



**ENVIRONMENT LAW AND  
DEVELOPMENT FOUNDATION  
- ANNUAL REPORT 2012-2013**



**Bridging the gap between the field and courts**

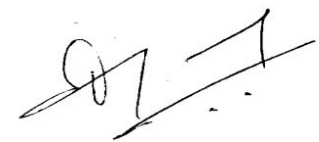
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## FOREWORD

*The year 2012- 13 witnessed three key publications on Access to Justice Programmes especially on Forest and Schedule Area Governance which were released by the then Chief Justice of India, Hon'ble Justice Altamas Kabir. It also saw the culmination of the Young Lawyers Fellowship Program where the Foundation can now proudly say that there are nineteen barefoot lawyers who are the soldiers, working in the area of environment, natural resources and social welfare legislations in the remotest part of the Chhattisgarh. This year also saw some writings on legal perspective of commons in two more states. This year included the states of Chhattisgarh and Jharkhand where there was significant support from the Foundation for Ecological Security (FES) which is heading Commons movement in the country and perhaps globally.*

*ELDF continued to contribute to the Forest Governance Learning Group Programme and more importantly through the free advice and referral service. This year primarily was a closure year of some significant programmes i.e. the Access to Justice, Young Lawyers and Commons Programme and therefore no new tasks were taken up. The internship programme continues to be successful alongwith education and publication and certain key papers were published . ELDF hopes that the work of the foundation will continue to grow as the most important think tank in the environment and development law and policy sector in the South Asian Region.*



**(Sanjay Upadhyay)**  
**(Hony. Managing Trustee)**

## OVERVIEW

The Environment Law and Development Foundation, a Charitable Trust was set up in 2004 under the aegis of the Enviro Legal Defence Firm, India's first environmental law firm, to carry out its charitable objectives. It was set up to make a change in the structure and role of environmental law organizations particularly since much of today's research does not clearly identify the enviro-legal issues it wishes to address or provide clear steps to its legal solution. Many of the cases or legal conflicts which come to law firms are last minute, badly prepared or unfocused. In order to be more proactive in research, policy work, and training whilst being more strategic in litigation, the Foundation was created. The Foundation has now become the research, education and training arm of the enviro-legal sector, whilst the law firm continues to pursue issues through litigation, either through victim-lead cases or Public Interest Litigation (PIL) and consultancy, among other things. The research could feed the litigation, whilst the litigation could feed the research-a system of praxis. Further there are several emerging challenges in the environment and development sector that need be taken up on a proactive basis by the Foundation for which there may not be ready "clients" through the law firm approach.

The Foundation provides legal aid and support, focusing on strategic interventions on the basis of its expertise in specialized areas through documentation, litigation support, legal advice and public advocacy. Over a short span, it has successfully worked in different areas providing Litigation Support Background, Field Research, Advice & Referral (A&R), NGO support service (NSS), Consultancy based research, Training and Workshops. It has various publications to its credit and also constantly updates the latest news in the field in the form of enviro-legal updates vide its site [eldfindia.org](http://eldfindia.org). It has provided legal support to many campaigns and made several submissions especially to the Ministry of Environment and Forests (MoEF) besides several other Ministries such as Ministry of Tribal Welfare, Ministry of Panchayati Raj, etc. It has also created an infrastructure for action-oriented lawyering and research.

The Foundation has an illustrious Board with over forty years of experience in the field of environment, development and policy work amongst them. The Foundation is backstopped by the Enviro Legal Defence Firm, India's foremost and first environmental law firm on all legal aspects. It has a wide pan India network of volunteer lawyers and students. (See <http://www.eldfindia.org/elan.php>); Field Partners (See [http://www.eldfindia.org/field\\_partners.php](http://www.eldfindia.org/field_partners.php)) Alumni (<http://www.eldfindia.org/alumni.php>). In fact the Foundation also anchors an informal network on environmental law and policy across South Asia called SANEL (See <http://www.eldfindia.org/sanel.php>).

