

## Community Based Conservation in South Asia

### *A Series of Case Studies and Theme Papers*

Across the world, a powerful new trend in the conservation and management of natural resources is where local communities are empowered to manage their surrounds. This could be a self-initiated process by the community, or triggered by an NGO, government agency, or donor. It could be exclusively handled by the community, or be some form of collaborative or joint management with outside agencies and individuals. The motivation could be biodiversity, conservation, livelihood security, water harvesting, or others. But whatever the origin and nature and motivation behind the initiative, the trend towards community based conservation and management is clear.

South Asia is fast emerging as a pioneer in this new trend. Communities are digging deep into their past and reviving powerful traditions of communal decision-making, as also adjusting to new circumstances and challenges. NGOs and government agencies and donors are learning that working "with" rather than "against" or even "for" communities, is a much surer way of achieving goals. At hundreds of sites across the region, community based strategies are reviving and protecting natural ecosystems, reviving threatened wildlife populations, and achieving higher levels of livelihood security. But there are also challenges: gender and class/caste inequities within communities, powerful commercial and industrial forces undermining conservation. On the positive side, each of the region's countries is revamping its planning and policy framework, to facilitate community based conservation (CBC).

This series of case studies and theme papers documents a number of CBC sites or themes in the region. This attempt follows a broad overview of the status of CBC in South Asia, which has been published in early 2000 by Kalpavriksh and IIED as *Where Communities Care: Community Based Conservation of Wildlife and Ecosystems in South Asia* (see p. 42 for details). Each study describes the initiative in detail, and analyses it to learn lessons for the future and for other sites in the region. The case studies and the theme papers are:

*(Continued on inside back cover...)*

## Source Book on Community-Based Conservation in South Asia:

People, Policies and Publications



Community Based Conservation in South Asia: No. 10

Kalpavriksh  
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**About the Study**

This resource book was put together as a part of a global project, called Evaluating Eden, sponsored and coordinated by the International Institute of Environment and Development, London. Under this Project a South Asia Regional Review of Community Involvement in Conservation was conducted. This review involved conducting field studies in a series of sites to understand and document community based conservation of natural resources, and in particular, of biodiversity in South Asia. This also involved putting together a list of people and a bibliography associated with CBC in South Asia. The South Asian Review was coordinated by a group of individuals associated with the environmental action group Kalpavriksh: Ashish Kothari, Neema Pathak and Farhad Vania.

### About Kalpavriksh

Kalpavriksh (KV) is a 20-year voluntary group in India, working on environmental education, research, campaigns, and direct action. KV believes that a country can develop meaningfully only if ecological sustainability and social equity are guaranteed. To this end its activities are directed to ensuring conservation of biological diversity, challenging the current destructive path of 'development', helping in the search for alternative forms of livelihoods and development, assisting local people in empowering themselves to manage their surrounds, and reviving a sense of oneness with nature. Over the last few years it has increasingly focused on community based conservation and management of natural resources, and is currently putting together a Directory of Community Conserved Areas in India.

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## Table of Contents

Acknowledgements	vi
Introduction	vii
<b>Section 1:</b> People and Organisations	1
<b>Section 2:</b> Bibliography	35
<b>Section 3:</b> Policies and Laws	85
List of Abbreviations	123



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## Introduction

This Resource Guide is divided into three sections. Within each section, each country of the South Asian region is dealt with separately. The first section consists of a listing of people and organisations in South Asia involved in work related to Community Based Conservation (CBC). The second section contains an extensive bibliography of references related to CBC in South Asia, including relevant laws and policies of the region. The final section contains brief descriptions of the salient features of the laws and policies listed in the bibliography.

The objective of this document is to contribute towards creating a network of people and organisations working on CBC by providing a source of academic, practical and legal information for researchers, activists, officials and NGOs.

This is by no means a comprehensive source of reference material or contacts. A significant omission is a listing of relevant periodicals. This was due to a lack of adequate information for countries other than India. Similarly, lack of access to copies of laws and policies of some of the other South Asian countries has meant that a few of the laws and policies listed in the bibliography have not been summarised. The bibliography has necessarily been restricted to those books and articles which have been researched within the constraints of time and manpower. The list of contacts is restricted to people who were approached for the review either personally or through a questionnaire, and people who we have come into contact with in the course of our other on-going work.

Due to these significant gaps in the information, inputs and suggestions would be greatly appreciated so that we can try to fill the gaps in subsequent editions of this booklet.

## Section I

### People and Organisations



This is a full list of people/organisations with whom contact was attempted either in person or through correspondence/questionnaires.

At the end of several addresses the person's '*area of interest/experience*' has been indicated in italics. This information has primarily been drawn from the questionnaires that were returned as part of the review or, in the absence of questionnaires, what we have been able to infer from personal interviews. In the case of India we have relied on our existing knowledge of the persons listed and the work they are currently engaged in.

**Please note that this information is only meant to be *indicative*, and not a comprehensive description of the sort of CBC-related work in which individuals/organisations in South Asia may be involved.**



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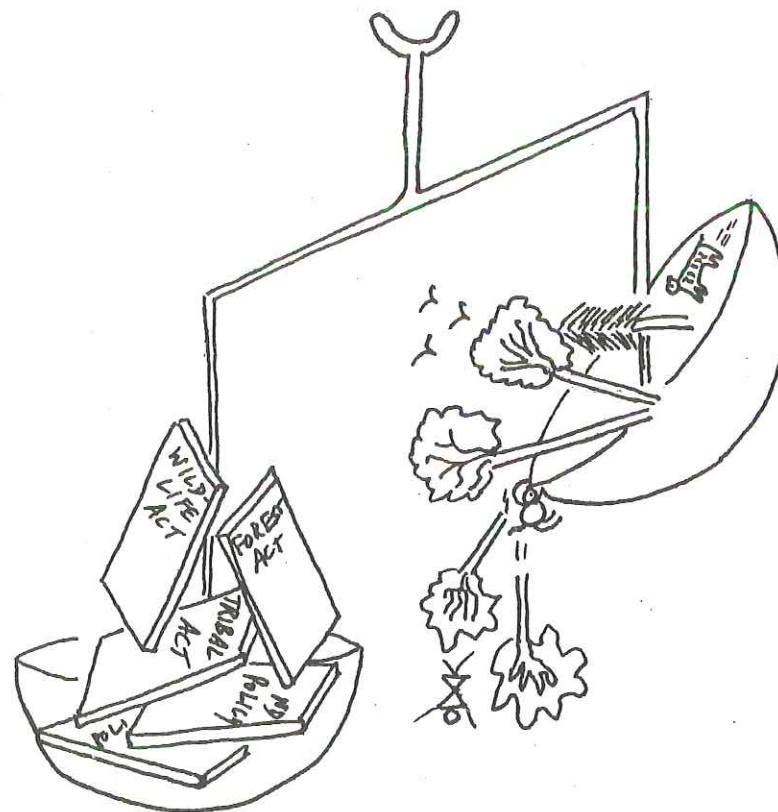
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*National Heritage Wilderness Areas Act. 1988.*

*Proposed Forest Conservation Act. 1997.*

### Section 3

## Policies and Laws





## **Bangladesh**

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### *Policies*

#### **The Bangladesh National Conservation Strategy, 1994**

The National Conservation Strategy (NCS) was initiated in 1986 upon the realization by the Government that sustainable development depends on conservation and management of natural resources and their supporting ecosystems. The NCS was developed with assistance from the IUCN (MoEF Bangladesh 1991). The NCS took over four years to complete, and was accepted by the Government of Bangladesh in 1994.

On forestry, the NCS states that the 1979 Forest Policy should be revised to emphasise the conservation of vulnerable watersheds, protection of forests on steep slopes and afforestation of blanks in such areas, preservation of genetic diversity, and people's participation through social forestry and community forestry.

The NCS is functioning in collaboration with government ministries, academic and technical institutions and NGOs in Bangladesh. The major outputs envisaged include: incorporation of conservation concerns in development policies of the country; drafting of management plans for ecologically sensitive areas; promotion of environment education; development of relevant conservation-related skills through training. The first phase of implementation, funded by NORAD, has covered specific examples of four distinct ecosystems: tropical forests, coral reefs, wetlands and the Barind (dry land) Tract.

#### **National Environment Management Action Plan, 1995**

The National Environment Management Action Plan (NEMAP) has been formulated by the Ministry of Environment and Forest (MoEF) with assistance from UNDP. The process which has culminated in a five volume document has attempted to incorporate the views of government agencies, NGOs, professional groups and academic researchers through a series of workshops and training programmes, working documents and the findings of specific projects (MoEF Bangladesh 1995). The methodology reflects a recognition of the principle that the involvement of people in the identification of issues and in finding solutions to them is essential.

