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H.P. State Biodiversity Board
UNEP-GEF MoEFCC ABS Project

PROCEEDINGS ON:

**Awareness Advocacy Workshop on: Biological Diversity Act 2002, and its Access and
Benefit Sharing Provisions**

Conference Hall, Department of Law, Himachal Pradesh University, Shimla-5

25th August, 2017

Awareness Advocacy Workshop on: Biological Diversity Act 2002, and its Access and Benefit Sharing Provisions

Himachal Pradesh State Biodiversity Board (HPSBB) in coordination with the National Biodiversity Authority (NBA), Chennai is implementing a project, sponsored by UNEP/GEF MoEFCC (GoI) on strengthening the implementation of Biological Diversity Act, 2002 with focus on Access and Benefit Sharing (ABS) provisions under the Act.

The need to spread Biodiversity awareness is enormous in the context of successfully addressing Biodiversity Conservation problems, Biological diversity Act 2002 and rules 2004 address the same. It is also linked to biodiversity education for conservation as to sustainably use and protect valuable bioresources. On the one hand, awareness on Biological Diversity Act, 2002 creates greater awareness in individuals and communities with respect to putting environmental resources to use even while conserving them. On the other hand, greater the awareness increases especially within the line departments of the government, the scope of sustainable use and conservation practices for protecting our valuable biodiversity also increases. In order to conserve and sustain biodiversity of the State and to implement programmes and strategies related with biodiversity conservation at the state and national level it was realized that the Law departments of the state should be made aware about the provisions, scopes and role of Biological Diversity Act, 2002, so it was decided by HP State Biodiversity Board to make Law Department of Himachal Pradesh University aware about the role and scope of Biological Diversity Act, 2002. In this connection a one day training workshop for HP University, Law Department, comprising of Professors and law students was organized at HP University, Shimla under supervision of Sh. Kunal Satyarthi, Joint Member Secretary, Himachal Pradesh State Biodiversity Board. Prof. Girija Sharma, Dean of Studies, HP University was the guest of honor, Smt. Archana Sharma, Director, Environment Science & Technology, Govt. of HP was the Chief Guest, Prof Kamal Jeet Singh, Chairman, Deptt. of Law and Prof Sanjay Sandhu, Deptt. Of Law, HP University were present during the inaugural session of the workshop. Dr. Mustafa, IHCAP, Government of Switzerland, Dr. Sanjay Verma , JICA Project, Japan, Madam Michico, JICA Project, Japan and Prof. Raghivinder Singh, Director UILS were present during the training workshop. Scientists and officials from HP State Biodiversity Board attended the workshop and delivered the lectures.



Workshop was started with the welcome address by Prof. Kamaljeet Singh, Chairman Deptt. Of Law, HPU, Shimla. In his welcome address he laid stress on the importance of Biological Diversity Act, 2002 and its scope for the upcoming Law students.



Sh. Kunal Satyarthi, Joint Member Secretary, Himachal Pradesh State Biodiversity Board, enlightened the audience about the inception, importance and scope of Biological Diversity Act, 2002. Indian forest act, 1927, Wildlife Protection Act 1972 and Environment Protection Act, 1986, he briefly told that all offence under Biological Diversity Act 2002, are cognizable and non bailable and every biodiversity found in the local body has sovereign right over the Local biodiversity. he also told about ABS, Nagoya Protocol, Japan and Formation of Biodiversity management committees and Peoples biodiversity register formation.

Proff. Girija Sharma, Dean of studies, HPU, Shimla welcomed all the guests and audience. Importance of Biodiversity and need for its conservation was discussed during her talk. Onslaught of the machine age has caused worries causing lack of sensitivity towards nature. Gave examples as how the primitive societies and our ancestors have respected and conserved



nature during that time. The sensitivity towards nature is the need of hour and this feeling and sensitivity has to be inculcated in the young generation so as to make them better equipped and informed about the importance of nature and biodiversity. Needs of environment should be taught and awareness regarding conserving biodiversity

