

BIODIVERSITY LAW, POLICY AND GOVERNANCE (2018), Edited by Usha Tandon, Mohan Parasaran and Sidharth Luthra, Routledge, London and New York, (South Asia Edition) Pp. XVII+348; Price Rs 1055/-

THE BOOK¹ under review is an edited volume comprising of contributions under the broad theme of Biodiversity Law, painstakingly selected by the editors and categorized under diverse themes encompassing, *inter-alia*, conservation of biodiversity, legal aspects of genetic engineering, and even role of intellectual property in context of biodiversity. In doing so, the editors have brought forth a remarkable work which highlights some of the most current developments and conundrums within the biodiversity rubric. This makes the book an incredibly rich resource for researchers engaging with different aspects of biodiversity law, and a wonderful reference point for understanding the numerous ways in which law and legal system interacts with biodiversity, whether that interaction is for the purpose of conservation of biodiversity or for the purpose of regulating use of bio-resources. Interestingly, the book also deals with how the judicial system has responded to the conundrums raised by exploitation of biodiversity and how judges have striven to strike a balance between conservation and use.

The first part of this edited volume deals with “Biodiversity Conservation: Issues and Challenges” and comprises of two chapters. The first chapter, “Sustainable Wetlands and Biodiversity Conservation: Nigeria’s Lagos Lagoon in Focus” contributed by Erimma Gloria Orié engages with importance, loss, and conservation of wetlands, particularly focussing on the Lagos Lagoon wetland in Nigeria. In this context, the author laments the absence of any strong laws for wetland conservation and to give effect to provisions of Convention on Biological Diversity. The lackadaisical approach to implementing whatever laws and policies do exist is also decried. The author recommends enactment of “comprehensive wetland protection legislation” and placing of Lagos Lagoon “as a conserved urban ecosystem that should not be developed”². The other chapter in this part focuses on sustainable use of marine resources in Mauritius³. Here, the author, Marie Valerie Uppiah begins by highlighting some of threats to marine ecosystem attributable to anthropogenic factors and then advocates the adoption of Marine Spatial Planning⁴ by focussing on the Mauritian experience with the same. The use of Marine Spatial Planning is advocated to reduce some of the damage caused to marine ecosystem and to sustainably exploit the marine resources.

1 Usha Tandon, Mohan Parasaran and Sidharth Luthra (Eds.), *Biodiversity Law, Policy And Governance* (Routledge, London and New York, 2018)

2 *Id.* at 28

3 See, *Id.* Chapter 2 titled, “Marine Spatial Planning as a key instrument for the sustainable use of marine resources: the case of Mauritius”.

The next part of the book is titled, “Biodiversity Governance and Diplomacy”. Here, Amrendra Kumar engages with biodiversity conservation and management in a comparative perspective⁵. Here the author embarks on providing an overview of the international treaties and declarations on certain aspects of biodiversity conservation and management before providing an overview of the numerous laws on the subject in three biodiversity rich countries. To add to this, Moses S-N Watulo⁶ writes about the Ugandan experience in the next chapter wherein the author has focused on the legislative, strategic and judicial efforts to conserve and manage biodiversity in the land-locked African country.

The next part deals with “Convention on Biological Diversity, ABS and TRIPS Agreement”. Here the readers are introduced to the notion of access and benefit sharing for the use of biological resources present in certain countries when the same are used by developed countries to manufacture and market high-value finished products which are often IP protected. There has been a very visible unfairness in a transaction wherein resources and associated Traditional Knowledge from one country are exploited without permission or transfer of benefits by other countries which have the financial and industrial capacity for exploitation leading to allegations of biopiracy. The ABS arrangement is a step to curb the same and to ensure benefits for source countries and/or source communities of indigenous traditional knowledge holders. Push Kumar Lakshmanan has, given such context, explored the implementation of Nagoya Protocol to the Convention on Biological Diversity in the chapter titled, “Implementing the Nagoya Protocol on Access and Benefit Sharing in India”. The other chapter in this part focuses on the perceived conflict between two major international treaties, namely the CBD and the TRIPS wherein the latter is about grant of IP rights over knowledge goods including technologies of all kinds and is seen largely as pro-exploitation. The alleged inconsistencies between CBD and TRIPS collapse easily when one looks at the two systems more closely. This is explored by Vandana Mahalwar in the chapter titled, “Agreement on Trade-Related Aspects of Intellectual Property Rights versus Convention on Biological Diversity: A Call for Harmonization”.