The objectives of NEMAP are to identify key environment issues; conserve and improve the environment; reduce environmental degradation and promote sustainable development; and generally raise the quality of human life.

NEMAP activities fall under the categories of policies, projects and advocacy. The institutional issues covered include: intersectoral co-ordination; ensuring people's participation in decision-making; monitoring of NEMAP itself; legislation and international conventions.

### National Environment Policy, 1992

The Government of Bangladesh has adopted a National Environment Policy (NEP) in 1992. It identified fast depletion of forest resources as a major environmental concern. Therefore, it adopted the following aims:

- Conserve, expand and develop forests to maintain ecological balance and meet socio-economic needs;
- Include tree plantation programmes in all relevant development efforts;
- Put a halt to the shrinkage and depletion of forest cover and forest resources;
- Develop and encourage use of substitute of forest products;
- Conserve wildlife and biodiversity, strengthen related research and help dissemination and exchange of knowledge in this field;
- Conserve and develop wetlands and protect migratory birds.

The NEP also recognizes that active participation of people at all levels is essential to conserve and properly utilize natural resources.

### The National Forest Policy, 1995

Subsequent to Bangladesh acquiring independence in 1971, the first National Forest Policy was adopted in 1979. Though the policy recognized the important role played by forests in sustainable development, conserving soil and maintaining ecological equilibrium, and producing timber, firewood and other products, its major emphasis was on commercial utilisation. It stressed the need to increase timber resources by establishing large-scale plantations, and setting up forest based industries. Some mention was made of the

need for conserving forests and wildlife. The policy was revised and a new National Forest Policy was adopted in 1995, with a greater thrust towards conservation.

### New Fisheries Management Policy, 1986

The New Fisheries Management Policy (NFMP) is a significant policy document. This was viewed as an aquatic form of land reforms, aiming at improving and sustaining open water fisheries production, providing traditional and full-time fishers a greater share of fishing income, and encouraging fisheries conservation (Capistrano *et al.* n.d.).

In an attempt to exert some control on the rate of extraction of fish and to ensure that those heavily dependent on fisheries for their livelihood have access to the same and are given priority in lease arrangement, the Ministry of Fisheries and Livestock (MoFL) initiated the NFMP in 1986. Under this policy, the authority to manage the water bodies has been transferred from the Ministry of Land (MoL) to the MoFL/Department of Fisheries (DoF) (Capistrano *et al.* n.d.). However, many of these water bodies remained under *de facto* control of the MoL, which continued to lease out the water bodies despite the NFMP.

### Sustainable Environment Management Programme

The Sustainable Environment Management Programme (SEMP) is a follow up to the NEMAP. This programme is being executed by the MoEF and implemented by 22 sub-implementing agencies within a period of five years. SEMP will benefit local communities, particularly women in ecologically fragile areas. It supports community capacities for sustainable management of environmental resources. It also emphasises strengthening of the capacity of the public sector to develop a new policy framework emphasising community participation and sustainable resource management.

### Laws

#### Bangladesh Environmental Conservation Act, 1995

The Bangladesh Environmental Conservation Act, 1995 (ECA 1995), was enacted for environment conservation, environmental standard



development and environment pollution control and abatement. ECA 1995 is currently the main legislative framework relating to environmental protection in Bangladesh.

**Bangladesh Wildlife (Preservation) Order, 1973**  
**Amended by Bangladesh Wildlife (Preservation) Act, 1974**

The Act protects wildlife both within and outside protected areas. Wild animals are classified as game and protected animals. Game animals can be killed or hunted by obtaining a permit whereas protected animals are given very stringent protection.

The Act provides for three categories of protected areas with varying degrees of restriction on human activities:

- A Wildlife Sanctuary has severe restrictions on human activities; no person can enter or reside in it. Certain specified acts like cultivation, hunting etc. are prohibited, though the Government may, for scientific purposes or for aesthetic enjoyment or for betterment of scenery, relax all or any of the specified prohibitions.
- A National Park is defined as a comparatively large area of outstanding scenic and natural beauty with the primary objective of protection of scenery, flora and fauna in the natural state, to which access may be allowed for the purposes of research and public recreation and education. Certain specified acts like hunting, felling of trees, clearing land for cultivation, mining etc. are prohibited. However, the Government may relax any or all of the specified prohibitions. Further, the construction of hotels etc. is allowed, even though it may not be very desirable in terms of protection of wildlife.
- A Game Reserve is defined as an area designated for the protection of wildlife and increase in the population of important species, where capturing of wild animals is unlawful.

PAs can be established in any area i.e. on both state and private land. However, the process of declaration, or of acquisition of land or settlement of rights, is not mentioned in the Act. Nor does it provide for any kind of participation of the local communities or other stakeholders in management or protection of wildlife.

The Act also provides for the constitution of a Wildlife Advisory Board by the Government. There is provision for inclusion of

non-governmental individuals in this Board. There are two other acts that were previously enacted which can be applied by the forest officials along with this Act: the *Forest Act 1927* and rules made thereunder for hunting, shooting and fishing in the reserved and protected forests in 1959; and the *Private Forest Ordinance 1959* and rules made thereunder to regulate hunting, shooting and fishing within the controlled and vested forests, 1959 (Rosario, 1997).

**Environment Conservation Rules, 1997**

The Environment Conservation Rules, 1997 (ECR 1997), are the first set of rules, which have been promulgated in 1997 under the ECA 1995. The major aspects covered by ECR 1997 are the National Environmental Quality Standard; requirements and procedures to get environmental clearance; requirement of Initial Environmental Examination and Environmental Impact Assessment for any project.

**Forest Act, 1927**

Like India and Pakistan, Bangladesh too still follows the colonial Forest Act, 1927. There is also the *Private Forest Ordinance, 1959* (mentioned above) and the *Altia Forest (Protection) Ordinance, 1982*. The latter was enacted to declare specified forest areas as reserved forest, by-passing the relevant provisions of the Forest Act 1927.

**Other Relevant Acts**

Some other laws relevant to CWM in Bangladesh are:

- The Factories Act, 1965
- Fish Conservation Act, 1950
- Fish Conservation Rules, 1985
- Agricultural Pesticides (Amendment) Ordinance, 1983



## Bhutan

### Policies

#### Draft National Pasture Policy, 1992

A Draft National Pasture Policy aims at improved productivity in terms of the carrying capacity of the existing pasture, at rationalising the system of pasture and rangeland ownership and to bring about proper demarcation between forest, grazing land and agricultural land (NES 1992).

#### The National Forest Policy, 1974

#### Draft National Forest Policy, 1985

#### Forestry Master Plan, 1991-92

The forestry sector is governed by the National Forest Policy of 1974, Draft National Forest Policy of 1985 and the Forestry Master Plan, 1991-92.<sup>1</sup>

The National Forest Policy of 1974 assigned the Forest Department the task of tree-felling, and auctioning of logs to private saw-mills or for export. The draft National Forest Policy of 1985 clearly accorded a higher priority to forest conservation than to revenue generation. The Forestry Master Plan (FMP) was drafted by the Government of Bhutan in 1991-92. The plan comprises four five-year planning periods starting from 1992/93. Its guiding principles are conservation of forest resources and diversity, and retaining an ability to meet long-term needs of Bhutan for wood and other forest products (NES 1992).

The section on nature conservation in the FMP (prepared with assistance from WWF-Bhutan), recommends revision and increase of the country's protected area system including protection of important watersheds; introducing the element of conservation in all aspects of land management; protecting the eastern- and western-most variants of temperate ecosystems; establishing land use and natural resource use regulations; and protecting small but significant fauna habitats (WWF Bhutan 1995).

1 Not much information is available on these policies as the South Asia Review Coordinating Team has been unable to obtain copies so far.

### Other Policies

The National Environment Commission is drafting a National Environmental Strategy for Bhutan.

### Laws

#### Bhutan Forest Act, 1969

This Act provides for declaration of all unclaimed natural lands as government forest reserves. It bans the felling and burning of trees, fishing and hunting of all large mammals including golden langurs, tigers, snow leopards, elephants and red pandas.<sup>2</sup> The Forest and Nature Conservation Act of Bhutan, 1995, repealed and replaced this Act.

#### Forest and Nature Conservation Act of Bhutan, 1995

The Forest and Nature Conservation Act, 1995 (FNCA), is a comprehensive legislation enacted for the protection and sustainable use of forests, wildlife and related natural resources of Bhutan. All forests are declared as Government Reserved Forests (GRF). If any private registered land is declared to be GRF, the government provides monetary compensation or alternative land rights. Certain acts like clearing any land for cultivation or any other purpose, felling trees, etc. are prohibited in GRFs. Entry into designated areas may be regulated by rules framed under the FNCA.

