of India, (1987) 1 SCC 395*

which marked a clear departure from the reliance on traditional tort law concepts such as 'public nuisance' and 'strict liability' (rule developed in *Rylands v. Fletcher*). It was ruled that the occupiers of premises where hazardous activities were undertaken, would be liable to third parties for damage caused as a result of

such activities, irrespective of any fault being shown on their part. The articulation of the 'absolute liability' doctrine was soon followed by the recognition of the 'polluter-pays principle' which had gained importance at international discussions.

This development proved to be a precursor for subsequent decisions which recognized principles such as 'sustainable development' and 'inter-generational equity'. In comparison to other jurisdictions, the relatively early absorption of these ideas has shaped the proactive stand of our judiciary with respect to environmental problems. The right to life and liberty under Article 21 was creatively interpreted to include a 'right to clean air and water' as well as the 'right to a clean environment'. Some of the most-cited cases from this phase are those which resulted in the re-location of hazardous industries from the National Capital Territory (NCT) and the closure of foundries in the proximity of the Taj Mahal in Agra.

However, the judicial approach needs to be a little more nuanced when it comes to developmental projects that may lead to displacement of tribal communities from their traditional lands. While the media has focused on the controversial Sardar Sarovar Dam Project, it must be remembered that the judiciary has consistently invoked the 'precautionary principle' in respect of developmental activities that may harm the environment and the local communities. While policy-making in this regard has also evolved with the requirement of Environmental Impact Assessment (EIA) before the commencement of construction activities,

judicial oversight is still needed to ensure that the same is conducted in a transparent and consultative manner. It has been clearly laid down that the onus is on the developers to take preventive steps for minimizing the environmental damage that may result from the construction of projects and buildings. The impact on the local communities can only be accurately assessed if their concerns are effectively heard through methods such as 'Public hearings'. However, several independent studies have demonstrated the lack of transparency and inclusiveness in such hearings. In some cases, the 'Public hearings' are not adequately notified and even held in remote locations, where the concerned stakeholders do not get a say. This picture is further complicated when business interests lobby with local officials to ensure that genuine concerns are not voiced. In such situations, the courts are again called on to protect the interests of the local communities who are displaced or adversely affected by developmental projects. In the past, judicial directions for the payment of compensation and rehabilitation have often been the right antidote for governmental apathy.

There have also been some theoretical criticisms of the growing environmental jurisprudence in our country. Many commentators have argued that frequent judicial interventions in this area have reduced the incentive for executive agencies to improve their functioning. It has also been urged that there seems to be a certain clique of individuals who have come to specialize in

filing frivolous PILs. It is further alleged that the decisions given in these cases depend too much on the personal sensibilities of the judges who hear them and hence result in a lack of consistency in the long-run. Furthermore, the frequent reliance on writ jurisdiction reduces the importance of ordinary remedies such as those of filing 'representative suits' (under the Code of Civil Procedure) and claiming damages for torts such as 'public nuisance'.

It must be realized that the traditional notion of legal rights in the common-law tradition was mostly oriented around the idea of private property. This is so because individuals are especially vigilant about protecting their property rights and litigation is an effective means of securing them. However, this rationale cannot be applied in the context of environmental protection – since the 'right to a clean environment' is a public good. Since individuals are less inclined to mobilize themselves to protect such public goods, the onus is placed on the government and the legal system to do the same. This philosophy of 'public trust' finds place in our constitutional commitments and our judiciary is committed to upholding the same. This is precisely why judges are frequently called on to weigh individual interests on the scales of social justice. The conservation of forests and wildlife, as well as the reduction of pollution-levels are vital components of such considerations of social justice. It is on account of these considerations that the higher judiciary must continue to play a vigorous role in the domain of environmental protection.

Conclusion; The judiciary has immensely contributed for the cause of Conservation of Environment and its main components, namely Forests and wildlife by rigidly enforcing on the concerned authorities to implement the provisions made in Constitution of India and other related enactments and also paved way for the legislative bodies to make suitable changes in the enactments and enforcing the enactments through the Executive machinery. However, the executive action should be avoided by judiciary as far as practicable.

Every Judge has an opportunity to enforce environmental laws. The subordinate Courts have sufficient power and jurisdiction, which should be used with comprehensive knowledge of law, relating to environmental matter and the motivation to use the jurisdiction for public good. A trial Judge can better appreciate the local environmental matters and can ascertain the environmental damage, effectively through local commissions. Witnesses can be examined and questions of fact can be determined and adjudicated at local levels. There is no dearth of legislation and the case law, relating to environmental issues. Public interest litigation by individual enthusiasts and the NGOs has helped in protection of the environment. However, this effort is not sufficient to check the deteriorating environmental conditions. Awakening the public towards their right to live in a pollution-free environment is more essential. Public awareness alone can achieve desired results.

Editor's Note : The author is a Retd. Conservator of Forest and a Doctor in Law.

WORDLY VALUES OF LIFE

By
Nagabhushanam Dasari

Stitch the torn cloth with needle efficiently by inserting thread of unity
Sharpen the sickle in the burning furnace with beatings of hammer
Bear piece of peace and burry the angry effectively to avoid agony
Search for solutions in the green serene atmosphere for all problems

Small lenience in life collapses the beautiful Mansion of dreams
Protected small sapling results helping huge tree of future
Even small spark of fire with wind entire thing turn to ashes
Tiny mistake leaves bigger scar on the face of magnanimity

Taking care of parents just like kids in their old age is our responsibility
Sharing the sorrows and needs of poor persons shows ones maturity
Continue the fight till the end where the chances of change the result
Fragrance of friendship flourishes only in the extremity status of personality

Glitter of honesty no way bends head in the clutches of bribery
Scorching sun only reveals the pleasant shade of grown tree
Beautiful white Lilly blossoms fully in the muddy pond water
Deliver of light only after breaking the egg shell of darkness

Occimum plant grown in the midst of weeds may not lose its smell and identity
Kind hearted personality wont change his character even in heaps of prosperity
The smile of little child erases all pains and sorrows in the turmoil of adversity
Sincere efforts get through the hurdles and hard ships on the way of victory

***No matter how badly someone treats you, never
drop down to their level. Remain calm, stay
strong and walk away***

A FRAMEWORK FOR REFORMING INDIA'S FOREST BIODIVERSITY MANAGEMENT REGIME

By

S. Faizi and M. Ravichandran

Introduction; India has a fairly robust forest biodiversity management system, with extensive institutional arrangements and vast legal instruments; however, there has been a decline in biodiversity on one hand, and an increase in impoverishment of biodiversity-dependent people on the other hand. India's biodiversity includes 96,373 known species of fauna and 56,515 known species of flora (including fungi and lichens), and comprises about 8% of the world's biodiversity, but demonstrates a declining trend in numbers, with a significant proportion of species becoming threatened (MoEF, CC, 2014). Corresponding to biodiversity degradation is the deepening impoverishment of forest-dependent local communities, particularly the Adivasis (Planning Commission of India, 2008), thus alienating natural partners in conservation.

This twin crisis can be addressed only through reform of the country's forest biodiversity management regime, based on the triple objectives of the Convention on Biological Diversity (CBD), namely, conservation, sustainable use and benefit sharing, and drawing from the ecosystem approach as defined by Decision V/6 of the fifth meeting of the CBD's Conference of Parties, held in 2000, as "a strategy for the integrated management of land, water and living resources that promotes conservation

and sustainable use in an equitable way. Thus, the application of the ecosystem approach will help in reaching a balance of the three objectives of the Convention: conservation, sustainable use, and the fair and equitable sharing of the benefits arising from the utilization of genetic resources". The reform should be founded on the Indian constitutional provisions of Article 39.b, which direct that the ownership and control of natural resources should be distributed in such a way that it serves the public good, and 48.A, which emphasizes the state's responsibility to safeguard forests and wildlife.