## **OBJECTIVES**

- To mainstream natural resource and development law and policy, resolve conflicts over resources and strengthen environmental jurisprudence.
- To provide legal representation and assistance to those sectors of the population that have little or no influence in decisions relating to environmental and natural resources management and lobby for their inclusion and participation in decisions affecting their well-being.
- To undertake in-depth research on the entire gamut of natural resource and development law and policy to forge new areas in jurisprudence.
- To conduct education, training and advocacy programs to build capacities of those who affect and are affected by the laws and policies on natural resource development.
- To provide analyses of International Instruments, Policies, Laws and Regulations and provide assistance in drafting them.
- To facilitate negotiation, mediation and arbitration (at National and International levels) of disputes over natural resources and development and develop skills in conflict resolution and problem solving.
- To provide a forum to encourage and enhance capacities in young lawyers to strengthen the field of Natural Resource and Development Laws through National and International internship and fellowship programmes.
- To provide various organizations (Government, Non Government, Individuals, International Agencies) with a systematic and strategic legal support and assistance in the areas of natural resource law and development.
- To support or sponsor workshops, conferences, seminars, and other meetings for providing forums where free and fair exchange of ideas on natural resource development law and policy may take place.
- To maintain a state of the art Management Information System and documentation centre and serve as a Centre of Excellence.
- To do all other lawful acts and deeds as are incidental or conducive to attainment of any of the above mentioned objectives.

## **VISION**

Access to environmental justice for all

Creating an environmentally sustainable and just South Asia

## **MISSION**

ELDF aims at mainstreaming the discipline of environment and development law and bridge the gap that currently exists between the formal forums of dispute resolution and the grassroots through research, advocacy and outreach. It aims to be a centre for excellence and the hub of environment law resource for South Asia through numerous interventions including capacity

building, legal aid to marginalized communities and appropriate interventions for incorporation of a framework for environmental protection within the domestic laws of the country in accordance with international jurisprudence.

## **STRATEGIES**

The overarching strategies used to meet the Foundation's objectives include:

- Advance effective advocacy for shaping of environmental policies towards management of natural resources and upholding the rights of marginalised communities;
- Investment in the capacity of leading and emerging environmental organizations;
- Support those communities most affected by environmental degradation through advocacy, awareness building sessions and creating linkages between these communities and respective government agencies;
- Investment in organizations that work collaboratively with nonprofits, government, businesses and the public;
- Seeking projects that identify solutions and create opportunities for negatively affected communities;
- Utilization of location-based strategies and indicators;
- Support processes of community mobilizing for systemic changes in the domain of environmental jurisprudence/governance;
- Identify and amplify innovative, game-changing ideas and;
- Leveraging additional funds to further our programmatic goals.

## **GUIDING PRINCIPLES**

The following are the over arching guiding principles for the Foundation work in all the programme areas:

### ***Rule of Law:***

- Promoting rule of law and contributing to environmental and development law jurisprudence
- Helping any one who approaches us with clean hands.

### ***Social/ Institutional***

- Equity/Equality (especially of gender) in participation and decision-making.
- Sustainability of the institutional mechanism.
- Mainstreaming concerns of gender in activities/projects of Foundation as appropriate and where applicable.
- Increased involvement of grass root level stakeholders in environmental governance
- Capacity building

### ***Economic***

- Equitable distribution of resources at community level
- Enhanced incomes at household/ individual level
- Promoting sustainable use

### ***Environmental/ Ecological***

- Sustainable use of resources
- Conservation and regeneration

## **LONG TERM DESIRED GOALS**

The long term desired goals involve the following:

