

# EVENT REPORT

## **Two Day National Workshop on “Access and Benefit Sharing and Conservation of Biological Diversity”**

**Organised by:**

**School of Law, CHRIST (Deemed to be University)**

***IN COLLABORATION WITH***

**NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU**

**28-09-2018 & 29-09-2018**



**DAY 1**  
**INAUGURAL CEREMONY**

Date: 28/09/18

Time: 10 a.m.

Duration: 1.5 Hours



**Address by Dr. Anil Joseph Pinto, Registrar, CHRIST**

The address stressed on the importance and role of establishments, such as educational institutions, in the field of research. Dr. Anil Pinto spoke of how universities engage in deliberations for the future, and often challenge existing norms. Further, also emphasised the eco-friendly nature of the Christ University Campus in order to showcase the importance of individual participation in collective change. This individual participation can be achieved even through small or seemingly minute adjustments in our routines, such as limiting consumption to what is necessary as opposed to accumulation. The address by Dr. Anil Pinto was directed, in general, towards sustainability and environmental protection and conservation.



### **Address by Dr. Sairam Bhat, Professor of Law, NLSIU**

Dr. Sairam Bhat opined that there exists need for a collaborative approach, in light of the concept of biodiversity, due to the lack of knowledge of practical application of environmental laws both in the legal, as well as scientific community. Further, he highlighted the importance of research in the field, and the role of the government in the promoting the same. The existing biodiversity law, he opined, is an attempt at regulation of research. The interface between Intellectual Property Laws and Environmental law was also delved into. In conclusion, he stressed on the importance of undertaking an in-depth understanding of the laws governing the conservation and the protection of bio-diversity.

### **Address by Dr. M K Ramesh, Professor of Law, NLSIU**

Dr. M K Ramesh drew attention to the vastly inter-disciplinary nature of the Biodiversity Act, by stating that it is not merely a legal document, but also contains the work of ecologists and natural science experts. He also focused on the concept of 'Equity' which is reflected in the Biodiversity Act, in the form of inter-generational equity. Further, he initiated a rather thought provoking discussion on the role of local communities in contributing to rich biodiversity. In conclusion, Dr. Ramesh also stressed on how the issue at hand is both a global, as well as a local, concern.

## **SESSION 1**

Date: 28/09/18

Time: 11.45 a.m.

Duration: 1 Hr 30 Mins

### **Speaker 1 : Dr. M K Ramesh, Professor of Law, NLSIU**



Dr. Ramesh centred his talk on the need for conservation of bio-diversity and biological resources through the lens of a natural scientist and that of a legal scholar. It was vehemently expressed that the idea of conservation of biodiversity arise out of two concerns, namely; the loss of unique species of fauna and flora and the misuse and misappropriation of such valuable resources. He explained the nuances of the law relating to Bio-diversity by creatively portraying how the law that seeks to protect biological resources and research involving the same is a law which is a delightful

compromise between compulsion of commerce and concerns of conservation. It is through this intellectual discourse that Dr. Ramesh sought to bring out the dichotomy between conservation of valuable biological resources and the commercial application of the same in a day and age of technological development. He largely directed the entire discourse from an eco-centric perspective as opposed to an anthropogenic perspective by stressing upon notions of equity and environmental justice.

**Speaker 2 : Dr. Sairam Bhat, Professor of Law, NLSIU**

Dr. Sairam Bhat, on the other hand, deliberated upon the law and practical aspect of the conservation of biological resources. He centred his discussion with the audience on the provisions and ambit of the Biological diversity Act, 2002. The discussion meticulously unravelled, both the ambiguity and specificity of the provisions of the



legislation, thereby making it a gold mine for legal practitioners. Dr. Bhat also highlighted the role and function of the National Biodiversity Authority and State Biodiversity Authority in upholding India's obligations under international conventions. In conclusion, Dr. Sairam gave a brief overview on the importance of access and benefit sharing under the Biodiversity Act, 2002 with an interesting example of the case of the infamous Kani Tribe. This discussion was fruitful in highlighting the practical contours of protection and conservation of biodiversity in India.

**SESSION 2**

Date: 28/09/18

Time: 2:30 p.m.

Duration: 1 Hr 15 Mins.

**Topic: Bio-piracy, Intellectual Property Rights and Bio-safety**

**Resource Person: Dr. Shiju M V, Associate Professor of Law, School of Law, CHRIST**

The discussion was centred on the need to protect human and animal health and environment. The session began with an introduction to basic concepts such as Genetically Modified Organisms (GMOs), Living Modified Organisms (LMOs) and the idea of Biotechnology. An explanation of the uses of modern biotechnology was rendered, which included uses in the Pharmaceutical Industry, Agricultural Industry, Food Industry and other Industrial applications. However, it was identified that, while the pharmaceutical industry has readily

accepted Biotechnology, regulations disallow the use of the same in the field of Agriculture. Modern Biotechnology involves a specific gene being inserted into a host, in order to gain certain specific attributes.