Taking forest produce from GRF for personal domestic or other use is allowed subject to obtaining a permit from an authorised Forest Officer, on payment of royalty, and in accordance with the Rules and Management Plan for the area concerned.

The Act provides that the relevant Ministry may make rules for establishment of Community Forestry on GRF. The Rules may provide for transfer of ownership of the forest produce in the community forest to appropriate groups of inhabitants adjoining the forest. The group to which Community Forests (CF) have been transferred shall manage them for sustainable use in accordance with the rules for CFs and the approved management plan. The manage-

2 No further details are available, as a copy could not be obtained by the Coordinating Team.



ment plan is to be prepared by this group, and is subject to the approval of the Head of the Ministry.

The Government may declare any land in the country to be a National Park, Wildlife Sanctuary, Wildlife Reserve, Nature Reserve, Strict Nature Reserve, Protected Forest, Reserve Forest, Conservation Area, Cultural or Natural Heritage site, Biosphere Reserve, or Critical Watershed. However, the FNCA does not define each of these categories, or distinguish between them (there may be separate rules for this, information about which is not available). If any private registered land is taken for the said purpose, compensation or alternative land rights shall be provided. The Act, however, does not provide for the involvement of the local community in the declaration or management of PAs. The Act is also silent on the aspect of the rights of local communities living in PAs.

The FNCA provides that all wild animals and plants listed in Schedule I are totally protected and cannot be killed, collected etc., with certain exceptions. All wild animals not listed in Schedule I are also protected, and can only be killed to defend against an attack on human life or crops and in accordance with hunting rules issued by the Ministry.

## India

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### Policies

#### National Conservation Strategy and Policy Statement on Environment and Development, 1992

The National Conservation Strategy (NCS) and Policy Statement on Environment and Development, 1992 (NCS), provides the guidelines for integrating environmental concerns with development. The primary purpose of the NCS is "to reinforce our traditional ethos, and to build up a conservation society living in harmony with nature and making frugal and efficient use of resources guided by the best available scientific knowledge". The NCS provides that requirements of the rural and tribal population dependent on forests should be met. Further, it recommends development of skills and knowledge for conservation, rehabilitation of the people displaced due to creation of protected areas and the involvement of NGOs, citizen groups and village level institutions like forest *panchayats* and *gram sabha* in development activities.

#### National Forest Policy, 1988

The National Forest Policy, 1988, in a clear departure from the approach that characterised India's colonial and post-colonial period, recognised that communities living in/adjacent to forests were entitled to share the benefits of conservation; that the rights and concessions enjoyed by them should be fully protected; and that their requirements of forest produce should be the first charge on forests. The policy also aimed at ensuring ecological balance through conservation of biological diversity, soil and water management, increase of tree cover, efficient utilisation of forest produce, substitution of wood and ensuring peoples' involvement for achieving these objectives.

#### National Wildlife Action Plan, 1983

Though not a policy, the National Wildlife Action Plan of 1983 provides a broad framework for wildlife conservation. Some of the objectives of the Action Plan are establishment of a representative network of protected areas, management of protected areas and habitat restoration, collaboration with NGOs, captive breeding



programmes, wildlife education, research and monitoring, and legislative measures. In late 1998, the Ministry of Environment and Forests, Government of India, set up a committee to revise the Plan, and make it relevant for the next 25 years. As of September 1999, the Committee had not finished its work.

### Proposed National Biodiversity Strategy and Action Plan

The Government of India is proposing an ambitious process of formulating a National Biodiversity Strategy and Action Plan (NBSAP) in 1999-2001. The NBSAP will contain strategies to achieve *in situ* and *ex situ* conservation of biodiversity, sustainable use of biological resources, integration of biodiversity concerns into sectoral policies and programmes, sharing of benefits arising from the use of biological and genetic resources, protection of local/indigenous knowledge and practices, and other such elements. It could have a significant bearing on wildlife conservation and participatory approaches, particularly in areas outside protected areas (where the Wild Life (Protection) Act prevails).

### Laws

#### Environment Protection Act, 1986

The Environment Protection Act (EPA) of 1986 (and Rules thereunder) contains certain broad provisions which can be used for conservation purposes, such as the declaration of any site where industries and other operations can be restricted. In general, the EPA remains an under-utilised law as far as wildlife conservation and CBC is concerned. However, some measures taken under it have been critical in saving ecosystems important for wildlife and local communities. These include:

1. *Coastal Regulation Zone (CRZ) Notification*: This notification of 19 February, 1991 has been issued by the Ministry of Environment and Forests (MoEF), under the EPA. It enables the declaration of the coastal area as a CRZ, and control of activities in this zone. Certain activities are prohibited within the CRZ. These include setting up of new industries and fish processing units and expansion of existing ones; discharge of untreated wastes and effluents from industries, cities etc.; reclamation of

land; most construction activities between the low tide and high tide lines; mining; and harvesting of groundwater. Coastal states and Union Territories have to prepare CRZ Management Plans, which have to be approved by the central government. All development and activities within the CRZ, except the ones which are expressly prohibited, have to take place according to the Management Plan.

2. *Notification Declaring Parts Of Aravalli Under Section 5*: In the late 1980s, the MoEF declared a large part of the fragile Aravalli Hill Range in western India as restricted for industrial and other developmental processes. Such processes are not prohibited altogether, but would require the approval of the central government before commencement. This notification followed widespread grassroots and NGO protests against the destruction of the hill range and of the ecosystems and people inhabiting it, due to mining, haphazard construction, industries, and other activities.

#### Forest Conservation Act, 1980

In 1976, the items 'Forest' and 'Protection of Wild Animals and Birds' were transferred from the state list to the concurrent list of the Constitution of India, empowering the central government to pass laws concerning forests and wildlife. Soon after, to prevent the diversion of forest lands to other (especially developmental) uses, the Forest Conservation Act, 1980 (FCA) was passed, making it obligatory for state governments to obtain central government authorisation prior to the conversion of any forest land.

Under the Act, the State Government cannot do the following without prior central governmental approval:

- i) dereserve any reserved forest;
- ii) use any forest land for non-forest purpose (including cultivation of cash crops);
- iii) assign or lease any forest land to any private person or to any other authority under the Government;
- iv) clear any forest land of trees which have grown naturally, for the purpose of re-afforestation.



### Indian Forest Act, 1927

This Act provides for the constitution of Reserve and Protected Forests. A major chunk of forests of the country were brought under these classifications by the colonial government, using the Forest Act of 1865 and subsequently the Forest Act of 1927 (IFA). An elaborate procedure is prescribed for the constitution of such forests, including a notification by the State Government, appointment of a Forest Settlement Officer, summary enquiry into the claims or objections of the interested persons, and passing of the final order. The settlement officer has the power for either admitting or rejecting claims in or over any lands including right of way, pasture, forest produce, water-course, and other rights relating to the land.

The IFA provides for the constitution of village forests. The state government has the option to assign to any village community, the right to or over any land which has been constituted as a Reserve Forest. The state governments were empowered to make rules for regulating the management, protection, and improvement of such village forests and also for providing timber, or other forest products or pasture. This provision, however, has rarely been used in India.

Responding to widespread demands to bring in a new forest legislation relevant to current situation, the Indian government has twice formulated new drafts. However, on both occasions (once in the early 1980s and once in the early 1990s), the official drafts encountered severe opposition from people's groups (and some state governments), because they were seen to centralise powers even more than the 1927 Act (Fernandes 1996). Instead, people's groups have presented the Government of India with an alternative draft, a People's Forest Act.

### Panchayat (Extension to Scheduled Areas) Act, 1996

In a significant step to increase the democratic space available to local communities, the Indian Parliament in 1992 amended the Indian Constitution to provide far greater powers to local rural and urban bodies (*panchayats*, *gram sabhas*, municipal councils) than were available to them earlier. Following the recommendations of a committee which went into the special issue of governance in tribal-

dominated areas, the Parliament passed the Panchayat (Extension to Scheduled Areas) Act in 1996 (PESA).

Possibly independent India's most radical piece of legislation, the PESA gives to tribal communities sweeping powers over many activities that are undertaken in their jurisdiction. For instance, it gives them ownership rights over 'minor forest produce' (usually termed non-timber forest produce); the right to be consulted before any land acquisition is taken up; control over plans and resources allocated in tribal sub-plans of state governments; the right to plan and manage minor water bodies; and other rights.