The recommendations of the High Power Committee (HPC) (also known as the Subramanian Committee), constituted by the Government of India with the objective "to provide more freedom to private sector to function" (HPC, 2014), can only exacerbate the current twin crisis of biodiversity degradation and deepening poverty within the forest-dependent communities, as pointed out by critiques of the HPC report (e.g., Saldanha and Rao, 2015). The report ought to be rejected as recommended by the Parliamentary Standing Committee on Science & Technology, Environment & Forests (2015). At the same time, there is a compelling need to reform the forest biodiversity management regime to effectively

address the twin crisis of biodiversity degradation and deepening poverty of the forest-dependent communities. Therefore, we propose a framework for the reforms to be undertaken, in an effort to arrest and reverse the twin crisis, based on the CBD's principles and constitutional directives.

India's modern biodiversity management is evolving, albeit hesitantly, from its conventional protectionist and exclusionary domain to encompass the triple objectives of the CBD with equal importance to all, a process catalyzed by the Forest Rights Act (FRA). While forest departments continue to maintain their central roles in biodiversity management, the Panchayat Raj institutions have come to play a rapidly growing role, supported by enabling legislation. There is a gradual departure from the colonial legacy, expanding the scope of building partnerships with local communities through village-level institutions, such as the Joint Forest Management Committees and statutory bodies, which include the Forest Rights Committee under the FRA and the Biodiversity Management Committees under the Biological Diversity Act. However, the inherent resistance within the forest departments to share power with the communities remains a challenge to the effective enforcement of these provisions. Multiple legislations pertaining to forests and biodiversity also retain the colonial legacy of exclusionary conservation. Constraints in the legislation and resistance within forest management institutions are factors impeding

the tentative evolutionary process of devolving forest management powers to the people. Therefore, the reform of the forest management regime is necessary and urgent. This paper examines the current policy, legal and institutional matrix, and proposes ways to implement reform in line with the founding principles of CBD.

2. Reforming the policy realm

2.1. National forest policy; since its inception in 1988, the revised National Forest Policy has guided forest management in the country. The principles of local community participation and benefit sharing embodied in the policy have also provided the stimulus for the launch of the Joint Forest Management (JFM) programme. However, rapid developments that have occurred in the forestry sector since 1988 require a subsequent revision of the policy, particularly since forest managers at various levels give more weight to the prescriptions contained in the policy than to any other related policy instrument.

While the policy has stimulated the launch of JFM, it did not envisage JFM as it is. Additionally, changes in the legal ambience of forest management caused by the FRA 2006 should be reflected in the policy. This will also provide an opportunity for the policy to be informed by the CBD, its program of work on forests and the overarching principle of the ecosystem approach. However, in the new Draft Forest Policy of 2016 (IIFM, 2016), the government invited public comments, but then withdrew

the same policy with the same haste as it was drafted. This represents what a forward looking, inclusive and CBD-compliant forest policy should not be.

2.2. Joint forest management guidelines; Joint forest management (JFM) is practiced in the country according to a circular letter issued by the Ministry of Environment and Forests (MoEF, recently renamed Ministry of Environment, Forests and Climate Change or MoEF& CC) in 1990, which was subsequently revised in 2000 and 2002. Since then, the JFM programme has grown to include over a quarter of the forest area across the country. While the country is set to further expand coverage of JFM, it is imperative to revise this guiding instrument in order to incorporate the changes in forest governance that have occurred in tandem with the JFM stream. The MoEF had recommended to state governments – through the MoEF’s minister’s letter to the chief ministers, dated 29 October 2010 – to bring JFM under the supervision of the Gram Sabha (village assembly), and the JFMC to be recognized as an organ of the Gram Sabha under the relevant law concerning Panchayat Raj (local self-government) institutions. These recommendations are critical to effectively taking forward JFM, but they also need to be reflected in the national-level guidelines on JFM, in order to have an operational meaning. The revision will have an important bearing on the future trajectory of JFM.

2.3. National Biodiversity Action Plan; The National Biodiversity Action Plan (NBAP) of 2008

provides an excellent profile of the country’s biodiversity, but the actions delineated are insufficient in addressing the multiple problems facing biodiversity management, such as the increasing loss of species, depletion of dense forest and gearing up the institutional system to face new challenges, especially since it does not provide the required implementation pathways. The Addendum to the NBAP was developed in 2014 in lieu of a second generation NBAP, basically as a requirement to be submitted to the CBD, and perpetuates this deficiency. A new generation of NBAP that provides a blueprint for the mainstreaming of biodiversity in multiple sectors, which takes greater advantage of the potential of the statutorily empowered locallevel institutions, should be developed, with an emphasis on feasible actions. Various levels of the new NBAP should more evenly address the triple objectives of the CBD, and incorporate the ecosystem approach. The new strategy-making should adequately focus on the implementation mechanism and set measurable targets, and also should incorporate the biodiversity-poverty reduction linkage as a cross-cutting concern.

Biodiversity management cannot be limited to legally protected areas, but should cover the contiguous landscapes as well, in order for management efforts to be successful. The landscape-wide management of resources enables the effective application of the ecosystem approach and the influence of land-

use patterns beyond the formally protected areas. This also provides an opportunity for the often fragmented management agencies to work together towards a common goal in a given landscape and seek synergies, as will be discussed later.

3. Converging the multiple laws; The multiplicity of biodiversity-related laws in India creates a complex management situation, not least due to inconsistencies and conflicting provisions across different laws. The Indian Forest Act is a legacy of the colonial regime, while the Wildlife (Protection) Act (WLPA) has in it provisions that impede the emerging paradigm of devolution and community participation in biodiversity management. The Biological Diversity Act has the limited operational mandate of regulating access to biodiversity, failing to translate the triple objectives of the CBD and the principles of the ecosystem approach into domestic law. As an example of how the conventional conservation laws constrain the concerns of the community, we provide an analysis of such provisions in the WLPA in Table 1. The FRA has marked a paradigm shift from the exclusionary notion of conservation to recognizing community rights over forests, and empowering local communities to protect and manage forest biodiversity.

It would be appropriate to create a single national legislation that covers multiple issues related to biodiversity management and community rights. Such a reform of the legal regime is also necessary to harmonize the

national legislation with the CBD. A statutory convergence of the current forest departments, tribal welfare departments and Panchayat Raj institutions is also essential in creating a biodiversity governance system that would address both conservation and livelihood concerns, and convert communities to partners in conservation rather than render them victims. Policy reform followed by regal reform will ease biodiversity management, reconciling conservation needs and community interests, and create new institutional arrangements at various levels. The reform of the protected areas management system to make it participatory has been outlined by Faizi (2006). Forest reform should be entirely based on the objectives of conservation, sustainable use, and equitable benefit sharing and the ecosystem approach, grounded in the constitutional directions mentioned at the outset, grossly rejecting notions of reform in order to ease corporate access to forests, as the HPC has pursued.

4. Putting community reserves to work; Incorporated in the WLPA in 2003, the community reserve is a statutory mechanism to accord the authority for the sustainable management of biodiversity in the local community. The management responsibility is vested with a local committee nominated by the Village Panchayat (village council), and the reserve has a provision for sustainable resource use, based on an agreed management plan, marking a departure from the exclusionary sanctuaries and national parks. However, only

four such reserves out of a total 668 protected areas have been established in the country so far. The near absence of progress in the implementation of this provision is partly due to an inherent anxiety within a forest management system that is not accustomed to the concept of people managing biodiversity.

The law is also often interpreted by state forest departments in a manner that does not favor community reserves. Section 36.C of the WLPA states that community reserves can be declared in community lands or private lands where the community or individual has volunteered to do so, but outside existing protected areas. In the absence of legislation defining 'community land', it is understood that public lands traditionally used by communities, irrespective of tenurial status, are regarded as community lands, and this would include community forest lands as well.