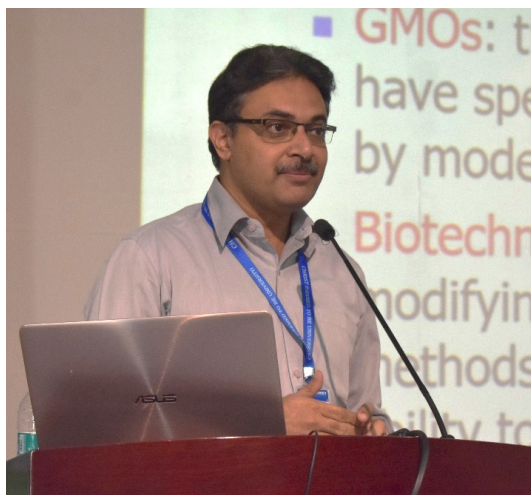
However, the discussion also delved into the various problems caused due to biotechnology which include:

- Unintended side effects on other organisms such as the effect of BT corn causing the death of Monarch Butterflies, as seen in the United States.
- The alteration of existing gene pools

Dr. Shiju also highlighted the specific concerns of developing countries, as opposed to developed countries, in the sphere of biotechnology, which occurs due to the lack of land mass to engage in mono-cultivation. He also stressed on socio-economic concerns of the use of biotechnology.

Further, there was discussion on the Convention on Bio-Diversity, specifically with reference to sections 8(g) and 19(3), which specifically speak of the use of Biotechnology that is likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity. There was also extensive discussion on the Cartagena Protocol on Biosafety (2002), and its scope, which includes transboundary movement of LMOs, for which an advanced Informed Agreement is necessary.

Other international conventions include the WTO Treaties and the Agreement on the Application of Sanitary and Phytosanitary measures. Dr. Shiju considered the EU-US Biotech Dispute of 2006 in order to draw a distinction between the approaches of various countries in regard to biodiversity, which includes Precautionary approach and the Scientific approach,



which is also termed as the Social Trajectory Rationality and the Scientific Rationality Trajectory.

In the Indian sphere, the talk was focused around Rule, 1989, notification under the Environment Act, 1986. This provides for Institutional Management through an Institutional Biodiversity Management Committee, a Review Committee on Genetic Manipulation and Genetic Engineering

Appraisal Committee. Finally, in conclusion the speech was concluded by raising questions on the effectiveness of appraisal and approval committees in the Indian context.

**Resource Person: Dr. Avishek Chakraborty, Assistant Professor of Law, School of Law, CHRIST**



Dr. Avishek Chakraborty began by explaining the concept of piracy, which he characterised as ‘taking away’ illegally, without authorisation of original source. Often, developed countries, here referred to as the Northern States are known to blame developing countries, the Southern states in this regard. While the North accuses the South of IP Piracy, he stated that the South used the discourse of bio-piracy against the North. Further, expounding specifically on the topic of ‘bio-piracy’, he referred to the ETC group definition which states that it involves gaining exclusive control over those resources and knowledge of indigenous communities. The categories of Bio-piracy include:

- Patent based bio-piracy
- Non-patent based biodiversity
- Misappropriations

Further, there was discussion on various cases and instances of bio-piracy such as the basmati rice case, turmeric powder case, neem oil case, Czech Scientist case, Wheat patent matter, the Japanese Nationals Conviction (2015), the case of Environmental Support Group v. National Biodiversity Authority & Ors (2012) and the National Biodiversity Authority’s actions in Dharwad. There was emphasis laid on the relationship between the TRIPS Agreement and the Convention on Biodiversity, and concepts such as Economic Growth v. the principle of sustainable development, and providing private property rights over product/processes in the field. There was also a comparison made between TRIPS and CBD, in terms of the governing authorities and the fundamental objectives/focus.

**Resource Person : Dr. M K Ramesh, Professor of Law, NLSIU**

In a short span of 15 minutes, Dr. Ramesh drew the attention of the audience by highlighting the dichotomy that exists between technological development and environmental sustainability with specific reference to Intellectual Property Rights. Dr. Ramesh explained

the same through a simple case study of BT Brinjal in India. This talk brought the shortcomings in the regulatory regime of bio-technology in India and the lacunae in specific rules and regulations governing the same. In conclusion, Dr. Ramesh rendered his opinion on the ineffectiveness of biodiversity offsetting within the broader framework of environmental protection.

### **SESSION 3**

Date: 28/09/18

Time: 4 p.m.

