

TRAINING WORKSHOP
ON
BIO-DIVERSITY: LAW & POLICY
(27thSEPTEMBER, 2014)



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“One day – training workshop on **“Bio Diversity: Law and Policy”** was conducted on **September 27, 2014** in the Library Hall of Dr. R.M.L. National Law University. The Program was sponsored by U.P. Bio Diversity Board, Gomti Nagar, Lucknow. The Participants in the training program were Divisional Forest Officers (DFOs)/Conservators of Forests, state of Uttar Pradesh. The participants from across the state attended the training program with full zeal and enthusiasm.

The Inaugural session was presided over by Mrs. Pratibha Singh, Special Secretary of Forest Department and Prof. Gurdip Singh, the Vice Chancellor of the host university. The key note address delivered by Mrs. Pratibha Singh was focused on “What is bio diversity” and its significant role to our mother planet. She emphasized on the importance of our Earth and its biodiversity and also the Earth is the only home for us human beings, so we should take care of it. She also focused on bio diversity law in India and the activities of the U.P. forest Department for preserving, protecting and safeguarding the state bio-diversity.

The first technical address was by Prof. Gurdip Singh, a renowned expert in environmental and bio diversity law, who is also presently the Vice Chancellor of the University and is the main motivational leader/commander of this prestigious law

university and also a living and guiding force behind all academic and field extension activities with respective wings/organizations of government and private sector. Prof. Singh delivered on the international perspectives of bio diversity particularly linking the Indian legislation with the international convention on bio diversity along with its two optional protocols, namely Cartagena Protocol and Nagoya Protocol on bio diversity. This session was a spell bound session with a divine oratory by an expert doyen of the field.

Shri Pawan Kumar, Secretary, U.P. State Biodiversity Board joined the training programme after first technical session. In his addressed to the participants he gave a brief account of Indian Constitution related to biodiversity conservation, directive principles of state policy as well as objectives of CBD. He also emphasized the role of different authorities like National Biodiversity Authority (NBA), State Biodiversity Boards and Biodiversity Management Committees under Biodiversity Act, 2002. He said that biodiversity makes earth habitable for human kinds. He also spoke on threats to biodiversity like habitat loss and fragmentation, overexploitation, poaching and climate change and pollution.

The next session has taken by Mrs. Pratibha Singh in which she emphasized over preparation of PBRs in state of Uttar Pradesh. She said that Govt. of Uttar Pradesh is planning to open one PBR in each district by the end of this year and a dozen of them have already been established. Various guidelines have been given for making Peoples Biodiversity Register at district level. The trainees were asked to spot a village in their area for preparation of PBR. The trainees were given the samples of the registers prepared by the board.

The next session was on “Case Laws on Bio-Diversity Act 2002” by Prof. Amar Pal Singh, a subject expert and also the head of department of legal studies of the university. The session was given an introductory orientation by Dr. Aditya Pratap Singh, Associate Professor and the coordinator of the training Program at Dr.

R.M.L.N.L.U.. The session was then, after the introductory remarks, handed over to Prof. (Dr.) Amar Pal Singh for a comprehensive discussion on the legislative structure of bio diversity act, 2002.

Prof. Singh said that one of the major achievements of Convention on Bio-diversity (CBD) at Rio (1992) was to ensure that the developing countries' control over the natural resources in their jurisdiction received recognition. The developed world in the name of natural resources being a common heritage of mankind has been exploiting the natural resources of the developing world ruthlessly without sharing the benefits arising out of these resources. At the national level the understanding was that this sovereignty over natural resources would be translated into the sovereignty of people over their natural resources. The Bio-Diversity Act 2002, proceeding with the objectives of conservation, sustainable use and fair and equitable benefit sharing of natural resources has created three tier structure for the purpose of regulating access and exploitation of bio-diversity resources. However the way the legislation has been designed the dream of achieving the objective of translating the sovereignty of the country over natural resources in to the sovereignty of people is simply not possible. Designed as a typical top down model law, the legislation vests the authority of providing permission to access biodiversity in the National Bio-diversity authority, whereas the task of inventorying the bio-diversity resources in the given region has been entrusted to the local Bio-Diversity Management Committee, which is not equipped technically or financially to accomplish the task. Further the creation of the so called peoples' bio-diversity registers have not been given any kind of legal sanctity which simply means that even if inventorised, the information would stand as loosely tagged information not useful in any significant way. One of a very important drawback of the legislation is that it has not been properly synchronized with existing legislations on forest and bio-diversity governance, leading to creation of number of contradictions which hamper the progressive implementation of the law and policy on

bio-diversity governance. Even patent law has not been synchronised with the Bio-diversity law. For example the Traditional Knowledge is required to be respected and protected and in case its commercial use is made, it would be imperative to get it patented and the patentability of the product requires that the knowledge to be patented should not be in the public domain. Traditional knowledge is all in public domain and therefore the same cannot be protected. Prof. Singh further emphasized that framing of a single national policy for bio diversity matters is problematic because every region has its own challenge in preserving bio diversity and a common policy is not sufficient to deal with it.

Summing up his session after a heavy discussion with the participants Prof. Singh said that despite all these limitations, the Bio-diversity law has certainly make a break with the past and there is a surge of awareness amongst the people to conserve the biodiversity. It has also created useful structures for the purpose of protecting and conserving the biodiversity resources. The need of the hour is to ensure that the laws are made to synchronise with the existing law and sustained and concerted efforts are made to ensure that Bio-diversity resources conserved and used for the betterment of the lives of the people.

The next technical session was taken by Dr. A.K. Tiwari, Associate Professor, R.M.L.N.L.U., in his deliberation explained to the participant the National Biodiversity Action Plan (2008) prepared by Ministry of Environment and Forest, Govt. of India. He also discussed the salient features of the National Environment Policy, 2006 and the Forest Policy of 1988. Further, with the help of selected case law the aforesaid principles were elaborately explained to the participant so that they may appreciate the significance of the policies and principles relating to environmental protection in general and protection of biodiversity in particular.

The last technical session was on rights and responsibilities of the authorities with the Biodiversity Act and this was taken up by Mr. Vikas Bhati, Assistant Professor, R.M.L.N.U. Mr. Bhati in his deliberation explained to the participant that access and fair and equitable sharing of the benefits are the key components of the biodiversity conservation in India and elsewhere. For that purpose, a regime consisting of prior permission for access, and transfer of research results, and for calming IPR's from NBA is necessary and prior information to the State Biodiversity Boards for obtaining biological material is necessary under the Biodiversity Act, 2002. He said that contravention of the same invites criminal penalty under the Act. The Cognizance of these offences can be taken by the forest officer not below the rank of range officer in their respective jurisdiction.

The closing session was on conceptual clarities of previous sessions as noted by Dr. Aditya Pratap Singh, Associate Professor, R.M.L.N.L.U. and the coordinator of the training programme, alongwith Dr. Manish Singh, Mr. Anil Sain, Mr. Vipull Vinod, and Mr. Aman Deep Singh, all faculty members of RMLNLU wherein the participants spoke at length about conceptual misunderstandings of previous sessions and also upon the need and utility of such programs/orientation workshops in the future.