### Proposed Act on Biodiversity

In 1999, the MoEF finalised the draft of a legislation on biodiversity, using the help of an expert committee of government and non-government representatives. This is actually the third draft, as each of the previous ones have been considered inadequate. The proposed Act:

1. prohibits transfer of Indian genetic material outside the country, without specific approval of the Indian Government through a due process;
2. stipulates that anyone wanting to take a patent or other intellectual property right (IPR) over such material, or over related knowledge, will have to seek permission in advance;
3. provides for the levying of appropriate fees and royalties on such transfers and IPRs;
4. regulates access to such material by Indian nationals also, to ensure that there is some control over over-exploitation (e.g. of medicinal plants), and that there is some sharing of benefits to all concerned parties. However, it provides some relaxation in the case of research;
5. provides for measures to conserve and sustainably use biological resources, including habitat and species protection, conservation in gene banks, environmental impact assessments of all projects which could harm biodiversity, and so on;
6. empowers local communities to have a say in the use of resources and knowledge within their jurisdiction, and to enter into negotiations with parties who want to use these resources and knowledge;



7. provides for the development of an appropriate legislation or administrative steps, including registration, to protect indigenous and community knowledge;
8. empowers governments to declare Biodiversity Heritage Sites as areas for special measures for conservation and sustainable use of biological resources, and also notify threatened species to control their collection and use;
9. stipulates that risks associated with biotechnology (including the use of genetically modified organisms), will be regulated or controlled through appropriate means;
10. provides for the designation of repositories of biological resources, at national and other levels;
11. envisages the creation of Biodiversity Funds at local, state and national levels, which will be used to support conservation and benefit-sharing activities.

Though not yet promulgated, the Act has significant potential for strengthening CWM initiatives.

#### **The Wildlife (Protection) Act, 1972 (Amended 1991)**

The Wild Life (Protection) Act, 1972 (WLPA), is a comprehensive legislation to protect the wild animals and plants, both within and outside protected areas. The Act provides for three categories of protected areas — National Parks, Sanctuaries, and Closed Areas — with varying degrees of restriction on human activities. The basic difference between the categories of sanctuary and national park lies in the legal stringency; while the former allows the retention of some rights of the people, the latter strictly prohibits a far greater number of people's rights including grazing of cattle. The continuation of the specified activities in a sanctuary is at the discretion of the wildlife and district authorities. Only activities beneficial to wildlife are permissible in both parks and sanctuaries.

However, no criteria are laid down for determining what category is to be applied to a given area. Further there is no provision for involving local people in planning and management of conservation programmes, and in the planning of a protected area.

The procedure laid down in the Act for constitution of sanctuaries is almost identical with that of the one prescribed for constitution of Reserve Forest under the Indian Forest Act 1927 (see

above). This is why, under a 1991 amendment of the WLPA, a provision has been added whereby a Reserve Forest can be automatically declared a protected area without having to go through the procedures prescribed under the Act. A similar provision is made for territorial waters (marine areas) but in this case the occupational interests of local fisherfolk are to be protected.

If the settlement officer admits a claim made by a resident, he may exclude the areas from the limits of such a sanctuary; or may proceed to acquire the said land under the Land Acquisition Act, 1894; or may allow such a claimed right to continue. A similar procedure is prescribed for the constitution of National Parks, but no rights can be allowed to continue. No time limit is prescribed for the completion of the procedure.<sup>3</sup>

Under the provisions regarding protected plant species (currently only numbering half a dozen), there is one which permits tribals to collect such plants for *bona fide* personal use. However, this exemption does not extend to non-tribal forest-dwellers or other traditional plant users.

The only provisions for involvement of non-governmental individuals at present are the appointment of Honorary Wildlife Wardens (Section 4; HWLW), and of non-official members (including tribals) on the State Wildlife Advisory Board. Both these are purely advisory roles.

The Government of India is currently considering the draft of a new Wild Life (Protection) Act, formulated by a committee set up by the Ministry of Environment and Forests. This draft Act has several progressive elements, including the creation of advisory bodies for sanctuaries, consisting of local community representatives, NGOs, and officials; the addition of two new categories of PAs (including Community Reserves which can be managed by

3 This is a basic flaw, for state governments in most PAs have taken an inordinately long time to settle rights, in some cases not completing them for 20 years (Kothari *et al.* 1989). However, a 1997 Supreme Court order, in a case filed by World Wide Fund for Nature — India, ordered state governments to complete the procedures within one year. As far as the Coordinators of this Review know, virtually no state has been able to do this, and indeed this order has resulted in widespread confusion, harassment, misunderstandings, and threats to both local communities and to PAs. (Kalpavriksh *et al.* 1999).



the local people themselves); a stricter regime against commercial-industrial projects; and others. However, it still does not go very far in terms of participatory or co-management of wildlife habitats, and power remains concentrated in the hands of the Forest Department. Unfortunately, attempts by NGOs to present an alternative have been sporadic, and not as systematic as the action on the People's Forest Bill.

## **Nepal**

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### ***Policies***

#### **Community Forestry Directives 2052 (1995)**

The objective of these directives is to conserve and develop community forests as defined in the Forest Act 1993 and the Forest Rules 1995. The directives pertain to the determination of a community forest; formation of the Users' Group; procedure of handing over the community forest to the Users' Group; management and inspection of the community forest; transportation of forest products; the conditions under which a community forest may be withdrawn from the Users' Group.

#### **National Conservation Strategy, 1988**

The National Conservation Strategy (NCS), 1988, aims at preserving the biological diversity of Nepal and maintaining the essential ecological system in a manner that satisfies the material, spiritual and cultural needs of the people. The NCS emphasises the sustainable use of resources. The operating principles recommended for achieving its objectives are wise use, protection, preservation and restoration. It was developed by the IUCN-Nepal office in association with relevant agencies of the Nepalese government.

#### **Nepal Environmental Policy and Action Plan, 1993**

In an effort to move towards integrating environment and development, the Government of Nepal brought out the Nepal Environmental Policy and Action Plan, 1993 (NEPAP). The document contains an analysis of the country's environmental issues in a multi-sectoral framework, and a strategy for conserving the natural environment, health and safety of the public, and cultural integrity, as economic development takes place (EPC 1993).

#### **Nepal Master Plan for the Forestry Sector, 1988**

There is no specific forest policy document for Nepal. However, the Nepal Master Plan for the Forestry Sector, 1988, is akin to a policy. It puts stress on conserving forest, soil and biodiversity while

at the same time meeting the needs of the local people on a sustainable basis. Forests should be considered the social property of the people and intensive forest management systems should be developed by involving communities in accordance with geographic conditions and social needs.

In response to this policy, the community forestry programme was undertaken. This programme envisages transferring control and management responsibilities for existing forests through the mechanism of village institutions. In 1995, operational guidelines for community forestry development were developed to govern such transfer (HMG 1995).

### **Operational Guidelines for Community Forestry Development Programme (2051), 1995**

The primary thrust of these guidelines is to ensure successful establishment of Forest User Groups (FUG) to manage Community Forests. It is recommended that forest field staff follow four phases to achieve this objective:

*Investigation phase:* Collection of social and technical information; identification of users and Community Forest area; building rapport between local people and field staff.

*Negotiation Phase:* Formation of the FUG; registration of FUG and its charter; discussion on forest management; preparation of operational plan; handing over the responsibility of managing the Community Forest to the FUG.

*Implementation Phase:* Monitoring FUG activities; providing technical support to the FUG; implementing the operational plan.

*Review Phase:* If requested by the FUG, or after the operational period expires, the plan may need amendment or renewal.

### **Laws**

#### **Environment Protection Act, 1997**

The Environment Protection Act (EPA), 1997, was promulgated with a view to providing a general law relating to control of pollution and conservation of natural resources.

### **Forest Rules, 1995**

The Forest Rules have been formulated on the basis of the Forest Act 1993, and give detailed guidelines on how to take necessary action in dealing with the various types of forests described in the Forest Act 1993.

The following needs to be done for the different types of forests:

*Government Managed Forest:* To manage this type of forest a Forest Management Work Plan needs to be formulated with particular mention of the area; boundaries; details of land use; species of trees; details of population and their use of forest products; strategy to develop and protect the forest; collection and sale of forest products; estimated annual revenue from forest products; expenses to implement the Work Plan; strategies for soil conservation, tourism development; and protection of environment and historical heritage.

*Protected Forest:* A Forest Management Work Plan needs to be formulated on similar lines as the one described above.