Duration: 1 Hr

#### **Topic: Case Study on the Need for Conservation of Biological Resources and Role of Research Institute under Biodiversity Act**

**Chairperson : Dr. Antony P U, Professor, Department of Life Sciences, CHRIST.**

This session was presided over by the Chairperson, Dr. Antony PU, Professor, Department of Life Sciences, Christ Deemed to be University. The speakers for this session were Ms. Vidya Ann Jacob, Asst. Prof, School of Law, Christ Deemed to be University, Ms. Pavithra R, Asst. Prof, School of Law, Christ Deemed to be University and Mr. Raghav Parthasarathy, Teaching Assistant, NLSIU.



The Chairperson, Dr. Antony gave a brief discourse on Biological Diversity and the importance of research in the field. He provided statistics on India's Forest cover and wetlands and also stated the reason for the rapid depletion of the same. He relied on history to emphasize that the Indian Community always treated Nature and Natural Resources with great reverence and this is reflected in the scriptures also. Dr. Antony, who is one of the most prominent advocates of Biological Diversity in Christ, dwelled upon the change in the research structure in his field of study, zoology. He believes that there can be more learning out in the field rather than in the laboratories.

Dr. Antony also talked about the legal status of biological diversity in the recent times. His opinion was that financial inclusion was of top priority and thus, biological inclusion was ignored. The TSR Subramanyam Committee on the insistence of the Ministry of Environment and Forest reviewed the various legislations and have provided recommendations that fail to reach the goals of biological diversity and conservation. He also related to the recent flooding in Kerala and Coorg and stated that the suggestions and recommendations in the Kasturirangan Committee Report and the Gadgil Committee Report were not taken up for consideration.

Dr. Antony also mulled over the relationship between nature and culture and how the political will has brought about a reductionist approach in research. He concluded by declaring that contentment is conservation. Owing to prior commitments, Dr. Antony had to leave after his session.

**Resource Person: Ms. Vidya Ann Jacob, Assistant Professor, School of Law, CHRIST**

Ms. Vidya Ann Jacob was the next speaker who dealt with 'Access and Benefit Sharing with respect to Marine Biological Diversity in India'. Ms. Vidya began by stating that a large part of the earth is covered by oceans which is rich in genetic resource that can be used commercially for common utility. She cited an example of the coral reefs being helpful in treatment for cancer. She noted that nearly 80% of the marine resources is unexplored.

Ms. Vidya then dealt with the laws that are applicable with respect to marine biodiversity. The United Nations Convention on the Law of the Seas and the Nagoya Protocol are applicable in this context. She mentioned that Art. 136 of the UNCLS regards marine resources as common heritage for the purposes of scientific research. She also raised pertinent questions regarding the commercial utility of such resources. Ms. Vidya also raised

concerns about the notification to the authorities regarding the use of Marine Genetic Resources for research purposes. She also mentioned the attempt to restrict and regulate the High Seas in 2014 which impedes access for research purposes.

The Netravati Islands in Karnataka, once rich in marine life is now facing the brunt of tourism and over-fishing. She thus raised the question of responsibility in this instance. Section 7 of the Biological Diversity Act requires permission only for commercial purposes. But she pointed out that there is no proper mechanism to restrict use otherwise.

Ms. Vidya concluded by emphasising on the rampant rise in wildlife crime and deep sea mining and is of the opinion that research might help conserve the balance.

**Resource Person: Ms. Pavithra R, Assistant Professor, School of Law, CHRIST**

The next speaker for the session was Ms. Pavithra R who dealt with Biologically Invasive Impact Assessment. The talk began with understanding how Biologically Invasive Impact Assessment is different from Environment Impact Assessment. Section 36 of the BDA specifies the need for an Impact Assessment , but as Ms. Pavithra stated, there is an ambiguity about the same. The Pespico-seaweed case was discussed in detail and conclusions were drawn regarding the effectiveness of EIA and the need for BIIA.

Ms. Pavithra also spoke about the conflict between conservation and development. The BDA and CBD specify the various steps to minimise the adverse effects of development. Ms. Pavithra also discussed the Nicaragua v Costa Rica case and the Delhi Projects case. She also touched upon the sovereignty of nations over their natural resources.

While concluding, Ms. Pavithra discusses about the Draft Article of State Responsibility. She also emphasised that with EIA, the practical implementation gets diluted.

**Resource Person: Mr. Raghav Parthasarathy , Teaching Assistant, NLSIU**

The final speaker, Mr. Raghav Parthasarathy spoke about the gap between Conservation and Sustainable Development. He discussed the BDA and the ambit of research within it. Section 2(m) defines research as a systematic study. The BDA, he said is a deviation from the CBD, inclined towards development. He also mentioned that under the BDA, the role of research institutes is not specified. Mr. Raghav discusses an instance, where the Bombay Environment Action Group, a research organization filed a Writ Petition in the Bombay High Court demanding the freezing of development activities around mangroves. The HC considering the

vast research conducted, ordered for the same. This demonstrates the role research plays in Conservation of Biological Diversity.

The session concluded after an interactive question-answer session where the major area for discussion was the accountability and Penal consequences for the violation of the provisions of BDA.