Table 1. WLPA provisions inconsistent with the CBD and ecosystem approach

No	Section/description	Impact on the Adivasis and other traditional communities
1	18B and 19 / district collector to determine the rights claimed by people affected by the proposed sanctuary or national park, but no criteria provided to determine and settle claims	The collector's decision can be arbitrary, and traditional forest dwellers can lose their rights. They often do not have a modern proof of rights
2	34A / gives powers to the government to evict encroachers	Most forest dwellers are affected by this as their rights were not recognized in the first place, and thus could be categorized as encroachers
3	35.3 and 4B / extinguishes all rights in National Parks (NPs)	No rights are permitted in NPs; the continuation of rights legally permitted in a sanctuary (24.c) is undone, as is grazing permitted under section 33
4	18A.1 / the declaration of intention by the state government to recognize an area as a sanctuary (Section 18.1) is enough for the restrictive measures to take effect, rather than the final notification (Section 26A) after the settlement of claims.	Even though claims are not settled in more than half of the sanctuaries, in order for the final notification to be issued, restrictive measures were applied in violation of the WLPA before the 2003 amendment, and the new amendment has legalised this violation of natural justice

The categorical exceptions are areas designated as national parks and sanctuaries. Obviously, community forest lands where there is historical resource use by local communities could be considered as candidate sites, but this possibility is often excluded by many state forest departments.

Issues with interpretation that impede the implementation of this provision of the WLPA should be resolved in line with the spirit with which this progressive provision was introduced into law. It is also important to note that in the case of the first such reserve established in the country, or the Kadalundi-Vallikkunnu Community Reserve (Malappuram and Kozhikkode districts of Kerala), the tenure of the area rests with public agencies. It would be useful to issue formal clarifications on the establishment of community reserves, so that more protected areas can be designated in this category in the future, effectively capturing the triple objectives of the CBD and its ecosystem approach, and without assuming the role of national guidelines. National guidelines cannot address the diverse socioeconomic contexts that exist in potential community reserve sites across the country.

5. Community managed areas (CMAs); The thousands of natural sites that are managed based on social sanctions and customary rules by local communities are important repositories of biodiversity. These sites have differing management systems since they have differing ontogenies, but the underlying principles are conservation and sustainable use. The sites vary from village ponds to forest catchment areas or vestiges of previously dense forests. These sites

reflect the historical practice of sustainable resource use, and vary considerably according to the size of the area. Many community-managed areas also have complex social dynamics, in which the communities often have to face different types of pressure, increasingly commercial (Pathak, 2009), to undo the conservation system. The official machinery has often been less than supportive to such community initiatives, though it is slowly becoming cooperative.

Such sites are recognized by the CBD's Programme of Work on Protected Areas, and by the World Parks Congress. Since the socio-economic ground on which these self-governed sites stand is changing and the pressures of competing land-use options are likely to increase, efforts to promote the sustainability of such sites should be made. However, such promotion should be done without altering the autonomous nature of these biodiversity management enterprises. Greater political recognition of such sites, comprehensive documentation and the removal of impediments to management, including the sustainable harvesting of resources, are among the initiatives that both the government and civil society can undertake to support community-managed areas. Certain sites, depending on local interest, may be developed as community reserves under the WLPA and some sites may legalize their autonomy by invoking the Forest Rights Rules (2008) (Section 4.3), and drawing the powers for biodiversity management as provided in Section 5 of the FRA. As part of conservation or rural development programs, the government

should provide financial incentives for the sustainable management of the sites.

6. Displacements and the conservation project;

India has about 200 million people who live in the forests or on the peripheries, dependent on the forests for their very subsistence. About half of this population is comprised of the *Adivasis* (Forest Survey of India (FSI), 2009). The conservation project – and the designation of reserve forests and protected areas in particular – has caused the displacement of a large number of people. Along with the displacement caused by mining and other development projects, this has precipitated a challenging forest crisis. There is no national-level data on the number of people living in the protected areas. By extrapolating figures available for 28 tiger reserves across the country, as provided in Tiger Task Force (2005), we estimate that there are 1.62 million people living in the country's protected areas, with a 10% decadal growth in population over this figure. Rangarajan and Shahabuddin (2006) have estimated that up to 120,000 people have been displaced by the establishment of protected areas. As shown in a long term study of the Kuno Sanctuary in Madhya Pradesh (Kabra, 2009), relocation programmes, when undertaken, often tend to fail, and this happens mainly due to inadequate investment as compensation, failure to address the livelihood needs of the people and a disregard for their cultural affiliation to the forests. Information about the number of people displaced due to reserved forest classification is not readily known, but a good part of the total estimate of 2.6 million *Adivasis* displaced from their forest homes includes reserved forest-

related displacements.

The Wildlife (Protection) Act (WLPA), 1972, under sections 21 to 25, does provide for the settlement of claims before the final classification of sanctuaries and national parks. However, as observed by the Supreme Court, this is far from being followed. The Supreme Court, in an order in 1997, directed the state governments and union territories to "issue proclamation under Section 21 in respect of the sanctuaries/national parks within two months and complete the process of determination of rights and acquisition of land or rights as contemplated by the Act within a period of one year" (Supreme Court order dated 22.8.1997 in Centre for Environmental Law vs. Union of India and others). The Supreme Court emphasized this again in 2006 when the petitioner pointed out that the process has not been completed in 14 out of 85 national parks and 170 out of 494 wildlife sanctuaries, as per the affidavits placed by the state governments before the court (ELDF, WWF India, 2009).

The avoidable crisis of the displacement of the forestdependent poor can be effectively addressed within existing laws and policies, albeit with a shift in the approach in implementation, or by regarding the protected areas system as an inclusive conservation enterprise, in which the people who have been the traditional custodians of the forests and wildlife should be recognized as partners in conservation and their livelihood concerns respected, as envisaged in the CBD Programme of Work on Protected Areas. The FRA, which vests the forest communities with the right to protect the forests, strengthens this approach and

provides the legal tools to operationalize the same, as well as sets categorical terms for the resettlement of people, whether for conservation or development purposes. This shift in approach within the conservation sector has already begun. In developing compensation packages for the resettlement of forest-dependent people, it is important to be cognizant of the recent estimates of the economic value of biodiversity and ecosystem services (e.g., Costanza et al., 1999), rather than modeling on the conventional nominal packages that actually impose heavy costs on the affected people.

7. Enforcing the scheduled tribes and other traditional forest dwellers (Recognition of Forest Rights) Act, 2006 (Forest Rights Act, or FRA); The FRA (2006) best translates the key CBD provisions and its ecosystem approach into domestic legislation, and is as much about managing forest biodiversity at the local level as about undoing the 'historical injustice' committed to the indigenous people. The law seeks to "strengthen the conservation regime of the forests while ensuring the livelihood and food security" of these communities. It provides for the sustainable harvesting of forest produce by local communities, in addition to the recognition of historical rights over forests, extinguished by the British colonial regime through the Indian Forest Act (1927), a legacy carried on by the post-independence government. Equally important is that in Section V of the act, it empowers the local communities to protect and manage forest biodiversity and associated ecosystems. This groundbreaking legislation devolves the power for biodiversity management to the local

communities, and the rules issued under the act provide for the creation of the necessary local level institutions for forest management, as well as require the government to provide capacity-building support to such institutions. This enabling statutory provision of capacitybuilding remedies the legal institutional ambiguities and lacunae in community-based forest management to the satisfaction of resource protection and sustainable use.

There is, however, bureaucratic apathy and political indifference with regard to the enforcement of the act. The forest departments in many states seek to impede its implementation, although tribal departments are the designated nodal agencies for its implementation. An illustrative example is the case in which the central minister of environment and forest, accompanied by the chief minister of Maharashtra, had to go himself to MendhaLekha village in Maharashtra, where the community has traditionally protected forests, to affirm their right to minor forest produce under the FRA, in response to hurdles created by the state forest department (<http://www.thehindu.com/news/national/article1818936.ece>). Parliament had anticipated bureaucratic subversion of the act, and that was why a provision to prosecute such officials for impeding the enforcement of the act is incorporated under Section VII.

This law can be used to effectively address the twin crisis of poverty and biodiversity degradation in the forest areas. It is imperative to harness the law's strength to turn the local communities into effective resource managers

and to build partnerships with them in the conservation enterprise. The government agencies working in the forest landscapes, especially the forest departments, tribal departments and the Panchayati Raj institutions should shed their fragmented approaches and develop meaningful coordination among themselves, providing much needed capacity-building support to the Gram Sabhas, in order to enable them to effectively discharge the statutory forest management responsibilities vested with them. That is particularly important considering the fact that up to 71.7% of the country's dense forest cover is found in the 188 tribal districts (FSI, 2011). The recommendation of the HPC to weaken the enforcement of the FRA ought to be firmly resisted.