- To make Environment Law and Development Foundation as the regional center for excellence in the field of environment and development law.
- To bring out a world class Environmental Law and Development Journal (ELD) on environmental law and related development issues in South Asia. The aim of the Journal is to encourage new and innovative writing on the subject. Environmental journals have, in the past, failed for lack of resources or contributions.
- To setup a Fund for Targeted Research in order to support our own research priorities through our experiences as a Foundation and a law firm. The research projects would be chosen by an advisory group of experts chosen from inside and outside the Foundation. The Foundation's Board of Trustees and external funders would ensure that the fund is properly utilized. Some concepts for projects arising out of our recent experiences (for which we are yet to attract funding) are as follows:
  - *Promoting and strengthening the Environmental Law Associate Network (ELAN) in India.*
  - *Promoting and strengthening the South Asian Network on Environmental Law and Policy (SANEL) and leading to the setting up of the South Asian Center for Environmental Law and Policy (SACEL)*
  - *Anchoring the Advise and Referral service and increasing its outreach.*
  - *Creating village-registers of resource management practices and its compliance with national laws and norms.*
  - *A "best practice guide" to investing in and setting up a decentralized off-grid renewable energy generating system in India.*
  - *A review of environmental cases in India at tribunal, High Court and Supreme Court level identifying areas of legislation which may need changing and highlighting areas in which there are gaps. The study could also incorporate data from the advice and referral service, once it is set up.*
  - *Funding certain activities currently carried out pro bono by the firm such as its representation on the drafting committee of the Forest Rights Act as well as Rules, the Wildlife Protection Act, Reviewing Sikkim's Environmental and Social Policies amongst others.*

- To setup a Litigation Fund for use by the most impecunious and vulnerable clients. It is self-evident that those who can least afford to obtain legal relief through the courts suffer some of the worst effects of environmental problems. We have seen cases to protect wildlife habitats and tribal ways of life come to nothing because of the high costs facing claimants. Whilst the fund would have to be strictly managed, we feel that it could assist us in bringing cases that could otherwise never come up and more importantly contribute to the environmental law jurisprudence of this country in particular and the region in general.
- To setup a Training and Education Fund in order to support our out-station legal training, which is given for free or on an expenses basis only. As a Foundation, one of our principles is to ensure that training is provided whenever and wherever possible. Clearly there is a cost in terms of travel and time away from money-generating work. The fund could be used for such work, but also allow us to give training on an all-India basis on issues which we think are of national importance. Our experience tells us that one of the major problems in India is that many of those tasked with implementing environmental laws are simply ignorant of their content or meaning. The aim of this fund would be to ensure that the progressive laws are properly understood, disseminated and enforced.
- To setup a Fund for Internships and Volunteers who conduct research, administrative work and organize events. In our Foundation, we have wanted to provide a national focus to our work, not only through our core activities, but also by providing internship opportunities to new advocates, law students and other activists from around India. Hence, we conduct two kinds of Internship Programs: one for national students from law schools across the Country and the other which is an International Internship Program. We have trained over fifty lawyers from within and outside the country so far. The Internship Programmes continue to be an important component of the firm's work in the future and hopefully through the Foundation. The aim of these programmes is to inspire law students to work in the environment law sector, thereby widening and deepening the network of environmental protection. The internships are generally six to twelve weeks long as we feel that this is just sufficient time for someone to begin to understand our work and gain an interest. However, we are at present unable to pay anything towards the substantial expenses incurred for someone outside Delhi to reside here during that period. Clearly for many, this financial burden precludes them from undertaking an internship at the Foundation. We want each intern to have a stipend and each volunteer's expenses to be paid, so that they can freely immerse themselves in the Foundation's work without worrying about the financial implications.



## GOVERNANCE AND STRUCTURE

Environment Law and Development Foundation is a Charitable Trust registered under the Indian Trust Act, 1882. The Foundation is also registered in 2004 under 12A of the Income Tax Act, 1961. The Foundation is governed by a Board of Trustees which is led and represented by the Hony. Managing Trustee.

## BOARD OF TRUSTEES

The Board of Trustees consists of three members. The Board meets atleast once every year. It is responsible for setting the strategic direction of the organization as also for taking decisions on policies and system related matters. In 2012-2013, Foundation's Board of Trustees met on 4<sup>th</sup> April 2012 and 10<sup>th</sup> November 2012.