## DAY 2

### SESSION 4

Date: 29/09/18

Time: 9:30 a.m.

Duration: 1hr 30min



### Topic: Common Property Resources and Indigenous Rights and ABS

#### Chairperson: Dr. Jitendra Kumar

Dr. Jitendra Kumar hails from the scientific background, nevertheless, considers that a sound legal system is essential with respect to the field of biotechnology. He gave an overview of the theme and introduced the concept of ABS with respect to the technical field and its effects over the right of the people.

**Resource Person: Ms. Lakshmi Achutha, AGM, Syngene International Ltd.**

Ms. Lakshmi's topic was an off-shoot from Bio-safety and based on the Industry Perspective. As a biologist, she explained the importance of biodiversity and bio-safety, including the process of research and preservation of a cell-line.



The CBD's main aim is access and benefit sharing of genetic resources and Ms. Lakshmi outlined the

importance of industries with respect to the same. She stated that the effort put into generating a single cell-line is immense and it is for this reason that the cell-line has to be protected with intent security measures.

Ms Lakshmi also spoke about the quality control and compliance the corporations had to undertake with respect to bio-technological advancements. The sphere of biotechnology and biodiversity are very closely related, keeping in mind the concept of bio-prospecting.

**Resource Person: Dr. Shampa I Dev , Associate Professor, School of Law, CHRIST**



Dr. Shampa continued from where Ms. Lakshmi concluded. She intended to explore the Jurisprudential basis of ABS in the context of Bio-prospecting. She explored into the ethics of biomedical consent form and the insistence that people participated in research by altruism. The talk delved into the use of human samples for research

and to further commercialization of the same. She stated that biological samples are lucrative forms of property for corporations.

Dr. Shampa discussed the case of Moore v Regents of University of California. Dr. Golde, who worked at the University of California, patented MO cells, a sample taken from Moore. The case went to the court whereby it was laid down that Moore had no right and that research is fundamentally utilitarian.

The UNDP defines Bio-prospecting as a systematic search for biochemical and genetic information. She also dealt with the historical Truman Proclamation with respect to global commons and also the WIPO.

In the BDA, the benefit claimers are the holders of TK, conservers of biodiversity. The emergence of benefit sharing arising out of TK can be quite controversial. Dr. Shampa stated the example of the rosy periwinkle and debated on the ABS arising out of it. She also stated that under the CBD, TK no longer remains part of global commons.

The conclusion dealt with the contours and challenges of bio-prospecting and ABS.

**Resource Person: Ms. Rhea Roy Mammen, Assistant Professor, Ramaiah College of Law.**

Ms. Rhea began with defining indigenous persons and outlining the difference between commons and public property. She used the analogy of urbanisation and the use of resources in the context of indigenous persons.

Ms. Rhea further defined ABS and raised concerns over the protection of the indigenous community. She stated that ABS for the indigenous people was not a financial favour but as a consideration for the use of their resources and knowledge. She strongly advocated that forest resources and bio-resources should be left in the care of the community that knows the resource and is capable of taking care of it.

Ms. Rhea further analysed the Constitutional Provisions with respect to the rights of the indigenous and also various international covenants. She then compared the Nagoya Protocol and the BDA.

In conclusion, she dealt with the contract formation for the ABS with the indigenous persons.

**Resource Person: Ms. Neha Singh, Teaching Assistant, NLSIU.**

Ms. Neha Singh began by stressing on the importance of traditional knowledge of indigenous communities which has been passed down through various generations. She stressed on the importance of creating databases and registries in order to preserve and protect this knowledge. We were also given an understanding of the Convention on Biological Diversity, specifically in relation to how it proposes that each member state must respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity. Through her crisp and insightful talk, she focused on the need for systemic creation of such databases. An example of such a database includes the Public Biodiversity Registers (PBRs). However, there was also discussion on how information on such practices, obtainable in the public domain may be susceptible to misuse. A link was

brought about in relation and conflict between Intellectual Property Rights, such as patents, and these databases. Nevertheless, one issue or hindrance faced in regard to collection of information may be that these communities may hesitate from sharing age-old wisdom, and that there was a need for motivating and encouraging communities to take to sharing of knowledge, but through a secure manner. There was also discussion on the criticisms pertaining to Section 6 of the Biodiversity Act wherein prior approval of the National Biodiversity Authority must be taken but there is no mandate for permission from the Biodiversity Management Committees.