Ms. Archana Sharma, Director Env. Sc. & Technology, after welcoming all the guests and audience mentioned the importance of making law students aware about the Biological Diversity Act, 2002. She in her talk explained what Biodiversity is and made everyone



familiarized about the topic, she also mentioned how important it is to conserve our rich biodiversity. She explained how rural folks are dependent on resources arising from Biodiversity. She informed about the forest cover of the state and also mentioned about the endemic species of Himachal Pradesh. She also discussed about the NTFPs and the revenue that is generated from it. Medicinal

and aromatic plants and their importance were also told. She ended her speech by letting everyone know about the inception of Biological Diversity act and how sustainable use of bioresources was brought up. Earth summit and CBD were discussed and three tier system of Biological Diversity Act, 2002 i.e. Conserving Biodiversity, Sustainable use of its component and Fair and equitable Sharing of Benefits was also briefly discussed. She mentioned that it is of utmost importance to correctly interpret and apply Law and Act to ensure justice is done to its maximum limit. In the end she gave example of insect traders from national park where two Czech nationals were arrested “for stealing insects” near the Singalila National Park in Darjeeling. The two Prague-based entomologist Petr Svacha and his colleague Emil Kucera were convicted by a local court under provisions of Biological Diversity Act, 2002. By giving these examples she showed the scope, provision and power of Biological Diversity Act, 2002 and these examples also acted as the foundation for the presentations to follow later.

Dr. Sanjay Sindhu, Professor Department of Law presented the vote of thanks.

Sh. Kunal Satyarthi, Joint Member Secretary, HP State Biodiversity Board started his interactive presentation by showing an article published in a newspaper: Times of India on 7th September 2016 in which Baba Ramdev's firm Patanjali pledges to give 12 crore rupees to Uttarakhand Biodiversity Board for the bioresources they acquire from Uttarakhand for production of their products. He gave example of neighboring State of Uttarakhand stating that they have given notice to around 600 companies to comply with Biological Diversity Act, 2002 and share their benefits with the State Biodiversity Board and in return State Biodiversity Board will share 95% benefit with the local Biodiversity Committee from where the bioresource has initially been procured.

By giving many examples he explained that biodiversity is not just associated with medicinal plants and herbs found in wild but it covers everything except Normally Traded Commodities (NTC's) and other agriculture produce till the time some value addition is done e.g. cultivation of apple is not



applicable under BD Act, 2002 but if someone or some industry or firm is engaged in value addition by making some commercial product like jam or wine from apple then they do come under BD Act, 2002. Next he briefed about the status of global biodiversity and also told about the alarming rate (150 varieties of different species being lost every day) at which biodiversity is being wiped off from the face of earth.

Next he brought everybody's focus on Biological Diversity Act, 2002 and its provision. He briefed about how and why Biological Diversity Act was conceived he told that the international community's concern about the unprecedented loss of biodiversity emerged at the United Nations Conference on the Human Environment held in Stockholm in 1972. In 1987, the World Commission on Environment and Development enunciated the principle of "sustainable development" in its landmark report titled "Our Common Future" in which it observed that "humanity has the ability to make development sustainable to ensure that it meets the needs of the present generation without compromising the ability of the future generations to meet their own needs". "Sustainable development" became the theme of the United Nations Conference on Environment and Development (UNCED), held at Rio de Janeiro in June 1992. In November 1990, the United Nations Environment Programme (UNEP) began the first of seven negotiating sessions whose objective was to produce an international treaty on the conservation of biological diversity. The CBD was presented at the Earth Summit in Rio de Janeiro in

June 1992, where it was signed by 153 nations including India. The CBD came into force from the 29th of December 1993.

Biological diversity Act, 2002 came into existence much later than the other existing laws on environment such as the Indian Forest Act, 1927 , Wildlife Protection Act, 1972 , Environment Protection Act, 1986 etc. Government of India in 2002 decided to release its own draft on National Biodiversity Plan. The Act of 2002, based on this plan was passed by the Lok Sabha on 2nd December, 2002 and Rajya Sabha on 11th December, 2002.

He told that the Biological Diversity Act of 2002, and the Biological Diversity Rules, 2004 are implemented by National Biodiversity Authority (NBA) at the national level, State Biological Board (SBB) at state level and Biodiversity Management Committees (BMC's) at local levels. To assist NBA at centre and to advise them on matters exclusive and of particular interest to the biodiversity of the State, similar Boards have been established in States under Section 22 of the said Act. The powers and functions of the State Biodiversity Boards have been listed down in Section 24 and Section 23 of the Act. Some of the major functions of these authorities were discussed which are as follows:

- To regulate activities of, approve and advise the Government of India on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits.
- To grant approval under Sections 3,4 and 6 of Biodiversity Act,2002
- To notify areas of biodiversity importance as biodiversity heritage sites under this act and perform other functions as may be necessary to carry out the provisions of the Act.
- To take measures to protect biodiversity of the country as well as to oppose the grant of intellectual property rights to any country outside or any biological resources obtained from India.