8. Human-wildlife conflicts (HWC); Human-wildlife conflicts (HWC) remain a perpetual problem in a large part of the wildlife habitats, and are emblematic of the struggle for survival within the local communities. It is imperative to seek meaningful solutions to this seemingly intractable problem. The attacks on humans that sometimes lead to death, crop raiding and the killing of livestock are on the increase, and pose a threat to biodiversity, human life and goods. Elephants, tigers, sloth bears, leopards, wild boars, blue bulls, etc. are the species that run into conflict with the human populations in the adjoining villages. Human-wildlife conflicts (HWC) often arise as a result of a reduction in size, degradation and fragmentation of the habitats. Animals also move to villages for easily available food, and sometimes for more palatable food. Reduction in prey base also prompts predatory animals to foray into the villages, as does the search for water when water sources in their natural habitats dry out. Table 2 provides an overview of the HWC issue in India.

Table 2. Human-wildlife conflicts in India

Species involved	Nature of conflict	Main areas of occurrence
<i>Panthera pardus</i> (Leopard)	Cattle depredation/Attacks on humans	All over its range
<i>Panthera tigris</i> (Tiger)	Cattle depredation/Attacks on humans	All over its range
<i>Panthera leo</i> (Lion)	Cattle depredation/Attacks on humans	Gir forest of Gujarat
<i>Canis lepus</i> (Wolf)	Cattle depredation/Child-lifting	All over the country, child-lifting happens mainly in Uttar Pradesh
<i>Elephas maximus</i> (Elephant)	Crop raiding/Attacks on humans	Southern Ghats, Western Ghats, parts of Eastern Ghats, Northeast region
<i>Melurus ursinus</i> (Sloth bear)	Attacks on humans	All over its range, particularly in central India
<i>Sus scrofa</i> (Wild boar), antelopes	Crop raiding	All over their ranges

It is estimated that on average 400 people are killed annually by elephants, and that 100 elephants are killed in retaliation by people (MoEF, 2010). Annually, elephants also damage 0.8–1 million hectares of crops, affecting over 50,000 families (Bist, 2002). In a three-year study in two elephant range districts of Assam, Davies et al. (2011) found 1,761 cases of elephant-human conflicts that damaged crops in a 359 ha area. According to the Madhya Pradesh Forest Department, 166 human deaths and 3,131 injuries from wildlife attacks occurred in the state during the five-year period of 1998–2003. Fourteen thousand and ninety heads of cattle were also reported to be killed by carnivorous predators during this period.

According to information obtained from the Tamil Nadu Forest Department, 259 human casualties occurred in the state during the period of 2002–2003 to March 2010, 139 of which were caused by elephants. The Odisha Forest Department reported 3,425 cases of animal depredations during the period of 1994–1995 to 2003–2004 (Orissa Forest Department, 2004). There were 400 cases during 2008–2009. According to information from the forest department, there were 51 cases of deaths and 752 cases of human injuries caused by wildlife attacks during the period of 2000–2005 in Gujarat, and mainly involved leopards and sloth bears. Blue bulls and blackbucks cause extensive damage to the crops here. In the Bhadra Tiger Reserve of Karnataka, 219 livestock heads were

lost to predators, and crop damage to the order of Rs 5,100 per household, or the equivalent of 30% of the average annual income of a household, occurred over the course of a year in five sample villages studied in the early 2000s (Madhusudan, 2003). The official reports of damage and death caused by wildlife are often inaccurate. The wildlife attacks, apart from their human and social costs, also turn affected communities against the wildlife species in question, as well as the wildlife authorities.

The HWC is a global problem, though it varies in scale and intensity across regions. The 5th World Parks Congress has recommended the establishment of a multistakeholder global platform to address HWC issues, and called for international cooperation in developing measures to address HWC in conflict areas. It also called on international donor agencies to provide funding for HWC prevention and mitigation programmes. India has been making efforts to develop HWC prevention and mitigation measures to address this seemingly intractable problem, in which the victims are the rural poor and the wildlife itself. Habitat improvement of wildlife areas and the prevention of habitat fragmentation provide a long-term solution to the problem in relation to most species.

Apart from addressing the basic issues arising from habitat fragmentation, village-level mechanisms led by Panchayat institutions should be set up and supported for addressing

this vexing issue. This mechanism can include representatives of different government agencies at the local-level, in particular the forest department and peoples' representatives. Resources and training should be provided to the people involved in this mechanism. On the other hand, species like the wild boar, the bluebull, and the rhesus macaque, which are pervasive sources of conflict, may be shifted to Schedule V (vermin) of the WLPA for states in which the conflicts caused by these species are acute and subsequent conditional culling exercises undertaken, as was done recently by the Uttarakhand, Himachal Pradesh and Bihar states.

9. Capacity development; The staff of the state forest departments, totaling about 115,000, is the most important governmental force in the country in managing biodiversity. However, they lack adequate training in handling social issues - as well as wildlife management. The conventional policing approach will not be successful, and as the forest staff is increasingly getting involved in community activities such as JFM and ecodevelopment, they need to be given adequate training in community development issues and extension work. Many local conflicts could be readily resolved if the forest staff were better trained to handle such issues. Although wildlife management is a specialized area, the forest staff training curriculum does not place enough emphasis on this. Inadequate staff training was also identified

as a key management issue in an evaluation of the tiger reserves of the country in 2006 (Project Tiger Directorate, 2006). In fact, when there is greater devolution of biodiversity management to local community institutions, the size of forest staff can be progressively reduced.

Neither the state forest staff nor the members of the elite Indian Forest Service are provided with training in social issues, which hampers them in viewing conservation issues in the larger perspective. This weakness is also reflected in the formulation of the Divisional Working Plans and Protected Area Management Plans. It is imperative to revise the training curricula for the state forest staff, as well as the members of the Indian Forest Service, to incorporate wildlife management, social issues and community development. The standard formats for preparing these plans also need to be revised in order to address community concerns.

The Biological Diversity Act (BDA) has created a number of statutory institutions, such as the state biodiversity boards and village-level biodiversity management committees, apart from the National Biodiversity Authority. In addition, there are dedicated funds to be established and managed at the national, state and village levels. Most of the state biodiversity boards have limited capacities in addressing the mandate with which they are vested. Massive capacity-building exercises at the

Panchayat level would be required in order to produce the Peoples' Biodiversity Register for all villages, and as envisaged in the act.

10.Strengthening the access and benefit sharing (ABS) regime;

India values the CBD provisions for access and benefit sharing; namely, prior informed consent, mutually agreed terms and equitable benefit sharing, and enacted the BDA to domestically operationalize these legally binding articles of the convention. The Nagoya Protocol on ABS, based on the CBD provisions on ABS, came into force in October 2014 as a legally binding international instrument. With the CBD in force in 1993 at the global level and the BDA in force in 2003 at the national level, the tide of biopiracy was expected to be reversed. However, there has been no let-up in biopiracy. The MoEF has pointed out that over 2,000 patents based on Indian biodiversity and traditional knowledge were taken out in Western patent offices every year.¹

There are practical difficulties and resource limitations to oppose every such illegal patent in Western patent offices. The issue can be effectively addressed in a three pronged way. Patents taken out abroad without following the binding ABS provisions of the CBD constitute infractions of the convention, and hence cases of such infractions could be addressed by the Indian government in the civil courts of the concerned countries that are contracting parties to CBD, invoking CBD provisions on access and benefit sharing. The patent laws and hence the patent

offices do not recognize ABS provisions of the CBD or the national sovereign rights recognized in the convention, but the civil court of a party (country) must. This approach has not yet been pursued by India. Second, the country needs to build the capacity of the institutions created by the BDA especially that of the National Biodiversity Authority and state biodiversity boards, to track and create an inventory of cases of infractions of the CBD and the BDA, and to pursue legal measures. Third, the cases of infractions of the CBD should be brought to the attention of the Conference of Parties (CoP), since the CoP is mandated to review the progress of the implementation of the convention (Faizi, 2012). The CoP may also be encouraged to address the non-compliance of Article 15.7 of the convention, which commits parties to take legislative, administrative or policy measures to enforce ABS provisions of the convention.