**Resource Person: Ms. Gitika Dixit, Teaching Assistant, NLSIU.**

The session began with a basic discussion on the concept of Common Property Resources, which are defined as common-pool resources are not necessarily governed by common property protocols. We were further acquainted with the Convention on Biological Diversity. There was a discussion on the concept of informed consent in relation to Access Benefit Sharing, which in itself is based on prior informed consent (PIC) being granted by a provider to a user and negotiations between both parties to develop mutually agreed terms. There was also an extensive discussion on the Nagoya Protocol. Further, we were enlightened on the mandatory disclosure requirements under the patent laws, which require transparent disclosure of the source of knowledge as well as geographical source of the resource. Further, that developing countries claim that enforcement of such a requirement would help remedy the global bio piracy problem. In regard to patent laws, a clear understanding was given to products that can and cannot be patented due to the clause of non-obviousness and novelty.

The session also included The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the need for mandatory disclosure as a pre-requisite. The discussion ended subsequent to a discussion on the In Re Wands case on patent claims, where the question of ‘method’ of experimentation and the need for information on the same was discussed.

**SESSION 5**

Date: 29/09/18

Time: 11:30 a.m.

Duration: 1Hr 15 Mins

**Topic : Working of Biodiversity Act and Rules; Functions of NBA and SBA**

**Chairperson : ADV. Manjappa**

Mr. Manjappa commenced the session giving a brief overview of the purpose and objective of the Biodiversity Act, 2002 and the Rules framed thereunder. Further, he also gave a brief description of the NBA and SBAs by explaining their functioning in accordance with the aid and advice of local bodies and Biodiversity Management Committees.



**Resource person: Dr. Vidya Pradeep Kumar, Consultant KSBB**

As a consultant at KSBB, Dr. Vidya largely provided a practical overview of the procedure involved in considering applications provided under Section 3, 6 and 7 of the Biological Diversity Act, 2002. She provided a brief description of the genesis of setting up governmental and inter-governmental bodies/organisations for undertaking measures in furthering the conservation of biodiversity. The Rio Declaration which was concluded in 1992 provided a basis for governments across the world to implement internationally convened treaties in the area of environmental protection. In pursuance of this, India has followed suit by implementing a three tier system involving the National Biodiversity Authority ( NBA ), State Biodiversity Authority ( SBA ), and Biodiversity Management Committees ( BMC) at local levels. Dr. Vidya then concluded in providing a thought provoking question on the effectiveness of these bodies.

**Resource person: Ms. Veena P.G, Consultant KSBB**

Ms. Veena also rendered her insights and opinions on the practical aspects and challenges of biological protection in the world. She initiated a discussion by providing a brief overview of the Convention on Biological Diversity and the Cartagena Protocol. Furthermore, she spoke about the functions of the State Biodiversity boards in India, with special reference to KSBB. Her talk gave primary mention of the procedure followed by the KSBB under the KSBB Rules, 2005 and the appropriate guidelines. She then concluded by highlighting the challenges faced by the SBAs in present day scenario. A few of the challenges mentioned are as follows :

1. Large mandate in the Board which has limited manpower, scope of implementation is large
2. Resistance from industrial sector
3. No exemption from small scale industries

4. Highly exploited 421 species
5. Resources spent on obtaining ABS is more than the ABS
6. Trade linkages are ad hoc and complex
7. Location of the trader not indication of jurisdictional BMCs
8. BMCs are not fully functional. They are in nascent stage
9. They also lack help from other regulators
10. Lack of data and studies.

**Resource person: Ms. Architha Narayanan, Assistant Professor, NLSIU**

Ms. Architha engaged in an interactive session with the audience whereby she clarified certain unanswered questions. She highlighted the importance of the duty of intimating the NBA and SBAs under Sections 3, 6 and 7 of the Biological Diversity Act, 2002 and the consequent penal provisions for breach of such duty. Furthermore, she explained the existing dilemma in understanding the nature and structure of ABS ( Access and Benefit Sharing ) Agreements under the Act. She finally concluded by stressing the need to undertake legal research in understanding the existing lacunae in laws relating to protection of biological diversity.

**Resource person: Mr. Rohith Kamath, Advocate, Research Scholar, NLSIU**

Mr. Rohith Kamath, was the final panellist of the workshop. He gave a brief overview on the nature of ABS agreements as contracts and the grounds for revocation of such contracts. He instigated discussion by questioning whether ABS agreements can be revoked on grounds not provided in the contract. Furthermore, he gave a brief description of the adjudication process involved in the settlement of disputes arising out of ABS agreements and the jurisdiction, powers and functions of the NGT.



## PAPER PRESENTATIONS

Date: 29/09/2018

Time : 1:45

1 Hr. 30 Mins

**Room 411**

**Chair : Dr. Davis Pandan**

**Co-Chair: Ms. Architha Narayanan**

**Topic : Conservation Issues, Research and Challenges to Biodiversity**

1. Ranjeet Mathew Jacob And Shinil Paul Mathews

Topic: Essence of fair and equitable benefit sharing : A critical Analysis

The discussion centred on the imbalance in resource allocation and the anomalies between Intellectual Property Protection and the public interest. Emphasis was laid on the difficulty of local communities in interacting with the global community, despite the rich knowledge that exists.