*Community Forest:* When the District Forest Officer hands over any part of a National Forest to a Users' Group as a Community Forest, he has to take into account the distance between the forest and the village; the wishes of the local users; and the management capacity of the local users who will be managing the Forest. Local users who wish to manage a forest as a Community Forest can apply to the District Forest Officer and then prepare a Work Plan similar to the one described above.

*Leasehold Forest:* Any corporate body, industry or community which wishes to manage a Leasehold Forest can apply to the District Forest Office. The District Forest Office then has to publicise the application to enquire whether local communities wish to manage the concerned forest area as a Community Forest, in which case preference would be given to creating a Community Forest. If several corporate bodies, industries or communities apply for taking up the same forest area as a Leasehold Forest, the community which includes the majority of people living below the poverty line shall be given the first priority. A forest-based industry which produces forest products is given the second priority.

*Religious Forest:* A group of people wishing to retain religious use of a forest may apply to the District Forest Officer. The forest products



are to be used only for religious purposes. Forest products, with the exception of timber and firewood, may be sold as long as the proceeds are used for religious purposes.

*Private Forest:* Application to manage a private forest must be accompanied by proof of ownership. Further rules pertain to planting of new trees and transportation of timber.

### **National Parks & Wildlife Conservation Act, 1973 (Amended 1993)**

The National Parks and Wildlife Conservation Act, 1973 (NPWCA) (as amended in 1975, 1983 and 1993), provides for the establishment of two types of protected areas (PA) namely, National Parks (NP) and Reserves. In the Act a "NP is defined as an area set aside for conservation, management and utilisation of animals and vegetation on lands together with the natural environment." (sic). The exact meaning of the word 'utilisation' is not clear from the definition. The category of Reserves is further split into:

- Strict Nature Reserve (SNR): an area of ecological or other significance, set aside for purposes of scientific study.
- Wildlife Reserve (WR): an area set aside for the conservation and management of animals and other resources and their habitats.
- Hunting Reserve (HR): an area set aside for the management of animal resources for purposes of sport hunting.

The NPWCA is silent on the mode of acquisition of land and the settlement of rights of people whose land is included within the boundaries of a NP/Reserve.

The NPWCA imposes restrictions on entry into a NP and a SNR. No person may enter a NP, or engage in acts like hunting, building/occupying a house, cultivating land, felling, mining, etc. within a NP or Reserve, without specific permission. However, the NPWCA enables the government to make provision for hotels, lodges, public transport or any other such services or amenities within a PA, keeping the best interests of the NP/Reserve in mind.

A significant amendment relating to buffer zones was made to the NPWCA in 1993, and under this a **Buffer Zone Management Regulation** was promulgated in 1996. This has the following provisions:

- (i) Declaring buffer zones around PAs to provide access to local people for the management, development and utilisation of renewable forest resources.
- (ii) Establishment of user committees for the management of the buffer-zones and allocation of 30% to 50% of the income earned by PAs to these committees. Powers for this are given to the PA warden, in coordination with local authorities. Users committees select office-bearers and sub-committees themselves, and prepare plans for community development, conservation of natural resources and utilisation of forest resources within the buffer zone in its own area.
- (iii) Utilisation of fauna inside the PAs in accordance with management policies.
- (iv) People's participation in conservation, achieved by the PA warden handing over areas as Buffer Zone Community Committee Forests. The users committee will be responsible for the management of this forest, including earning revenue from it.

The department provides hunting permission inside the buffer zones for animals other than endangered species, if there is a spill-over of animals into the buffer zone due to increases in their number inside the PA.

This Regulation provides the legal basis for the Parks and People Project.

Other **regulations** with significance for wildlife conservation are:

1. Royal Chitwan National Park Regulation
2. National Park and Wildlife Conservation Regulation
3. Wildlife Conservation Regulation
4. Mountain National Park Regulations
5. Buffer Zone Regulations
6. Conservation Area Management Regulations

### **Nepal Forest Act, 1993**

The Nepal Forest Act, 1993 (NFA), marked a significant step forward towards participatory forest management. It provides for the following types of forest:



- *Protected forest*: a National Forest declared by HMG to be of special environmental, scientific or cultural significance.
- *Community forest*: a National Forest handed over to a users' group for its development, conservation and utilisation for collective benefit. Though ownership remains with the government, considerable power is conferred on the users' group including the power to sell and distribute the forest products by independently fixing their prices. The users' group has to formulate an Operational Plan with technical and other assistance from the Forest Department. However, the Forest Department has the power to cancel the registration of a users' group in case of any deviation from the operational plan. In case any user does anything contrary to the operational plan in any community forest, the concerned users' group can punish the said person and in case of any loss or damage recover the amount from the said person.
- *Leasehold forest*: a National Forest handed over to any forest produce-based institution or industry, or a community for certain specified commercial purposes, for which the lease-holder has to pay a prescribed fee. One significant provision is that no part of any National Forest, which is suitable for being handed over to a users' group as a community forest, shall be given as a leasehold forest.
- *Religious forest*: a National Forest handed over to any religious body, group or community for its development, conservation and utilisation, primarily for any non-commercial religious activity.
- *Private forest*: a forest planted or conserved in any private land owned by an individual. The owner of the private forest may develop, conserve and manage the forest or sell its products by fixing their prices.

The NFA provides for a procedure to be followed for acquisition of land that may be included within the boundaries of any National Forest. It provides that no person shall be entitled to any right/facility of any type in the National Forest unless such a right/facility has been given by the government. This means that local people do not have any forest produce rights in National Forests.

## Pakistan

### Policies

#### National Biodiversity Action Plan, 1998

The preparation of a National Biodiversity Action Plan (BAP) was initiated in 1996 in collaboration with IUCN as a first attempt to meet the planning requirements of the Convention on Biological Diversity. While it necessarily covers much of the same ground as the National and Provincial Conservation Strategies, it is more focused on biodiversity. Several of the key recommendations of the draft wildlife policy have also been included as objectives and strategies in the BAP, particularly collaborative management of wildlife and other natural resources. The final draft version of BAP has been submitted to Government of Pakistan for review and endorsement (GoP 1998).

#### National Forest Policy, 1991

While earlier forest-related policies were largely oriented towards commercial forestry, significant changes came in 1991, when the National Forest Policy made a number of recommendations for the conservation, awareness and collaborative management of wildlife. This was subsequent to considerable national and international attention to wildlife conservation, as expressed in the national and provincial conservation strategies (e.g. that of the North-West Frontier Province).

#### Pakistan National Conservation Strategy, 1992

The Pakistan National Conservation Strategy (PNCS), prepared by the central government in 1992 in collaboration with IUCN, covers all aspects of the environment including forests and protected areas. The PNCS has three objectives, namely, conservation of natural resources, sustainable development and improved efficiency in the use and management of resources. Fourteen programme areas have been identified for priority implementation, including the protection of watersheds, rangelands and water bodies; forestry and plantations; and conservation of biodiversity. The PNCS recognises the importance of community participation for achieving targeted goals, which is reflected in the fact that nine of the fourteen programme



areas rely on community organisations for their implementation, while one (supporting institutions for common resources) can only be implemented by community organizations. Self-management by the community is also recommended for restoration and protection of communal rangelands.

To facilitate implementation of the PNCS on the ground, provincial conservation strategies have been completed in NWFP and initiated in Baluchistan and Northern Areas. These strategies provide a broad based consultative forum to address conservation issues at the regional and district levels.

### Proposed Wildlife Policy

One of the recommendations of the PNCS is the preparation of a national policy on wildlife conservation and use. Towards this, a draft discussion paper on a national wildlife policy has been prepared by IUCN-Pakistan, pursuant to a consultative workshop organized in collaboration with the National Council for Conservation of Wildlife (NCCW), which was attended by both government officials and NGOs. The draft policy has been sent out for provincial review. It seeks to forge a close partnership between the people and the government in managing wildlife resources. While recognising the state's right to ownership of wildlife for the common interest, the draft advocates the empowerment of local communities to manage wildlife for their own direct benefit. Further, economic benefits from the legal use and enjoyment of wildlife should be equitably allocated among the communities where the use occurs and wherever possible, used towards the cost of conservation. The draft also envisages involvement of communities at all levels in protected area management.

### Laws<sup>4</sup>

#### Azad Jammu and Kashmir Wildlife Act, 1975

This act regulates the kinds of wildlife which may be killed and the methods employed to kill them. It lists two classes of wildlife in the

4 Unlike all other countries of the region, every province in Pakistan has its own legislation for the establishment of protected areas and conservation of wildlife. Most of these legislations have similar provisions.