The capacity of local-level institutions like the Panchayats, biodiversity management committees, local-level institutions created under the FRA, etc. should be strengthened in order to be able to negotiate ABS agreements with entities seeking access to local biodiversity and traditional knowledge. It is pertinent to note that the community-level institutions established under the FRA have far more statutory powers than the biodiversity management committees, which only need to be 'consulted' by the National Biodiversity

Authority in matters of access to biodiversity, and therefore FRA institutions are to be especially strengthened. Legal assistance should also be provided to these institutions when dealing with corporate bodies. Case studies of appropriate ABS ventures should be widely disseminated, in addition to building large-scale public awareness on the issue of partnership with civil society. Since biodiversity and traditional knowledge are shared with countries of the region, India may also seek to promote regional cooperation initiatives in South Asia, as called for by the Nagoya Protocol.

11. Economic valuation of biodiversity; Efforts are being made to estimate the economic value of biodiversity, and to reflect these values in the national accounting system following the estimation of the value of the earth's biodiversity and ecosystem services (Costanza et al., 1999). The inherent methodological constraints in estimating the monetary value of biodiversity are progressively being overcome, especially with the convergence of the corresponding multiple disciplines. While tangible benefits such as harvested resources or even genetic resources could be readily accorded financial values, methodologies for valuing the ecosystem functions are still being developed. The Central Statistical Organization (CSO) of India has been producing the Compendium of Environmental Statistics since 1997. The CSO also established a Technical Working Group on Natural Resource Accounting in 1999, with the aim of streamlining

methodologies for fiscal accounting of natural resources and their monetary evaluation and integration into national economic accounting. Advances over the early methodology outlined by Pearce and Moran (1994) are being made. Accounting for the declining natural capital can strengthen the political will to achieve environmental sustainability.

While the commercialization of ecosystem services can indeed harm the resource base and the dependent communities in the long term, the economic valuation of biodiversity and ecosystem functions provides insights into the scale of contribution of natural capital to the rural economy and helps, for example, to design compensatory measures for forest-dependent communities in proportion to the value of the ecological resource base that they are often asked to forego for the sake of long-term conservation, discarding the current approach of nominal compensation. Sound incorporation of natural resource depreciation into national accounting exercises and corporate operations and internalization of environmental costs is one important way to achieve the mainstreaming of biodiversity. However, caution must be applied so that the economic valuation of biodiversity does not lead to the commercialization of biodiversity, which will deeply sharpen the twin crisis of poverty and biodiversity loss.

12. Towards a landscape approach; Protected areas constitute 4.9% of the geographical area

of the country, and together with reserve forests and protected forests means that close to a quarter of the area of the country is legally protected for bio-resource management. However, the contiguous areas, mostly comprised of production areas and human settlements, while ecologically related, are outside the reach of biodiversity management interventions. Further, there are multiple agencies involved in regulating or promoting land use in these areas, but hardly any coordination among them. Moreover, the landuse options are often competing and at times could be at odds with biodiversity management goals. Conventional biodiversity management objectives are often limited to the protected areas, although the reserve forests and protected forests are also protected by law. The landscape approach will, irrespective of the ecosystem type where it is applied, pursue an integrated and comprehensive method of management covering the entire matrix of land-use forms, including protected areas, in a given landscape.

The landscape approach will address conservation, sustainable use and production as well as other land-use needs, involve the local populace in planning and management exercises, and be governed by the existing laws, albeit with the necessary institutional reform. Protected areas will be a pivotal component here, and the management of the rest of the land-use mosaic will be re-oriented to be

integrity of ecological processes by incorporating these objectives in the larger development agenda of the area through management strategies and plans. This would provide the muchneeded biodiversity corridors and buffer zones and protect ecological processes that operate on a larger space, without entailing extra costs to local communities. The landscape approach would in fact be a re-invention of the old practice of sustainable natural resource use that was in vogue long before the arrival of the Western-inspired protected area system that regarded these sites as isolated islands of conservation.

The landscape approach entails the progressive unmaking of the sectoral approach to biodiversity management, and forges coordination among agencies dealing with a wide range of issues in the landscape, including forests and wildlife, tribal affairs, agriculture, rural development, etc. The re-alignment of the institutional mechanism remains a huge challenge given the inherent immutability that is characteristic of institutions of any kind; however, once achieved, the complementarity between conservation and development objectives can be secured, and synergies can be harnessed to scale up the entire landscape management programme. The integrated and comprehensive landscape approach enhances the operationalization of the triple objectives of the CBD, with equal importance given to each the three elements.

The landscape is essentially a social construct that has ecological, cultural and socio-economic attributes, and is in large part a creation of nature-people interactions over a long period of time. The size of the landscape selected for management can be determined based on the local ecological and socio-economic features. The current legislative and policy objectives could be better achieved by employing the landscape approach, with the devolved local self-government institutions playing a pivotal role. India's vast experience in five-year planning, which cuts across sectors and institutions at both the national and state levels, though currently given up at the national level, provides a sound basis for introducing and expanding landscape-level planning and management. The complex experience gained from exercises such as district-level planning, watershed management, forestry working plans, protected area management plans, etc. would provide valuable lessons in launching the landscape approach in the country. This paradigm could provide a new impetus for successfully managing the country's remarkable biodiversity and ecosystem resilience, and promoting the livelihood security of the biodiversity-dependent communities.

13.Conclusion; India's forest biodiversity management regime ought to be reformed in order to be able to effectively address the twin crisis of biodiversity degradation and deepening poverty among the forest-dependent

communities. In addition to law and policy reform, the institutional systems and the implementation praxis should also be reformed so that the historical bias of the forest departments against the Adivasis and other local communities can be removed, and they can then work as equal partners in a win-win conservation pursuit. The HPC report should be rejected, as its assumptions and objective are deeply flawed, in that they base their reforms on the triple objectives of the CBD and the fundamental principles of the constitution.

Acknowledgements The authors are grateful to the large number of forest department officials in different states for participating in interviews and providing documents. The *Adivasis* and other local communities in various parts of the country gave us insights into the complex forest biodiversity management issues and provided warm hospitality for which we are grateful. We also thank the anonymous reviewers for their helpful comments. S. Faizi is an ecologist specializing in biodiversity management. R2 Saundarya Apartments, Nandavanam, Trivandrum, India. E-mail: s.faizi111@gmail.com M. Ravichandran is at the Department of Environmental Management, Bharathidasan University, Thiruchirappalli, India. E-mail: muruguravi@yahoo.co.in

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Birth Day Greetings

We wish the following born on the dates mentioned
“ A very Happy Birth Day ”

S.No.	Name of the member	D.O.B.			
	Sarva Sri		11.	I.Prakash	09-01-1977
			12.	P.Ashok Rao	10-01-1961
1.	D.V.Rao	09-01-1931	13.	C. Vajra Reddy	10-01-1967
2.	Y. Narasimha Rao	03-02-1962	14.	V.Srihari Gopal	14-01-1966
3.	R.D.Reddy	14-01-1938	15.	R.Kondal Rao	15-01-1970
4.	K.Mohan Reddy	16-01-1934	16.	Ms.D.Samhita	21-01-1988
5.	P.Bhaskar Reddy	01-01-1953	17.	K.Mahaboob Basha	25-01-1986
6.	H.K.Desai	23-01-1936	18.	M.Nagarjuna Reddy	30-01-1965
7.	V.P.Adinarayana	23-01-1940	19.	B.Venkateswara Rao	31-01-1968
8.	P.Gracious	24-01-1949	20.	Y. Narasimha Rao	03-02-1962
9.	Dr.C.N.Rao	26-01-1938	21.	K.Mohan Rao	04-02-1963
10.	T.Narayana Swamy	30-01-1933	22.	S.Narender Reddy	05-02-1960
11.	P.Upender Reddy	05-02-1942			

S.No.	Name of Serving Officers	D.O.B.
	Sarva Sri	
1.	M.Prutviraj	09-01-1960
2.	M.Sudhakar	10-01-1957
3.	R.G.Kalaghatgi	20-01-1957
4.	B.Sunder	20-01-1970
5.	Dr.Manoranjana Bhanja	22-01-1958
6.	Dr.K.Tirupathaiah	23-01-1959
7.	Dr.P.Subbaragavaiah	25-01-1961
8.	Rameshkumar Suman	03-02-1966
9.	A.K.Jain	05-02-1959
10.	P.Samuel	07-01-1964

Secretary



NEWS AND NOTES

Trees may up air pollution! : - Yes, you read it right! Leaves and branches can slow air currents and cause pollutants to settle, says health watchdog. City trees, popularly thought to remove pollutants and improve urban life, may also increase the amount of foul air that people breathe, says a UK body.