2. R Jeyapriya

Topic: Importance of Regulating Biological Diversity and Access Benefit Sharing

The speaker discussed the Plant protection Act and its Origin in the international sphere, the relationship between the Nagoya Protocol and Biodiversity Act in terms of strategic planning and sustainable development. The progress of India in Access and Benefit Sharing was also emphasised on.

3. Priyadarshi D

Topic: Critical Analysis of the Biodiversity Act : The issues in its implementation

Discussion on the shortcomings of the Biodiversity Act. This is due to the lack of importance given to conservation. There is also discourage of the free flow of information and lack of sufficient gendered representation.

4. Sarangh Chathurvedi

Topic: Strategic Sustainable Development and Biological Diversity in India

The need for international organizations to implement the Convention on Biological Diversity and a discussion on the current international regime of Access and Benefit Sharing.

5. Aman Varma and Kshithija Prakashan

Topic: Discerning the conflict between Patent law and the law on Biological Diversity

Inter-relationship between Intellectual property Rights and Access and Benefit Sharing.

6. Nikhil Erinjingat

Topic: Challenges in achieving the objectives of the biodiversity legislations with a special focus on access and benefit sharing in India

A criticism of the Bio-diversity Act. Points discussed included the excessive power concentrated with the centre, the limited role and scope of the National Bio-diversity Authority, the over-empowered central government, lack of representation of the local community, disproportionate penalties and the discrimination between foreign and local companies under the Act.

7. Paul Abraham and Anantha Narayanan

Topic: Protection of Tribals under the Biodiversity Act

The importance of Access and Benefit sharing in order to protect tribal communities was extensively discussed.

**Room 412**

**Chair: Dr. V. Shyam Kishore**

**Co-chair: Ms. Sincy Wilson**

**Theme: Role of State in Conservation of Biological Diversity**

1. Dr Subbalakshmi G on Access and Benefit Sharing: A tool towards preserving knowledge (School of Law, Puducherry University)

The Presentation shed light on the rich TK in India and the importance of ABS through discussing the CBD. Presenter laid down the objectives and the research questions. She outlined the Misappropriation of TK and the Threats and Effects and dealt with the landmark cases of the neem, haldi etc. She also dealt with the Kani tribe case.

2. Manisha Manaswini and Smrutipadma Mohanty on Scenario of Biodiversity conservation in India: Problems, issues related to protecting of biodiversity with special reference to IPR. (KIIT Law School, Orissa)

The Presentation emphasised the Importance of the Biological Diversity of the North East and Western Ghats. Highlighted the challenges of sustainable development and the threat of over exploration. ABS is related to Free and Equitable Sharing. Conclusion on the impact of Food Security of the nation.

3. Mahati Saaveri and Ayushi Shukla on A study of biodiversity laws and monitoring mechanisms in the state of Kerala: floods and ecological restoration. (NLU- O)

Case study approach on ecological restoration. The impact of floods on Flora and Fauna. The flood brings toxins and impacts the food chain. Improper Construction of river Channels. Ecological imbalance due to mining culture. Emphasis on Kasturirangan Committee Report and Gadgil Committee Report.

4. Elizabeth on Environmental Impact Assessment: A critical analysis (SLCU)

EIA is under EPA and is required for construction and to assess the possible impact on nature. Looks into the Cost Benefit Analysis and the effects to the public. Same is appraised by a committee. Most EIA is plagiarised. Debate b/w Modernisation and Development. Discussed the Delhi Development Project, Chennai- Salem Green Highway and Bangalore Elevated Corridor.

5. Sabah Taslim on Implications of sixth schedule to Biodiversity Act- case study of the state of Meghalaya (Alliance University, Bangalore)

The Sixth Schedule and the relation with the BMC was discussed. Discussion in TN Gidavarman Case. Types of forests in Meghalaya. Case discussion on UOI v State of MO where court laid BMC had specific jurisdictions. Impact on Land Tenure Systems, effect of District Councils. Conclusion based on the Ostrom Social-Ecological System.

6. Sarveshwar Bhalotia on Role of State in Conservation and Management of Biological Diversity (SLCU)

The topic looked into the constitutional obligations an international treaties and judicial decisions which cast a duty upon the state in undertaking measures to protect bi-diversity. It also covered the challenges and impediments existing in the current regulatory system and the legal framework.

7. Sanah Javed and Aishani Rai on Marine and Coastal Biodiversity Challenges in India: The Way Forward (SLCU)

The present aimed at addressing issues that affect the marine eco-system by providing effecting solutions to the same. In pursuance of this, a six fold suggestion was given by the presenter.

8. Abhimanyu Rao on Sustainable Oceans- A Dream or Challenge (SLCU)

Through the presentation, the present aimed at uncovering the possibility of ensuring cleaner water bodies , with particular reference to the oceans. Furthermore, the presentation covered the challenges posed in attempts to achieve this suggestion.