It was told that the National Biodiversity authority (NBA) deals with the requests for access to the biological resources as well as transfer of information of traditional knowledge to foreign nationals, institutions and companies. Through this way piracy of Intellectual Property Rights in and around India is prevented and it also saves the indigenous people from exploitation. Next Sh. Kunal Satyarthi explained everyone about the role and functions of Himachal Pradesh State Biodiversity Board (HPSBB). He said that HPSBB was constituted in the year 2006 and its administrative body consists of a Chairman, 5 ex-officio members, 5 expert members and secretarial staff. Next role and functions of Biodiversity Management Committee (BMC) was discussed. According to section 41 of the Biological Diversity Act states that every local body shall constitute a Biodiversity Management Committee (BMC) at this point it was elaborated that the three tier system of the Act comprising of NBA at center, SBB at State level and BMC at local/panchayat level works independently, have their own roles and responsibilities. Next he described the role of BMC's which is also to conserve Biological diversity, ensure sustainable use of its components and lastly there should be fair and equitable sharing of the benefits arising out of utilization

of biological resources. In the following presentation he went on describing about need and importance of Peoples Biodiversity Register (PBR); which are legal documents and database on biodiversity of any given area and he also described about Local Biodiversity Funds (LBFs). He described how PBRs as a legal document could play an important role in maintaining records on biodiversity related to a specific area and he also mentioned how LBFs would help in motivating and channelizing the whole process of making of PBRs. Next Biodiversity Heritage Site provision under the Biological Diversity Act, 2002, was discussed and how this would be able to help locals conserve their heritage site which they already have been doing from generations (Sacred Grooves) or they were not able to because of lack of initiative or incentive. Certain exemptions under Biological Diversity Act, 2002 and normally Traded Commodities (NTCs) were also discussed and explained.

Penalties related to breach to Biological Diversity Act, 2002, were discussed next and it was stated that: Firstly whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3 or section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakhs rupees and where the damage caused exceeds ten lakhs rupees such fine may commensurate with the damage caused, or with both. And secondly whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (2) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakhs rupees, or with both. In addition it was told that the offences under this Act shall be cognizable and non-bailable. This clause stipulates that the Central Government may give directions to the State Governments for execution any of the provisions of this Act.

Next presentation was given by Dr. Murari Lal Thakur, State Project Coordinator (SPC) of UNEP-GEF MoEFCC ABS Project in HP State Biodiversity Board (HPSBB). During his presentation he laid stress and provided information to media on Access and Benefit Sharing (ABS) mechanism and its relevance in Himachal Pradesh. During his presentation he gave information on how Biological Diversity



Act came to existence. He gave information on role, functions and duties of SBB and BMCs. Further he provided information on economic importance of bioresources specific to State of Himachal Pradesh. He gave information on bioresource based industries in Himachal and bioresources associated with industrial usages. Later on he explained the Access and Benefit Sharing mechanism and its provisions stating that ABS is Accessing of biological resources, sharing of benefits

between users and Providers. The fair and equitable sharing of the benefits arising out of the utilization of genetic resources is one of the three objectives of the CBD and the CBD in its Article 15 sets out principles and obligations of parties related to Access to genetic resources and the fair and equitable sharing of benefits arising out of the utilization of genetic resources, on the basis of Prior Informed Consent (PIC) and Mutually Agreed terms (MAT). He also explained what PIC and MAT is, he told that the permission given by the competent national authority of a provider country to a user prior to accessing biological resources, in line with an appropriate national legal and institutional framework is Prior Informed Consent (PIC) and an agreement reached between the providers of biological resources and users on the conditions of access and use and the benefits to be shared between both parties is termed as Mutually Agreed terms (MAT).

Citing some examples of ABS from India he mentioned the success story of the Kani tribe of Kerala for its Access and Benefit Sharing (ABS) model. He also briefed about transferring the Results of Research to Foreign Nationals, Companies, Non-resident Indians for commercial purposes or otherwise and related procedures. In the last part of his presentation he gave information on main industries using biological resources, few popular products driven from Bioresources and Bio-economics of some important medicinal herbs of the State.

Glimpses of the Event