"Leaves and branches slow air currents, causing pollutants to settle. They may also act as sinks for particulates and chemicals that may have direct or indirect effects in air quality. Air quality [under trees] may deteriorate at street level near vehicles," says the National Institute for Health and Care Excellence (Nice) in new draft guidance for local government to combat air pollution. Nice does not recommend that councils cut down trees in leafy suburbs to meet pollution limits, but urges planners, local authorities and developers to take into account the adverse effect that trees can have on air quality if badly sited or unmanaged.

"It is not always true that trees reduce air pollution. Their effect is dependent on factors including species, canopy density, time of year and wind direction. Ventilation [on streets] will vary according to the size, distribution and species of tree and their position," it says.

"Traffic calming measures such as speed humps ... may increase emissions by adding to decelerations and accelerations," it says.

"Ensuring motorists drive steadily at the optimum speed can reduce stop-go driving and reduce emissions.

A British Lung Foundation spokesperson said: "Action is needed both to ensure vehicles on the road are clean and that there are fewer of them. Diesel vehicles, which are the most polluting, must be phased out and our transport and planning policy needs a radical overhaul," said a spokeswoman for Friends of the Earth.(c) Guardian News & Media Ltd, 2016

Time to save Canada's iconic species:

Canada's caribou population has reached "all-time low" levels, particularly in the eastern Arctic, where the animal was classified as endangered on Monday along with the monarch butterfly, according to a committee of scientific experts.

"Caribou are, sadly, very sensitive to human disturbances, and we are disturbing caribou more and more," Justina Ray said in a report by the Committee on the Status of Endangered Wildlife in Canada (Cosewic).

"These stresses seem to be interacting in complicated ways with rapid warming in the North," she added.

"Many of the great northern caribou herds have now fallen to all-time lows, and there is cause for concern that they will not rebound in the same way they have before," according to the committee responsible for making recommendations to the government on the status of wildlife at risk.

Cosewic studied two populations of caribou: the tundra herd — which it considers "threatened" — and the rarer Torngat Mountain

caribou in far northeastern Canada, which it assessed at an even higher risk — “endangered.” The latter is facing “imminent” destruction or extinction.

The causes of the caribou’s decline include encroachment of its habitat by forestry and mining, and global warming, which is more pronounced in the Arctic.

Cosewic also classified the monarch butterfly, another migratory species, as endangered. The committee said that the “remarkably tiny wintering grounds where monarchs congregate continue to be chipped away by habitat loss.” The insects travel 4,000 kilometers from Canada to Mexico each fall to escape the snow. The report calls for conservation of its habitat in Canada, along its migratory path through the United States and critical overwintering areas in Mexico. “Otherwise, monarch migration may disappear, and Canada may lose this iconic species,” it concluded.

In June, 200 American, Mexican and Canadian academics, scientists and artists wrote to the leaders of the three countries calling for banning mining and illegal logging in the Mexican reserve where monarchs spend the winter.

They also demanded a ban on the use of pesticides on plots where milkweed grows to preserve the only plant Monarch caterpillars eat. The committee pointed to a particularly destructive herbicide used on genetically modified corn and soybean crops.

The causes of the caribou’s decline include encroachment of its habitat by forestry and

mining, and global warming, which is more pronounced in the Arctic.

Scientists call for banning of mining and the use of pesticides on plots where milkweed grows to preserve the only plant Monarch caterpillars eat. (Please see last cover page for photo)

Sharks and stingrays in grave danger: - Over half of the Mediterranean’s shark and ray species are at risk of extinction, the International Union for Conservation of Nature (IUCN) said Monday, blaming overfishing for plummeting numbers. Of the 72 known species of sharks and rays that exist in the Mediterranean, 39 faces “an elevated risk of extinction,” the conservation group said in a report released in Spain. Twenty species — 12 shark species and eight ray species — are “critically endangered”, or one step away from extinction, according to the report. Species listed as “critically endangered” included the smooth hammerhead shark, the great white shark and the blue shark.

The Geneva-based IUCN said the conservation status of 11 species of sharks and rays in the Mediterranean had worsened since it issued its last assessment in 2007. Over the past half-century 13 species of sharks and rays have become extinct in various spots of the Mediterranean due to overfishing, it added. Local extinctions have been more prevalent in the waters of Spain, France and Italy as well as in northwest African countries and nations bordering the Adriatic Sea.

Scientists say sharks and their close relatives, rays, are particularly vulnerable to over-fishing

because many species take several years to mature and have relatively few young. (Please see last cover page for photo)

Giraffes put on extinction watch list: - The International Union for the Conservation of Nature (IUCN) reported that giraffes are now at risk for extinction. In the past 30 years, the giraffe population has declined 40 percent. In 1985 there were over 150,000 giraffes — in 2015 the number had dwindled to around 97,000 according to IUCN.

The union has listed giraffes as “Vulnerable” on the IUCN Red List of threatened species. AP reports that this list is widely used by scientists as the official list of flora and fauna in danger of extinction.

Scientists are blaming the massive decrease on habit loss. “Everyone assumes giraffes are everywhere,” said Junlian Fennessy, co-director of the Giraffe Conservation Foundation. Fennessy, along with other co-chair Noelle Kumpel, call what’s happening to giraffes “silent extinction.” Duke University conservation biologist, Stuart Pimm, agreed — and has actually criticized the IUCN for not putting more animals on the Red List. “There’s a strong tendency to think that familiar species (such as giraffes, chimps, etc.) must be OK because they are familiar and we see them in zoos,” he said. This is, however, a scary misconception.

The giraffe was the only mammal whose status changed this year.

Did You Know That It Snows in South India?
Yes, in Just This One Picturesque Village!: -

There are few more refreshing Andhra moments

than boarding a bus in the heat-soaked plains and disembarking in the sharp pinch of a Lambasingi night or morning. This misty hill station, located at an altitude of 1025 meters above sea level in the Chintapalli region of Arakku Valley, has experienced winter snowfall in the past. That’s right. Temperature does not go below 0° C every year, but when it does, Lambasingi gets an all-white snowy cover!

In fact, Lambasingi is also known by another name, ***Korra Bayalu***, which, in the local language, means “if someone stays out in the open they would freeze like a stick!” Nearly four years ago, on January 15, 2012, due to a local weather condition, Lambasingi experienced snow fall. Retired meteorologist P.V. Rama Rao, a former director of the Indian Meteorology Department, says that the near zero temperature seen in Lambasingi is on account of an odd cooling effect of the hills.

The little hamlet of Lambasingi, nestled in the beautiful and lushly forested Eastern Ghats, is also home to an isolated tribal community. It is also known for its tasty organic coffee and lovely green countryside. Away from the hustle and bustle of city life, this picturesque village is now being developed by the Andhra Pradesh Tourism Development Corporation (APTDC) as an ecotourism destination.

Literally Andhra’s coolest village, Lambasingi can make any winter retreat look pale in comparison. No wonder it’s called the ‘Kashmir of Andhra’!

So, if you are planning to visit this offbeat destination soon, here are the things you can

do in and around Lambasingi.

1. Stroll through Cloud-Kissed Gardens; The main occupation of the residents of Lambasingi is coffee and pepper farming. In winter, the verdant orchards around the tiny hamlet are peppered with an enchanting sprinkling of wildflowers and laced with silvery clouds. An evening stroll through the winding trails of these cloud-kissed plantations is as romantic as it gets.