### **Room 413**

**CHAIR- Mr. Parameshwara**

**CO CHAIR- Ms. Neha Singh**

### **Theme- Biopiracy Challenges and Biotechnology Industry Regulations**

1. Lucky George and Fincy P.

Topic- Interface between TRIPS and CBD: Bio safe or Bio threat? Reference to IP protection of GM crops

The presentation was about TRIPS and its relationship with the CBD as to whether it was a threat to the future of biodiversity or not. The presentation also touched upon the implications of the GM crops on developing countries comparing it with other developed countries. Some suggestions put forth through the course of the presentation were that TRIPS and CBD to work harmoniously by amending the TRIPS in order to make the patenting of GM crops optional.

2. Aditi Nidhi and Amlanika Bora

Topic- Biodiversity conservation in India: Laws, Challenges and Way Forward

This presentation was regarding the laws, challenges and the future of conservation of biodiversity in India. The topics discussed in this presentation were the need and significance of biodiversity in India, the threat of biodiversity, the conservation of biodiversity and the national and international legal framework of biodiversity.

3. Satyam Rathore

Topic- Biodiversity Act: Challenges and Road Ahead

The various issues concerning the Biodiversity Act, 2002 were brought into light through this presentation. Some of the concerns raised were the definition clauses of the Act along with Sections 3 and 4. The criminal penalties concerning the offences committed are very minimal and the very aim and objective of this Act had not been fulfilled. Some of the suggestions

mentioned to overcome these issues were a cultured bio source, value added property, amendment of the Act itself and some interim relief.

4. Samiksha Mootha and Vandana Jain

Topic- Intellectual Property Rights in relation to Biodiversity Issues and Challenge

This presentation shed light on the various issues and challenges faced in the relationship between Intellectual Property Rights (IPR) and Biodiversity. Biodiversity must be protected however due to the rise in biopiracy, there has been various adverse effects on the relationship between the IPR and biodiversity. The presentation was about how developed countries are ignorant to the problems faced by biodiversity and how this has indirectly resulted in various other problems such as climate change. One suggestion made through the course of this presentation was to be more ethical and moral in order to save the planet.

5. Anushka Shrivastava and Dahanavi Sundaram-

Topic- Biological Diversity, Intellectual Property and Biopiracy

This presentation focused on the preservation of biodiversity with respect to the Intellectual Property Rights (IPR) and biopiracy. Two ways to protect Traditional Knowledge under the IPR were discussed- Positive protection (wherein a case study in Peru was discussed) and Defence protection (Wherein certain requirements to protect such as the license contracts, public and confidential registers were discussed). The presentation then focused on the Indian scenario and suggested a Trade Secret Protection and the WIPO guidelines to safeguard biodiversity.

6. Sachit Ram

Confronting Biopiracy: India's Work in Progress

Biopiracy is the commercial exploitation of certain bio resources. The presentation focused on how certain developed countries have patented various biodiverse products for profits. The International frameworks such as Convention of Biodiversity, 1992 and the Trade related aspects of IPR, 1994 were discussed. Landmark cases such as the Basmati rice controversy and Neem controversy were also discussed. Amendments to legislations such as the Biodiversity Act, 2002 and the PVPFR Act, 2001 were proposed too. Solutions to combat biopiracy as suggested in the presentation were to pressurise USA to ratify the CBD, raise

awareness, Government funded scrutinization of the legislature and Inter-country brainstorming sessions.

7. Abel Thomas Mathew and Geo Kennedy

Topic- Marine Life: The Diminishing Wonder of the Earth

This presentation gave a briefing on how marine species have been diminishing due to various issues and tried proposing solutions for the same. Examples of extinction of certain species of algae that safeguard other marine lifeforms were discussed. The presentation also focused on the reduction of coral reef population due to various reasons such as acidification of oceans, overfishing etc. Even though there are various legislations such as the Biodiversity Act, 2002 and the Wildlife Protection Act, 1972 exist, there isn't any specific legislations for the marine life on its own. The suggestions proposed were amendments to these Acts to provide more focus on the marine life.

After the conclusion of these presentations the Chair, Mr. Parameshwara provided his feedback on the session. He gave some advice to the participants on their methods of presentations. However, his main focus was on how we as responsible citizens of this country must try our best to protect the biodiversity as it is on the verge of beyond being saved.

#### **Room 414**

**Chair: Dr. Satish Gowda**

**Co Chair: Mr. Raghav Parthasarathy**

**Topic: Intellectual Property Rights and Biodiversity Conservation**

1. Jagdish A T and Athira

Topic: A critical study on biodiversity profile in India and its present inputs, current debates and future prospects on intellectual property rights.