First Schedule and the Third Schedule, known as Game Animals and Protected Animals respectively. It is prohibited to kill or capture any of these animals except as provided for in the Act. However, it is not an offence to kill wildlife in order to protect human life, standing crops or livestock. The Second Schedule lists "Animals, Trophies or Meats" for which a certificate is required for possession, transfer or export.

#### *The Act prohibits:*

- the use of snare, trap, net and other cruel methods to kill animals;
- the use of hawks and dogs for hunting, unless a special licence is obtained;
- killing or capturing game in the "close season".

#### *The Act regulates:*

- the issue of Game shooting licences;
- the maintenance of registers to record animals killed and captured under Special Licence;
- the import and export of live wild animals or any trophy or meat.

The act also provides for the formation of an Azad Jammu and Kashmir Wildlife Board.

#### Azad Jammu and Kashmir Wildlife (Protection, Preservation, Conservation and Management) Rule, 1985

The Rules have been formulated on the basis of the Azad Jammu and Kashmir Wild Life Act 1975. They specify the powers of the Wildlife Warden, which include the issue of licences and permits for shooting; registration of Shikaris; confiscation of guns; paying rewards for killing of "vermin" such as bears and pigs; and the power to close off any area for shooting or capturing of game. The Chief Wildlife Warden or the Chief Conservator of Forest has the power to issue free permits for hunting to heads of state, diplomats, corps and "other VIPs".

The Rules list the various kinds of licences and permits which may be granted, along with details of fees.

Significant prohibitions include:



- hunting wild life without a licence or permit in reserved areas;
- using dogs for killing or capturing game, unless it is for the purpose of "flushing or retrieving small game or to find wounded big game";
- possession of a wild animal or bird which has been seriously maimed or injured. This does not include birds whose "wing feathers" have been clipped;
- setting a trap to capture game near water or a saltlick, or near a path leading to water or a saltlick;
- grazing of cattle in any of the game sanctuaries or reserves.

**The Baluchistan Wildlife Protection Act, 1974 and The Baluchistan Wildlife Protection Rules, 1975  
(Rules Notified Thereunder with Urdu Translation (as Amended upto December 13, 1977))**

This Act is similar to the Azad Jammu and Kashmir Wild Life Act, 1975. In addition, it repeals the following enactment in its application to the Province of Baluchistan: The West Pakistan Wildlife Protection Ordinance, 1959.

The Baluchistan Wildlife Protection Rules, 1975, do not apply to the tribal areas in the Province of Baluchistan. The Rules cover activities such as issuing of licences, serving of wild animals and bird meat in hotels, and trapping and shooting of wildlife near game reserves or sanctuaries.

**Forest Act, 1927**

Pakistan, like Bangladesh and India, follows the Forest Act, 1927 and the categorization of forests as Reserved and Protected Forests. The various provinces have their own forest laws providing for similar categorization. In Protected Forests, certain rights and concessions could be given to the dependent communities.

**Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance, 1979**

This Ordinance provides for two categories of PAs viz. National Park and Wildlife Sanctuary.

A Wildlife Sanctuary is defined as an area of undisturbed breeding ground for wildlife which is closed to hunting, shooting or

trapping of wild animals. Entry, cultivation, exploitation of forests etc. are prohibited without specific permit.

A National Park is defined as an area meant to protect and preserve the scenery, flora and fauna in the natural state, to which access for public recreation and education and research may be allowed. Certain specified acts like hunting, felling of trees, clearing land for cultivation, mining etc. are prohibited in a national park.

However, no criteria are laid down for determining what category is to be applied to a given area. As in the case of India and Nepal, situations of conflict may arise due to this. Further, there is no provision for involving local people in the planning and management of a protected area. The Ordinance is also silent on the rights of the people residing in areas that are included in a protected area.

The Ordinance specifically allows for hunting. A third category of PA in Pakistan called the Game Reserve is set aside for providing facilities for hunting of game animals listed in the First Schedule. The Ordinance also provides for a category of Protected Animals, listed in the Third Schedule and which cannot be hunted. However, killing or capturing of animals in self-defence and for protection of livestock and standing crops is permitted.

The Ordinance also provides for the constitution of a Board of Wildlife Management. The composition and the functions of the Board are to be decided by the Government.

Similar legislation exists for **Baluchistan, Northern Areas, Sindh, North-West Frontier Province, and the Punjab.**

**The North-West Frontier Province Act, 1937**

Apart from directing the management of reserved forests, this Act also provides for rights in wastelands (*Guzara*). It specifies that all wastelands are the property of the land owners, who are entitled to use its trees (except *Cedrus deodar*) and forest produce for their own domestic and agricultural requirements. *Guzara* forests, though owned by individuals or communities, are managed by the state.

There are several other provincial laws relevant to conservation and use of forests, for **Sindh, the Punjab, Baluchistan, and Northern Areas.**



**The North-West Frontier Province Wildlife (Protection, Preservation, Conservation and Management) Act, 1975**

This Act is similar to the Azad Jammu and Kashmir Wild Life Act, 1975. In addition, it repeals the following enactments: The Wild Birds and Animals Protection Act, 1912; The West Pakistan Wild Life Protection Ordinance, 1959; and The North-West Frontier Province Wild life (Protection, Preservation, Conservation and Management) Ordinance, 1975.

**The North-West Frontier Province Wildlife (Protection, Preservation, Conservation and Management) Rules, 1977**

These rules have been formulated on the basis of The North-West Frontier Province Wild Life (Protection, Preservation, Conservation and Management) Act, 1975, and are designed for the implementation of this act. To this end it describes the formation and operation of a Wildlife Management Board and regulates the issue of hunting licences. In most respects these rules are similar to, though less detailed than, the Azad Jammu and Kashmir Wild Life (Protection, Preservation, Conservation and Management) Rules, 1985. In particular, the 1977 Rules give more importance to the powers of the Wildlife Management Board, whereas the 1985 Rules bestow greater powers on the Wildlife Warden.

**Pakistan Environmental Protection Act, 1997**

The Pakistan Environmental Protection Act (PEPA), 1997, provides a general framework for conservation of natural resources, regulation of polluting activities, and other measures for environmental protection.

**The Palistan Wildlife Ordinance (Draft), 1971**

This Ordinance is almost identical to the Azad Jammu and Kashmir Wild Life Act, 1975.

**The Punjab Wildlife (Protection, Preservation, Conservation and Management) Act, 1974**

This Act is similar to the Azad Jammu and Kashmir Wild Life Act, 1975. In addition, it repeals the following enactments in their application to the Province of Punjab: The Elephant Preservation Act,

1879; The Wild Bird and Animal Protection Act, 1912; and The West Pakistan Wildlife Protection Ordinance, 1959.

**The Punjab Wildlife (Protection, Preservation, Conservation and Management) Rules, 1974**

These rules have been formulated on the basis of The Punjab Wild Life (Protection, Preservation, Conservation and Management) Act, 1974, and are designed for the implementation of this act. It deals primarily with the issuing of hunting licences; methods of hunting; serving of wild animal meat in hotels; and possession of firearms or sporting dogs within a National Park, Wildlife Sanctuary or Game Reserve.

**The Sindh Wildlife Protection Ordinance, 1972**

This Act is similar to the Azad Jammu and Kashmir Wild Life Act, 1975.

**Territorial Waters and Maritime Zones Act, 1976**

Apart from the general provisions available in above acts, specific provinces in Pakistan have laws relevant to the regulation of fisheries. The Territorial Waters and Maritime Zones Act, 1976 also has some general provisions for this.



## Sri Lanka

### Policies

#### Biodiversity Conservation in Sri Lanka: A Framework for Action, 1998

The preparation of this Biodiversity Conservation Action Plan (BCAP) was in response to the 1992 U.N. Convention on Biological Diversity, which Sri Lanka ratified in 1994. Its preparation was a highly participatory process involving several NGOs, workshops, seminars, etc.

The BCAP sets out a range of activities required to conserve the biodiversity of Sri Lanka. Many of the activities listed were in progress prior to BCAP, and were included in the plan due to their relevance and their potential to strengthen the overall policy. One of the principal aims of this plan is to "bring together within a single framework all the activity areas that need to be addressed... [and] therefore, serve as a policy instrument for securing financial support both nationally and from foreign donors."

The BCAP classifies the ecosystem of Sri Lanka into four broad areas, namely, forests, wetlands, coastal / marine systems and agricultural systems. This classification is intended to divide responsibilities amongst the relevant government organisations.