**Sanjay Upadhyay**, Hony Managing Trustee and Founder and Managing Partner of the India's first environmental law firm, has been practicing environmental law since 1993. An India Visiting Fellow at the Boalt Hall School of Law, University of California, Berkeley (Fall 1996) and a legal intern to the Earth Justice Legal Defense Fund, San Francisco, he started his professional career at the World Wide Fund for Nature – India at the Centre for Environmental Law. Sanjay has served as an environmental and development law expert to most well known International, Multilateral, National and State Institutions. He advises and holds key policy positions in National as well as State governments within India. The recent appointments include being appointed as the Supreme Court

Advocate Commissioner for Andaman and Nicobar Islands, drafting Committee Member for two key legislations of Government of India; the Wildlife Protection Act and the much talked about Forest Rights Act as well the Rules. Most recently Sanjay has been commissioned to draft the Renewable Energy Law for India. Sanjay has also been a Member, with a rank of Minister of State for the Commission on Environment and Social Policies and Programs appointed by the Government of Sikkim. He is currently the member of the State Environment Impact Assessment Authority for the State of Arunachal Pradesh in North East India. Sanjay has also been instrumental in drafting the first Forest Sector Policy of the hill State of Himachal Pradesh.

His areas of expertise are environment and development law and more specifically legal and policy dimensions of natural resource management, energy especially renewable energy, climate policy, environment impact assessment, integrated water resource management, decentralisation and tribal self rule, biodiversity, forestry, joint forest management, eco development, wildlife conservation, national parks and sanctuaries, marine and coastal ecosystems and environmentally sustainable residential/commercial housing in urban areas and financial sustainability of tiger reserves, among others.

He is a visiting resource person to most premier environmental institutions and law schools in India such as the National Law Universities of Hyderabad, Bangalore, Delhi, Kolkata; Indian Institute of Forest Management, Wildlife Institute of India, the National Forest Academy, National Judicial Academy, among others.

Sanjay has authored fourteen books and the best known is a three Volume Hand Book on Environmental Law covering forest, wildlife laws, water, air laws, environment protection, land and energy laws published by Butterworths-India the Lexis Nexis Group. He is also a member of the IUCN Commission on Environmental Law. Sanjay was awarded the Global Fellowship at the Nicholas School of Environment at the Duke University, U.S.A and also the Oak Foundation, U.S.A Global Fellowship to understand Ocean Laws in India.

*Sanjay is also a Ghazal singer.*



**Professor Bhaskar Vira**, Foundation Trustee's research interests span the fields of political economy, development studies and environmental studies, with a regional focus on South Asia. He is particularly interested in natural resource use and management (especially forests) at a variety of scales, and state-society interactions over institutions and institutional change, and has published extensively in these areas. Over his time at Cambridge, he has co-ordinated research grants in excess of £350,000 from a number of external funding sources, including the Wellcome Trust, Nuffield Foundation and the Department for International Development (DFID). He was a coordinating lead author for the Millennium Ecosystem Assessment, and is one of two international advisors to a major DFID-funded research initiative undertaken by the International Institute for Environment and Development exploring markets for watershed protection services. He is presently appointed as University Senior Lecturer, Department of Geography in University of Cambridge and is a Fellow at Director of Studies and Graduate Tutor, Fitzwilliam College.



**Dr. C.M. Tiwary**, Foundation Trustee is a well known pathologist known for his numerous medico-socio contributions in eastern Uttar Pradesh. He also brings in the lay persons perspective and guides us to the real field based needs in the enviro-legal sector.

## **ELD FOUNDATION TEAM**

The ELD Foundation team is coordinated by Sonali Maheshwari and Sheethal Menon who are responsible for the day to day functioning of the Foundation. They also received support from the other staff members as well as from the Enviro Legal Defence Firm as is where is basis and under the overall guidance of the Trustees led by the Hony. Managing Trustee Shri Sanjay Upadhyay. To

ensure effective implementation of the projects a team of programme, finance and administrative personnel work together.

### **FIELD OFFICES**

ELD Foundation sets up field offices in places where it is involved in direct project implementation. Currently there is a field office, in Cochin, Kerala, Sarguja, Chhattisgarh and Ranchi, Jharkhand. ELDF is also supported by informal networks of lawyers in Ranchi in Jharkhand and Bhopal in Central India and in Guwahati in the North East.