The next part titled “Genetic Engineering: Problems and Prospects” comprises of a single chapter by Parikshet Sirohi titled, “Genetically Modified Crops: Neither Poison nor Panacea”. The author starts with exploring the problem of food shortage and

4 The author defines it as “the sustainable use of marine resources according to the place they are located in the sea”. *Id.* at 38

5 See, *Id.* Chapter 3 titled, “Biodiversity Conservation and Management in India, Brazil and South Africa: Law, Policy and Diplomacy in the Contemporary Age”.

6 See, *Id.* Chapter 4 titled, “Biodiversity Conservation and Management: the Ugandan Experience”.

how genetically modified crops might be a solution for increasing yields. But these crops are controversial as well because of the underlying genetic modification which gives the crops its enhanced or desirable traits. The Indian regulatory response to GM crops is presented in detail and the author concludes that “in an increasingly hungry world, GM technology should not be ruled out”⁷.

The next part is titled “Judicial Responses”. In the first chapter herein⁸, two of the editors, Mohan Parasaran and Sidharth Luthra engage with the uniquely Indian concept of Public Interest Litigation and its role in biodiversity conservation. Commencing with history and meaning of PIL, the authors briefly describe the constitutional and statutory obligations for conserving biodiversity and then proceed to deal with numerous matters involving the biodiversity-development debate. Continuing with judicial responses, Usha Tandon in her chapter titled “Assessing India’s Green Tribunal for Conservation of Biodiversity” traces the genesis of India’s Green Tribunal before analysing some of the major biodiversity judgments given by NGT. It also discusses some of the unique strategies adopted by NGT for creating a robust environmental jurisprudence illustratively *suo moto* exercise of powers, existence of circuit benches and doing away with *locus standi*. Likewise, Stellina Jolly in the chapter titled “Role of the Judiciary in Biodiversity enforcement and compliance: comparison between the International Court of Justice and the Indian judiciary” discusses certain international environment norms and how far the same have been adopted by judiciary.

The last part of the book is titled “The Way Forward”. Niharika Bahl in the very first chapter of this part titled “Feminist Dimension of Biodiversity Challenges” engages with the intricate relationship between women and biodiversity. The chapter highlights the limited value attached to women’s part in biodiversity conservation, something which needs to be corrected given the historically deep bond between women and biodiversity. Shreeyash Uday Lalit explores the possibility of making governments accountable for climate change reduction efforts in the chapter titled “The Possibility of *Urgenda* in India”. The motivation for the chapter comes from the *Urgenda* Foundation case fought in Netherlands wherein the government was compelled by Court to honour its obligation for reducing greenhouse gas emission thus ameliorating the climate change problem. Whether such a judgment can be expected in India or whether the *Urgenda* case will propel Indian judiciary to compel the Indian government to do something about the climate change problem is investigated by the author in this chapter which represents a remarkable effort for transplanting foreign jurisprudence

7 *Id.* at 170

8 See, *Id.* Chapter 8 titled “Public Interest Litigation- An Effective Tool for Biodiversity Conservation: an Indian Experience”.

in domestic environment rubric. Niraj Kumar in the last chapter titled “The Possibility of a Global Environmental Organization” engages with the successes and lacunas of two international organizations, i.e. the International Union for the Conservation of Nature and the United Nations Environment Program. Based on study of these organizations, it is suggested that a World Environment Organization be set up, with the inspiration coming from existence and success of organizations like ILO, WTO and WIPO. Call for such an organization is relevant because environment degradation is not a local problem and because activities in one jurisdiction can have adverse environmental effects in multiple nations. WEO can have an organizational and dispute resolution set up on the lines of WTO for it to be effective. It is clear that the aptly titled last part of the book is full of wonderful ideas for tackling environmental degradation and for infusing new life into environment research and inquiry.

The book clearly is full of brilliant ideas and encompasses in a few pages a whole lot of knowledge about matters related to biodiversity. There is not a single conundrum within biodiversity law which has not been touched. The book deserves to be part of collection of court libraries, libraries of environment lawyers and of law schools. Fellow researchers will find numerous ideas and perspectives in the book, all of which can be developed more. It is commendable that the editors could find such incisive and energetic contributors for the volume which is so rich in its scope and has an enormous wealth of information. The book is highly recommended for those with interest in biodiversity law, international environment law, intersection of biodiversity law with international trade, and work of judiciary in matters related to biodiversity conservation and sustainable use of resources.

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