2. Wake Up to Misty Mornings; In Lambasingi, not just in winters but throughout the year, the temperatures stay below 10°C. As a result, the tiny village is almost always blanketed in an ethereal white mist that swirls and moves with the wind. In winters, the sun can only be seen after 10 am! Interestingly, places just 4-5 kms away from Lambasingi have temperatures that are typical of a normal south Indian winter.

3. Explore Pristine Forests; Untouched and unexplored, Lambasingi's primeval forests will remind you of Robert Frost's beautiful lines, "The woods are lovely, dark and deep." A bird-watching trek through these ancient forests is a perfect way to luxuriate in the lap of nature.

4. Visit a Cascading Beauty; The Kothapally waterfall lies at a distance of about 27 kms. from Lambasingi. Wrapped in the lush embrace of a tropical rainforest, the waterfall cascades over tiered rocky drops into a pretty plunge pool. A popular picnic spot for locals and visitors alike, this beautiful little waterfall is the perfect place for a relaxing dip.

5. Enjoy Adventures Galore; From recreational rock climbing and rappelling to trekking and overnight camping, there are a horde of activities

for those craving more adventure. Lambasingi also offers much for those who enjoy more leisurely pursuits. Observe the beautiful vagaries of nature, let the birds serenade you, and savour the refreshingly cool breeze as you soak in the charm of this tiny mountain hamlet.

Best time to visit: December to January

How to reach: The nearest airport is Vishakhapatnam Airport, 107 km from Lambasingi. State and private buses and taxis can be availed to reach Lambasingi from Vizag. It is well-connected via NH 5. The nearest railway station is Chintapalle, which is situated 19 km from Lambasingi. Places to Visit within 100 kms: Hope Island, Bojjannakonda, Seemachalam, Uppada Beach and Araku Valley.

Idli weighing 68 kilograms engraved with Jayalalithas face: - It has been nearly a fortnight since former Tamil Nadu chief minister J. Jayalalithaa passed away, but her fans still can't forget her as evident from their recent act of devotion towards their beloved leader. Some of her fans recently created an idli in the form of her face, which weighed 68 kilograms.

It has been nearly a fortnight since former Tamil Nadu chief minister J. Jayalalithaa passed away, but her fans still can't forget her as evident from their recent act of devotion towards their beloved leader. Some of her fans recently created an idli in the form of her face, which weighed 68 kilograms. Jayalalithaa passed away on 5 December and was buried with full state honors at MGR Memorial, Marina Beach. The people of Chennai have done several bizarre things to prove their love for her.

Earlier a man sculpted a Jayalalithaa bust from his own frozen blood. Following the news of Jayalalithaa's demise, many people died of cardiac arrests and suicide. (Please see last cover page for photo)

Kerala to impose Green Tax on old vehicles from January 1:

- The State Government of Kerala announced that old vehicles in the state with more than 10 years old will face a 'Green Tax' from January 1, 2017. This tax will be applicable to transport vehicles that are more than 10 years old and non-transport vehicles over 15 years old. In fact, the tax is even applicable for vehicles coming from other state in Kerala from other states. However, two-wheelers and three-wheelers have been exempted from paying tax.

As per the Official Order by the Government, the applicable tax will vary on the type of vehicle. For instance, the transport vehicles that fall in the categories of light transport vehicles will remit a green tax of Rs. 200 per year, while the medium and heavy transport vehicles will attract a tax of Rs. 300 and Rs. 400 per year, respectively. In the meantime, the owners of the non-transport vehicles that over 15 years old, will have to deposit a sum of Rs 400 for a period of five years.

As per the official government order, the applicable tax will depend on the type of vehicle. For example, light transport vehicles will attract a green tax of Rs. 200 per year, while medium and heavy transport vehicles will be eligible for

a tax of Rs. 300 and Rs. 400 per year, respectively. Meanwhile, owners of non-transport vehicles that are over 15 years old will need to deposit Rs. 400 for a period of five years. And, in case the green tax is not remitted, the vehicles will not be liable for any service from the motor vehicle department.

Beijing lifts red alert after 5 days: - Schools and nurseries reopened and traffic restrictions were lifted

Beijing lifted its red alert for air pollution on Thursday i.e. on 22-12-2016 after the smog dispersed in the wind and the skies cleared once again over the Chinese capital. The particulate matter concentration of PM 2.5 fell from over 400 micrograms per cubic meter to 60 on Thursday.

Happy Birthday Colo: - She is a mother of three, grandmother of 16, great grandmother of 12, and great great grandmother of three. She is Colo, the nation's oldest living Gorilla, and she turned 60 on 22-12-2016 at the Columbus zoo. Colo was the first Gorilla in the world born in a zoo and has surpassed the usual life expectancy of captive gorillas by two decades. Her longevity is putting a spot light on the medical care, nutrition, and up to date therapeutic techniques that are helping lengthen zoo animals' lives. Colo is one of several elderly gorillas around the country. The oldest known living male gorilla, Ozzie is 55 years old and lives at the Atlanta Zoo, which has a geriatric gorilla specialty.

LEGAL NOTES

Shameer PM Vs State of Kerala

Two revision petitions, namely CrI.R.P. No. 1171 of 2011 and CrI.R.P. No. 1293 of 2011 were filed by two different persons in the High Court of Kerala, challenging different orders passed by different courts and though the facts and circumstances involved are different, the orders are passed under Sec. 457 of the Cr.P.C. The questions of law on facts involved are identical and therefore the matter has been decided by a common order by the Hon'ble Mr. Justice V.K. Mohanan on 30.06.2011.

CrI.R.P.No. 1171/2011 was directed against order dated 04.04.2011 in C.M.P. No. 1627/2011 by the Court of JFCM, Chittoor. The case related to Kollengode Forest Range. The petitioner/accused is the owner of vehicle bearing registration No. KL 056336 and the vehicle was involved in a forest offence. The allegation against the accused was that the vehicle was engaged in illegal transport of barks of KULAMAVU and WAZHANA. The produce was debarked, collected and removed from reserved forest. The petitioner prayed for interim release of the vehicle but it was rejected by the court.

CrI.R.P. No. 1203/2011 was preferred against the order of the Court of JFCM, Wadakkancherry, passed in C.M.P. No. 1324/2011. The case pertains to Poongode Forest Range. It was seized as it was involved in a forest offence. It was alleged that the vehicle, a mini lorry, bearing registration No. KL 7 H 7083, belonging to the petitioner was involved in illicit cutting and removing trees in contravention of the provisions of the Kerala Forest Act. The vehicle was seized by forest officials. The owner of the vehicle prayed for

interim release of the vehicle but it was rejected.

The contention of the petitioners was that the court had ample power for interim release of the vehicles under Sec. 451 and Sec. 457 of Cr.P.C. The reason for rejection of the petition for interim release of the vehicles is stated to be that the Authorized Officer has already commenced proceedings for confiscation of the vehicles. The counsel cited case law in state of Karnataka vs Kunchindammed (AIR 2002 SC 1875) and Ancy Phillip (2008-3-KLT 470/SC).

The Public Prosecutor stoutly opposed the contention of the counsel for the petitioners, (who are also the owners vehicles) and submitted that the court below had no jurisdiction to entertain the petitions under Sec. 457 of Cr.P.C. The argument of the Public Prosecutor was twofold: firstly, the court below has no jurisdiction to release the vehicle for interim custody either under Sec. 451 or 457 of Cr. P.C.; secondly, none of the provisions in the Forest Act enable the Magistrate to pass order for interim release when the vehicles are not produced before the court and confiscation proceedings have already been commenced. According to the Public Prosecutor, no interference in the orders of the Magistrate is warranted and there is no merit in the revision petitions.

His Lordship Justice Mohanan has carefully considered arguments of either side, perused the impugned orders and adverted to the case law vis-à-vis the provisions of Sections 451 and 457 of Cr.P.C and provisions of the Kerala Forest

Act, before passing the judgment in the matter. It was held that that Kerala Forest Act is a complete and self contained statute which prescribes the procedure and various steps to be complied with by the officers making seizure under the Forest Act and the provisions are mandatory in nature. Thus, the various provisions earmark the authorities and jurisdiction of the court as well as powers and procedure of the officers concerned.