### **FIELD PARTNERS**

ELD Foundation works in partnership with grass root NGOs or community based organizations depending on the nature and location of the project. It has been conceived on the concept of caring and sharing of each others' efforts and knowledge in the field of Natural resources law so that as per the requirement or the nature of the problem, the network can be mobilized and scaled up to deal with conflicts in a particular region. List of NGOs, community organizations and professional networks with which the Foundation partnered with in the year 2012-2013 are as follows:

- Tiger Initiative Group for Earth Revival, New Delhi
- Vindhya Environment & Livelihood Trust, M.P
- Path Pradarshak, Chhattisgarh
- Sewa Bhaskar Samaj Kalyan Sansthan, Chhattisgarh
- Institute of Community Forest Governance, Jharkhand
- Educational & Research Society, Chhattisgarh

## PROGRAMMES

Keeping the vision of ELDF in frontline- to work for the marginalised sections (women, tribals, dalits and other resource poor) among forest dwelling and dependent peoples, so as they can manage and utilise forest and other resources sustainably; with due regard to conservation of biodiversity and attaining livelihood security through skill diversification; ELDF has taken up programs under following major themes.

### ACCESS TO JUSTICE FOR MARGINALISED PEOPLE

*Undoing Historical Injustice through Forest Rights Act and PESA – A Field Based, Solution Oriented plan for improving access to justice of marginalized community in Schedule V areas through the tool of Panchayat Shivirs.*

The project on Access to Justice (A2J) commissioned by UNDP for the marginalised communities which was undertaken in three Scheduled States of Chhattisgarh, Jharkhand and Madhya Pradesh continued into its third year, with the aim of empowering the Scheduled Tribes and other vulnerable communities in Scheduled Areas especially to secure control and authority over community resources through historic legal instruments such as Forests Rights Act and PESA. The project operation areas in these three states comprised of the districts of Korea and Sarguja in Chhattisgarh, Umaria and Sidhi in Madhya Pradesh and Ranchi in Jharkhand. This project was concluded in this period and 6 sets of user manuals on FRA and PESA, 3 pamphlets on thirteen sets of rights mentioned in FRA and the recognition of rights process as well as one pamphlet on PESA powers were prepared. More than 1500 pamphlets were distributed during Panchayat Shivirs in the three states. In addition one Booklet on the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989- *the right of the SC and ST to live with dignity* was also published.



### EMPOWERMENT OF LOCAL LAWYERS THROUGH FELLOWSHIP PROGRAMMES

*Focussing on training twenty young lawyers in the State of Chhattisgarh through a fellowship programme on the socio-legal rights of the marginalized communities i.e. women, Scheduled Castes, Scheduled Tribes, children, differently-abled people and minorities in the context of UNDP Access to Justice Project (in partnership with the Enviro Legal Defence Firm) continued onto its second year.*

The historical discrimination and exclusion; undergone by certain groups and communities such as SC/STs, women, children, disabled persons and poor disadvantaged, has been sought to be put right through various means. One important method of doing away with discriminatory practices

against these marginalized sections of the society is to make them aware of their rights. Awareness on rights and entitlements is seen as a critical component in the empowerment of marginalized communities leading to poverty reduction and strengthening democratic governance. The training of local lawyers and supporting them through fellowship would then have an effect of ensuring that the target group stakeholders help local level self governance institutions, self help groups and individuals in spreading legal awareness, solving disputes, legal or otherwise, accessing their well-deserved rights and ensuring that their constitutionally guaranteed rights are not violated. This programme was one such step in this direction. The programme went through the following phases this year.

### **Inception Phase**

In the first phase which is the inception phase preparation of a work plan and networking with key officials for supporting the program was the main focus. Further seeking support of the Government, Legal Aid bodies, Judiciary and the Academia were considered extremely important. Regular interactions were held with the Government officials, legal aid facilities such as SLSAs, SHRC, State Commission on Child Rights, Department of Women and Child Development, Social Welfare, Department of Panchayati Raj, Forest Department, Judiciary and educational institutions such as HNLU to elicit their participation in training the fellows. In fact, the programme received contribution directly from the Vice Chancellor, HNLU as resource person of Environmental Law during trainings. Fellows were permitted to use the University library. VC also offered University lecturers to be included and considered as resource persons for Fellows local help.