The time has come the sustainable use of traditional knowledge is to be prioritised given the growing needs of the population, commercialisation and over exploitation. The loss of biological resources and misuse of associated knowledge is a cause of concern especially when the concept of IPR and its significance are growing at a fast pace. Hence it is very important, to examine the viability of resources, future prospects, the issues and conflicts connected to IPR and biodiversity.

2. Dr. Achyutananda Mishra

Topic: Intellectual property rights over genetic resources: A critical study

The fact that IPR provides control over certain information to particular people, depriving the pioneers of this knowledge of the benefits derived from the same is an issue that must be dealt with. The aspects where CVD and TRIPS are not in consonance with each other is another area of concern. Hence the paper aims to analyse the problems regarding the same.

3. Sudhanshu Singh and Ancy P Anto

Topic: Traditional Knowledge and the intellectual property system

Initially issues with respect to exploitation with traditional knowledge was driven by non-governmental organizations making the government involvement minimal with CBD, 1990, brought about provisions protecting this. Today the issues of bio piracy and intellectual piracy are posing threats to large parts of population across the world. So there is a need for better IP laws and for protection of traditional knowledge through more comprehensive legislations.

4. Shana Sarah and Sweety Jain

Topic: Interface between TRIPS and CBD with reference to Access and Benefit Sharing

The irrevocable damage inflicted upon our biodiversity shows that protection of our ecosystem is the need of the hour. India being a mega diverse country, conservation of biodiversity in our country is required. A few landmark cases have changed the nature of patents and IPRs along with legislations such as CBD and TRIPS agreement. However the problems of bio piracy and genetic erosion still exists. So it is important to analyse the different ways in which a balance can be brought about between IPRs and sustainable use of biodiversity.

5. A Satish

Topic: Access and Benefit Sharing and Conservation of Biological diversity

The threats to the balance between the biologically diverse species is growing on the account large scale industrialisation and urbanisation. There is a need for a stringent legislation with regard to the same. There is a need to analyse problems in the area and to devise more plans

for more protection of the ecosystem. Conservation must be prioritised and backed by sanction of the law.

6. Varsha N and Abdul Rahman

Topic: Intellectual Property and Traditional Knowledge

New discoveries put forth by agricultural and pharmaceutical researchers can be disputed on the basis that it is actually derived from our indigenous traditional knowledge commercialising traditional knowledge has its advantages and drawbacks in this respect, this paper analysis the concept of ABS and the provisions related to it in the CBD and Nagoya Protocol along with relevant clauses in the TRIPS agreement

7. Vasanth D and Shantanu G

Topic: Legal Regime Governing Biodiversity and Access and Benefit Sharing

In spite of various legislations related to conservation of biodiversity the challenges of misappropriation, bio piracy, unfair exploitation of resources and climate change still prevails and needs to be addressed immediately in order to emphasise upon sustainable use and development. This paper analyses the concept of ABS and the scope of Nagoya Protocol and CBD with regard to the same.

8. Kaushiki Mishra and Andal Rajendran

Topic: Harmonising Sahyadri (Western Ghats): A balance between development and conservation

The Western Ghats is one of the most biodiverse zones in India hosting numerous species of plants and animals mandating conservation. The reports of the Madhav Gadgil Committee and Kasturirangan Committee are analysed in the light of the same. The role of law in regulation of development activities and challenges connected to the same are also examined.

9. Vindya V

Topic: A Critical Analysis of the Biological Diversity Act in relation to the Conservation and Preservation of Marine Creatures (Sea Turtles)

The pollution and degradation of marine species affect the food chain as a whole along with human intervention via activities such the long line fishing technique which has proved fatal to sea turtles, a significant species in the food chain. The importance of the formulating

legislations with regard to the same and developing a holistic approach towards conservation of the biological resources in the oceans is delved into through this paper.

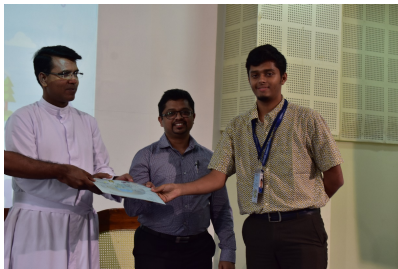
10. Abhishek Rudra and Abhijeeth Suresh

Topic: Journey of the National Green Tribunal: Through the Mirrors of Environmental Governance and Jurisprudence, Limitations and Expectations

The National Green Tribunal, a revolutionary institution in India is currently facing issues of lack of proper infrastructure and other discrepancies. This paper looks into its powers and functions from a critical perspective and its role in protection of the ecosystem and further looks into the jurisprudential aspect of the regulatory authority that the NGT possesses. It also provides suggestions with respect to position of NGT.



### VALEDICTORY



The Workshop was concluded wherein 2 participants were awarded best paper presenters. Among the participants Mr. Sachith Ram bagged the highest score, followed by Mr. Divyanshu Priyadarshi. The Valedictory was presided over by the respective chairpersons of the paper presentations.