In so far as the provisions of the Cr.P.C. in Sections 451 and 457 are concerned, it was held that the distinct legislative intention in making the said two sections manifestly in different ways can be easily distinguished and can be understood with the aid of Sections 4 & 5 of the Cr.P.C.

Having regard to the facts and circumstances involved in the cases and in the light of the discussions and various authorities, the court was of the view that the learned Magistrates had no jurisdiction to entertain petitions under Sec. 457 Cr.P.C. and issue an order for interim custody of the property which is neither produced nor filed a report in lieu of production of such property. It is further held that forest officer who seized property need not produce the same before the court concerned, but is required to make report to the court. In the present cases, the properties are not produced before the court below, and

no report was filed in lieu of production of property. But applications were filed by petitioners before the court for release of vehicles. As the offences involved in the forest cases, seizure of property is effected by forest officials under the provisions of Kerala Forest Act, 1961 which is a special and local law and especially, when the procedures are contemplated in the said Act regarding seizure and release, and confiscation of the properties, the disposal of the property either by way of interim custody or by way of final disposal can be made only in accordance with the procedure prescribed by the Kerala Forest Act 1961.

From the above discussion the inevitable conclusion that was arrived at was that the Magistrate would get jurisdiction to pass an interim order regarding custody of properties, if the seizure is effected by forest officers only when such properties are produced before the court or on a report in lieu of production of properties and such order could be passed under Sec. 451 Cr.P.C. But the present petitions were filed under Sec. 457 Cr.P.C. for interim custody

In the result, the revision petitions were found to be devoid of any merit and accordingly the same were dismissed.

Source:Internet

K.B.R.

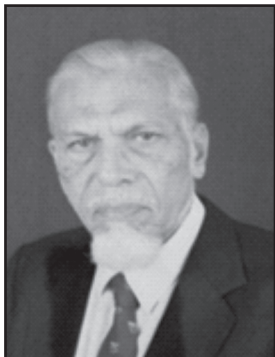
NOTICE

Members of Association, in service Officers, Readers, Writers and all are requested to contribute articles for our Vana Premi. Editor is feeling dearth of good articles.

-Editor.

OBITUARY

Dr. Mir Gowher Ali Khan (15.02.1928 - 14.11.2016)



Dr. Mir Gowher Ali Khan is the third youngest son of 4 brothers and 2 sisters born to Sri. *Sahibzaada* Nawab Mir Farkunda Ali Khan and Smt *Sahibzaadi* Fakhrunnisa Begum. He had his school education in Alia boarding school &

Jagirdaars College of Hyderabad, and higher education at Osmania University Hyderabad. On completion of graduation from veterinary college he was selected for appointment as Veterinary Assistant Surgeon (AH) in 1953 and posted to Adilabad district. He joined the zoo on deputation as VAS (AH) Nehru Zoological Park, Hyderabad, in 1964 during the period of late Sri Mazharuddin Ali Ahmed and Sri Pushp Kumar who were the Director and Curator of Nehru Zoological Park, Hyderabad, respectively.

He worked as the zoo veterinarian at NZP, Hyderabad from 1964 to 1983 as Veterinary Assistant Surgeon (AH), Asst. Director (AH) and Deputy Director (AH) in various capacities. He retired at the age of 55 years when the then Govt. headed by late Sri N.T. Rama Rao took a sudden decision to advance the retirement age of State Govt. employees to 55 years from 58 yrs. He re-joined service as D.D(AH) in 1984 at Nalgonda district when the govt. reversed its decision and restituted the age of superannuation and retired from service from the same post in the year 28-02-1986.

During his tenure at Nehru Zoological Park, Hyderabad he excelled himself as the top zoo veterinarian in the country by his diligence and self-learning of the subject. Zoo veterinary animal care was nascent field and was developing. His love for zoo animals was so strong that there are instances of him staying in the animal house, in the zoo, throughout the night, to assist in the delivery of Gaur calf when the mother was diagnosed with a difficult delivery. He was a master in correct diagnosis of animal diseases and its prompt treatment when the zoo veterinary science was in its developmental stage with inadequate lab, lack of operation theatre, lack of medical books and equipment. Any emergency operation or corrective surgery has to be done in the open at the zoo enclosure itself and tranquilization drugs were non-existent.

The services of Dr. Mir Gowher Ali Khan were utilized by wildlife wing of united AP not only in the zoological parks but also in the management of deer parks and sanctuaries. During the late 1970s and early 1980s there was a severe outbreak of rinderpest disease in Telangana forests that claimed the life of a large number of Indian Guars in Eturnagaram, Pakhal, Kinnersani & Kawal forests. Dr. Mir Gowher Ali Khan and his team of veterinarians, worked day and night not only to sanitize the forest by scientific disposal of the dead animals but in containing the further spread of the disease. But for him and the team the population of Gaurs would have vanished from the forest of Telangana. He attended the workshop for zoo

veterinarians from 28th Jan to 02nd Feb 1982 at National Zoological Park, New Delhi and the training at Indian Veterinary Research Institute, Izatnagar (U.P). He also worked in a foreign zoo at Riyadh (Saudi Arabia) he served as a Chief Veterinary Doctor (Wildlife Healthcare Management) for a period of 4 years from 1990 to 1994. He is primarily identified for successful breeding of Indian Rhinoceros, Indian Gaurs, Asiatic lions, Tigers (Normal and White) etc.

Dr. Mir Gowher Ali Khan was a lean and tall man with a friendly personality. He had a friendly laugh when starting a conversation and this broke the ice between the lower staff and endeared him with the senior officers. The animal attendants adored him and the management officials respected his knowledge and his innovative method of nursing the sick zoo animals back to health. His impeccable honesty and integrity were his forte. He had a number of stories to narrate about zoo animals, their treatment and breeding which were both hilarious and at the same very novel in nature. Sick animals that refused to take their medicines were baited with ingeniously camouflaged concoctions of spiked soups, honey laced titbits, surgically implanted pills in liver pieces, mutton pieces, beef pieces smeared with the medicine so that it is licked and ingested. Dr. Mir Gowher Ali Khan was a master in coaxing the sick animals in taking their medication. His narration of the breeding of Indian rhinoceros in the zoo was very hilarious as it is the female which initiates the courtship process. In the animal enclosure with its limited space the breeding experiment of rhinoceros is fraught with danger of sustaining grievous injuries and kudos to Dr. Mir Gowher Ali Khan, the Nehru Zoological Park, Hyderabad, was not

only successful in breeding them but in exchanging them with foreign zoos. The stock of Indian rhinoceros at Santiago zoo and the stock of Indian Gaurs in Bonn zoo owes its existence to Nehru Zoological Park, Hyderabad. I met Dr. Mir Gowher Ali Khan in the year 1985, during my tenure at the zoo after he had retired from service and settled at Tadbun, close to the zoo. To me he was a fatherly figure and, whenever there was a health problem of the zoo animal or my young children, he was always there to guide and lead me. The zoo officials never considered him a stranger and had no inhibitions to count on his advice right from treatment of difficult cases to breeding of recalcitrant animals. There were instances when after a lot of hard efforts taken to save a sick, rare and costly animals like a white rhino or Indian rhino ended with inevitable death, his words of consolation and encouragement to zoo veterinarians and officials gave them strength. He had penned books titled "A Vet in Wilderness", *"Tazkare Haivanath Quraane Kareem Mein"* (Description of animals in the HOLY QURAN) in the year 2006" and *"Jaanvaron Ka Bayaan Hadith Nabivi Ki Roshini Mein"* (Description of animals in sayings of Prophet Muhammad (SAW)) which is very useful to zoo veterinarians and officials. I personally owe a lot to Dr. Mir Gowher Ali Khan for introducing me to the science of zoo management and animal care. He is survived by six sons, a daughter and twenty grandchildren.

The Nehru Zoological Park, Hyderabad, personnel recognize with gratitude the services rendered by Dr. Mir Gowher Ali Khan and **MAY HIS NOBLE SOUL REST IN PEACE. Dr. Naveen Kumar**



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