The BCAP has a fairly sweeping scope. It provides:

- an overview of the country and its biodiversity;
- a description of the four main ecosystems, and the official policies relating to them;
- the results of a study carried out "to determine the bio-regions that should be given high priority in addressing biodiversity conservation issues";
- proposals for action, including a description of the issues involved, the objectives, the recommended actions, and the main institutions which would implement the activity. However, in order to retain flexibility, the Plan does not spell out action in great detail and nor does it specify resources or budgets;
- proposed institutional arrangements for implementing the overall Plan. This includes proposals for "intersectoral and

inter-institutional integration" required for implementation. The time-frame is envisaged to be two years for inception and ten years for implementation.

#### Coastal Zone Management Plan, 1997

The revised Coastal Zone Management Plan (CZMP), finalised in 1997, is an update of the CZMP adopted in 1990. The plan recognises that the regulatory approach used by the Coast Conservation Department (CCD) in its first ten years is not effective. This approach focused primarily on issuing permits for relatively large development projects. While this helped to prevent some adverse impacts, it was not able to deal with the degradation caused by cumulative effects of coastal resource use by individuals or communities. Realising this, the CCD now strongly advocates the concept of Special Area Management (SAM) which is a co-management approach. The CCD has identified the active engagement of local communities and other stakeholders as a prerequisite for sustainable resource management and has led the development of policies, plans, and legislation to facilitate co-management on a broad scale (CCD 1990, revised 1996).

#### National Forest Policy and Forestry Sector Master Plan, 1995

The National Forest Policy (NFP) and the Forestry Sector Master Plan (FSMP), both adopted in 1995, constitute the first coherent, long-term framework for forest development in Sri Lanka. The NFP and the FSMP are a far cry from the production and regulation-oriented, "keep people out" approach reflected in previous forest laws and policies. They both contain very strong endorsements of the participatory resource management approach.

The FSMP recognizes that there are a number of development partners in the forestry sector, including government agencies, forest-dependent people, farmers, rural communities, local forest industries, NGOs and many others. It seeks to allocate appropriate tasks to each development partner. It provides that while maintaining and strengthening the capacities of the main implementing agencies, the state should in the long run entrust its responsibility as forest manager to local people, rural communities and local industries, NGOs and other local non-state sector groups (FPU 1995a).



### **National Policy for Wildlife Conservation of Sri Lanka**

The National Policy for Wildlife Conservation of Sri Lanka by the Department of Wildlife Conservation and the Ministry of Lands, Irrigation and Mahaweli Development recognises human use in reserves that are compatible with the objectives of the reserve. It also recognises multiple use within protected areas in accordance with the sustainability of the area and recommends the demarcation of zones of activity in order to achieve the objectives of the area and also multiple use objectives. However, the relevant law needs to be amended to a certain extent in order to implement such a concept.

### **National Policy Framework for the Agriculture, Lands and Forestry Sectors**

The National Policy Framework for the Agriculture, Lands and Forestry Sectors by the Ministry of Agriculture Lands and Forestry, recommends participatory management of irrigation through farmer organisations and State-user partnerships. It indicates rehabilitation of existing irrigation projects under the National Irrigation Rehabilitation Project (NIRP) and the Village Irrigation Rehabilitation Project (VIRP), and handing over the management and maintenance of irrigation schemes below the distributory canal level to farmer organisations. However, the document recognizes that Farmer Organisations which have been set up under the Agrarian Services Act No. 58 of 1979 have so far played only a limited role in organising farmers to act jointly in respect of their common problems. It states that out of approximately 11,000 such FOs set up so far, the available information reveals that only about 4000 are active and effective and makes recommendations for the restructuring and strengthening of such FOs.

### **Proposed Biodiversity Action Plan**

The Biodiversity Action Plan (BAP), being currently finalised, will advocate the involvement of communities in biodiversity management. The Strategy Document for the preparation of the BAP clearly states that biodiversity conservation should be "centred at the grassroots level through community participation". Networks of NGOs dealing with biodiversity issues have been established to provide input into the preparation of the BAP and ensure that local-level concerns are addressed.

### **Laws**

#### **Fauna and Flora Protection Ordinance, 1970 Amended by Fauna and Flora Protection (Amended) Act, 1993**

The Fauna and Flora Protection Ordinance (FFPO, as amended in 1993), is the key law that provides for the protection of wildlife and flora in protected areas, and is administered by the Department of Wildlife Conservation (DWLC). The Ordinance provides for two categories of protected areas: National Reserves and Sanctuaries. National Reserves receive a higher level of protection and are established only on State land. Sanctuaries, on the other hand, may include both State and other land.

A National Reserve can be declared to be any of the following: a Strict Natural Reserve, a National Park, Nature Reserve, Jungle Corridor, Refuge, Marine Reserve or a Buffer Zone. (The difference between these types of National Reserves have not been defined in the FFPO).

The process of declaration of these reserves is not mentioned in the FFPO. Neither does it talk about the process of acquisition of any land or settlement of rights. However, the FFPO does provide that the rights acquired by law, custom or usage in or over any State land in any protected area, acquired by such person prior to the date of its establishment, will be recognised. However the Ordinance is silent about the status of rights acquired in other lands. The Ordinance also does not provide for any kind of participation of the local communities or other stakeholders in the management of protected areas or in the protection of wildlife.

Earlier provisions for hunting in intermediate zones, or shooting of deer or pheasants if they entered cultivated fields, have been done away with in the 1993 amendment. However if any elephant becomes a nuisance to the planters and cultivators the Director can issue a license to capture or kill it.

#### **Fisheries and Aquatic Resources Act No. 2 of 1996**

The Act requires the constitution of a Fisheries and Aquatic Resources Advisory Council. Apart from including officials from various institutions and government agencies on the Council, there



is a requirement to include "two representatives of women engaged in fishing". The Council is responsible for advising the Minister "on all matters relating to the management, regulation, conservation and development of fisheries and aquatic resources in Sri Lanka waters."

No fishing operation is permitted without a license. A licence is granted or renewed as long as there is "no threat to the sustainability of fish or other aquatic resources".

Other matters regulated by the Act include fishing carried out by local fishing boats, all of which must be registered; the leasing out of areas of government land or water for aquaculture; and the settling of fisheries disputes.

The Act allows the Minister to declare an area of water and adjacent land to be a fisheries reserve in order to protect aquatic resources in danger of extinction, with particular attention paid to natural habitats, coral growth and aquatic ecosystems. A fisheries reserve may also be declared to preserve scenic beauty and to promote scientific study in an area.

Prohibitions for the protection of fish and other aquatic resources include a ban on:

- the use of poisonous, explosive or stupefying substance to kill fish;
- fishing during a closed season for specified species of fish, or in specified areas of water;
- fishing and coral gathering in a fisheries reserve.

#### **Forest Ordinance, 1907**

**Amended by Forest Amendment Act No. 13 of 1966;**

**Forest Amendment Act No. 56 of 1979; Forest**

**Amendment Act No. 13 of 1982; Forest Amendment Act No. 23 of 1995**

The Forest Ordinance, 1907, administered by the Forest Department, provides the legal framework for the management and conservation of forests in Sri Lanka. When this Ordinance was enacted, its primary thrust was revenue collection from timber production. This Ordinance has been amended in 1966, 1979, 1982 and 1995 to reflect conservation concerns. On the whole, it is largely oriented towards regulation. Rural communities are allowed to use

certain types of forest products only if they have obtained the required permits. The Ordinance contains little recognition of the role of rural communities in forest management. However, there is one provision that could be used for this, in which the Minister of Lands can constitute any portion of a forest as a village forest and allow its management by the community. However, it is not clear if this provision has ever been used.

#### **National Environmental Act (No. 47 of 1980 and No. 56 of 1988)**

This Act addresses a wide range of environmental issues at a national level. It provides for the establishment of a Central Environmental Authority (CEA) for "the protection and management and enhancement of the environment [and] for the prevention, abatement and control of pollution." In addition it establishes an Environmental Council made up of officials and environmental experts.

The CEA has a wide range of responsibilities including:

- administering this Act;
- recommending criteria and standards for the protection of the environment;
- undertaking surveys and research about pollution and environmental degradation;
- regulating the discharge of waste;
- controlling noise pollution;
- regulating the storage or disposal of material hazardous to environment and health;
- formulating a land use scheme.

The CEA and the Council are expected to make recommendations about the management of Natural Resources, Fisheries, Wildlife, Forestry and Soil Conservation.

#### **National Heritage Wilderness Areas Act, 1988**

The National Heritage Wilderness Areas Act, 1988, provides for the conservation of unique ecosystems, genetic resources or any outstanding natural features. The entry and residence within such a National Heritage Wilderness Area is restricted under this act. There



are also some prohibited acts including the cutting or removing of any plant or tree, cutting grass or pasturing cattle, shooting, trapping, snaring, molesting or disturbing any bird or animal, taking or destroying any egg of a bird or reptile, making a fresh clearing etc. The Conservator of Forests is under a duty to encourage the provision or improvement of facilities for observation, study and enjoyment of such a declared area. However, there is no provision for the integration of local communities' practices and livelihood needs, etc., in the management of such areas.

### **Proposed Forest Conservation Act**

In the aftermath of the National Forest Policy and the Forestry Sector Master Plan, the government has taken an initiative in the revision of the Forest Ordinance in order to enable the participation of stakeholders in the conservation of forest areas and in reforestation. The draft emphasises participatory forestry. Although completed in 1997, this draft has not yet been enacted.

### **Sri Lanka Coast Conservation Act, 1981**

The Sri Lanka Coast Conservation Act, 1981 (SLCCA), as amended in 1988, provides for the conservation and sustainable use of coastal resources. Under it, the Coast Conservation Advisory Council has been established to meet these objectives. Members of the Council include representatives from the Ministry of Environment, University staff, voluntary organisations and the fishing industry.

The SLCCA requires a comprehensive survey of all aspects of the coast of Sri Lanka, and preparation of a management plan within three years. All developmental activities within the coastal zone will have to be in consonance with this plan. The SLCCA prohibits mining, collecting, possessing, processing, storing, burning and transporting of coral, and directs the demolition of all coral burning kilns.

The SLCCA, administered by the Coast Conservation Department, emphasises the importance of establishing a scientific basis for coastal zone management and also recognises the need to reconcile the socio-economic needs of local communities with coast conservation.

### **List of Abbreviations**

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- ACAP: Annapurna Conservation Area Project
- ACSP: Annapurna Conservation Study Project
- ADB: Asian Development Bank
- BAP: Biodiversity Action Plan
- BBPS: Bangladesh Bird Preservation Society
- BCAP: Biodiversity Conservation Action Plan
- BCAS: Bangladesh Centre for Advanced Studies
- BNHS: Bombay Natural History Society
- BRDB: Bangladesh Rural Development Board
- CANSA: Climate Action Network. South Asia
- CARDMA: Coastal Area Resource Development and Management Association
- CARE: Co-operative for Assistance and Relief Everywhere
- CBRM: Community Based Resource Management
- CCD: Coast Conservation Department
- CEA: Central Environment Authority
- CEE: Centre for Environment Education
- CF: Community Forest
- CRZ: Coastal Regulation Zone
- CSE: Centre for Science and Environment
- CSERGE: Centre for Social and Economic Research on the Global Environment
- CZMP: Coastal Zone Management Plan
- DNPWC: Department of National Parks and Wildlife Conservation
- DoE: Department of Environment
- DoF: Department of Fisheries
- DWC: Department of Wildlife Conservation
- E&ED: Education and Extension Department
- ECA: Environmental Conservation Act

ECR: Environmental Conservation Rules  
 EFL: Environment Foundation Limited  
 EIA: Environmental Impact Assessment  
 EPA: Environment Protection Act  
 EPC: Environmental Protection Council  
 EPW: Economic and Political Weekly  
 ESCAP: Economic and Social Commission for Asia and the Pacific  
 FAO: Food and Agriculture Organisation  
 FCA: Forest Conservation Act  
 FFPO: Fauna and Flora Protection Ordinance  
 FMP: Forestry Master Plan  
 FNCA: Forest and Nature Conservation Act  
 FPCO: The Flood Plan Co-ordination Organisation  
 FPU: Forestry Planning Unit  
 FSMP: Forestry Sector Master Plan  
 FUG: Forest User Group  
 FV: Field Visitors  
 GEF: Global Environmental Facility  
 GoNWFP: Government of North-West Frontier Province  
 GoP: Government of Pakistan  
 GoPRB: Government of the People's Republic of Bangladesh  
 GRF: Government Reserved Forests  
 GTZ: German Agency for Technical Development  
 HICZMP: Hambantota Integrated Coastal Zone Management Plan  
 HMGN: His Majesty's Government of Nepal  
 HR: Hunting Reserve  
 HSAM: Hikkaduwa Special Area Management and Marine Sanctuary Co-ordinating Committee  
 HVO: Hushey Village Organisation  
 HWLW: Honorary Wildlife Warden  
 IBWL: Indian Board for Wildlife

ICIMOD: International Centre for Integrated Mountain Development  
 IFA: Indian Forest Act  
 IIED: International Institute of Environment and Development  
 IIPA: Indian Institute of Public Administration  
 INTACH: Indian National Trust for Art and Culture Heritage  
 IOF: Institute of Forestry  
 IPR: Intellectual Property Right  
 IRG: International Resources Group  
 ISI: Indian Social Institute  
 ISPAN: Irrigation Support Project for Asia and Near East  
 IUCN: The World Conservation Union  
 KMTNC: King Mahendra Trust for Nature Conservation  
 LBSNAA: Lal Bahadur Shastri National Academy for Administration  
 MALF: Ministry of Agriculture, Lands and Forestry  
 MENRIS: Mountain Environment and Natural Resources Information Service  
 MOA: Ministry of Agriculture  
 MoEF: Ministry of Environment and Forests  
 MoFE: Ministry of Forestry and Environment  
 MoFL: Ministry of Fisheries and Livestock  
 MoFSC: Ministry of Forests and Soil Conservation  
 MoL: Ministry of Land  
 MSFD: Maharashtra State Forest Department  
 NAREP: Natural Resources and Environmental Policy Project  
 NARESA: Natural Resources, Energy and Science Authority of Sri Lanka  
 NBSAP: National Biodiversity Strategy and Action Plan  
 NCCW: National Council for Conservation of Wildlife  
 NCS: Nature Conservation Section  
 NEC: National Environment Commission



NEP: National Environment Policy  
 NES: National Environmental Secretariat  
 NEMAP: National Environment Management Action Plan  
 NEPA: Nepal Environmental Policy and Action Plan  
 NFA: Nepal Forest Act  
 NFMP: New Fisheries Management Policy  
 NFP: National Forest Policy  
 NGO: Non-Governmental Organisation  
 NIAS: Nordic Institute of Asian Studies  
 NIRP: National Irrigation Rehabilitation Project  
 NP: National Park  
 NPC: National Planning Commission  
 NPCS: National Planning Commission Secretariat  
 NPWCA: National Parks and Wildlife Conservation Act  
 ODI: Overseas Development Institute  
 PEPA: Pakistan Environmental Protection Act  
 PESA: Panchayat (Extension to Scheduled Areas) Act  
 PFM: Participatory Forest Management  
 PNCS: Pakistan National Conservation Strategy  
 PRA: Participatory Rural Appraisal  
 PRIA: Society for Participatory Research in Asia  
 RCSS: Regional Centre for Strategic Studies  
 RGICS: Rajiv Gandhi Institute for Contemporary Studies  
 RGoB: Royal Government of Bhutan  
 RITICOE: Ritigala Community Based Development and Environment Management Foundation  
 RLEK: Rural Litigation and Entitlement Kendra  
 RN: Resources Nepal  
 RPP Task Force: Rural Poor Programme Task Force  
 RNR: Renewable Natural Resources  
 RSAM: Rekawa Special Area Management Co-ordinating Committee

RSPN: The Royal Society for the Protection of Nature  
 SAARC: South Asian Association for Regional Co-operation  
 SAM: Special Area Management  
 SEMP: Sustainable Environment Management Programme  
 SIDA: Swedish International Development Authority  
 SLCCA: Sri Lanka Coast Conservation Act  
 SNR: Strict Nature Reserve  
 SPO: Sarhad Programme Office  
 STC: Save The Children  
 UBINIG: Unnayan Bikalper Niti Nirdharoni Gobeshona (Policy Research for Development Alternative)  
 UNCED: United Nations Conference on Environment and Development  
 UNDP: United Nations Development Programme  
 UNESCO: United Nations Educational, Scientific and Cultural Organisation  
 USAID: United States Agency for International Development  
 VIKSAT: Vikram Sarabhai Centre for Development Interaction  
 VIRP: Village Irrigation Rehabilitation Project  
 WCMC: World Conservation Monitoring Centre  
 WCP: Wetland Conservation Project  
 WCPA: The World Commission on Protected Areas  
 WII: Wildlife Institute of India  
 WLPA: Wild Life Protection Act  
 WMI: Woodland Mountain Institute  
 WNPS: Wildlife and Nature Protection Society  
 WR: Wildlife Reserve  
 WSB: Wildlife Society of Bangladesh  
 WTSL: Wildlife Trust of Sri Lanka  
 WWF: World Wide Fund for Nature

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*These will be all published in 2000, and available with Kalpavriksh.*