### **Selection of a Strong Team with Multiple Skills for Monitoring and Coordination of the Program at Delhi and at Chhattisgarh**

The Nodal person and other team members were selected to coordinate the 15 months long YLFP in Raipur, Chhattisgarh. One Hindi speaking and one English speaking coordinator were chosen to reduce the language barriers amongst the wide range of stakeholders and the applicants. In addition, for local level anchoring and mentoring the fellows, ELDF joined forces with a very reputed and experienced local lawyer, Mr. J.P. Srivastava as our local partner. A session on role clarity of the State Partner, Nodal Person and State Coordinator and other team members was also conducted in Raipur.

### **Selection of Fellows**

Perhaps the most crucial aspect of the programme was selecting the appropriate candidates as fellows. Advertisement inviting applications for the fellowship was given in the *Dainik Bhaskar* newspaper because of its maximum circulation in the state of Chhattisgarh. Notice was also sent to 61 Bar Councils in the state. The YLFP team screened 93 Application and 56 applications were shortlisted. Out of the shortlisted applicants, 14 were women applicants. A distinguished Jury Panel of 5 members was constituted. The Interviews of the shortlisted candidates were conducted for two days. 20 candidates were selected and 9 were kept in the waiting list.

## **Preparation of the Training Module, Training Schedule and Curriculum**

This was followed by a detailed training module enlisting the training sessions, the topics to be covered, laws dealt with in each session along with the resource persons invited to lecture on the topics was prepared. Besides, the Schedule of training for Refresher Course 1 and 2 was also prepared. Curriculum in both English and Hindi comprising of bare acts, judgments, articles, cases for refresher course 1 and 2 was prepared and submitted to the PMT.

## **Monitoring and Evaluation Process**

A process for monitoring and evaluation of the fellows was established which includes preparation of Bilingual Reporting Formats and Time Schedule for Reporting. A total of eight reporting formats for periodic monitoring of the activities of the fellows, for collecting information on issues and for documenting and addressing challenges faced by them, have been prepared. These include documenting baseline information about the target area; Monthly and Quarterly progress; Seeking reply on a legal query; Documenting Case Studies; Documenting Village Visits; Documenting Proceedings of Legal Awareness Camps, Case Diary and Weekly Timesheet. The idea was to train the fellows in a rigorous manner and develop professional standards within them in approaching legal issues. Within the ELDF team there was a clear division of responsibility for monitoring the fellows. Fellows were divided in groups of three and one mentor for each group was assigned.

## **Orientation Workshop and Purpose**

An Orientation Workshop was organised with the selected 20 young lawyers at Raipur and one Local Partner. The purpose of the workshop was to apprise the fellows with the program objectives, approach, training sessions, and methods of teaching, focus areas, their respective roles and expectations from them after the period of fellowship. The aim was also to do a base line survey to assess the socio economic conditions, level of awareness about the issues of marginalised communities, forest and Scheduled area governance among others, exposure level as well as the needs and expectations of the participants from the fellowship program. The workshop also meant to serve as an ice breaker between ELDF team, local partner and the fellows and also as an opportunity for networking between the fellows who have come from different districts.

## **Refresher Course 1 and purpose**

The first in house training started with the Refresher Course 1 which was conducted from 28 of April to 30 April 2012 at Raipur. The objective of 3 day Refresher Course 1 was to enhance fellows' knowledge of laws that affect the Chhattisgarh context, develop their capacity to identify legal issues in a local context and equip them with relevant legal skills to represent public interest matters. Refresher course also helped in apprising fellows with the basic legal concepts and terminology, basic principles of interpretation, drafting and pleading techniques, fundamental rights and human rights, international laws and specific laws



related to tribal, environmental issues, natural resources & self governance. At the end of every day a feed back session was taken from each fellow.

### **Refresher Course 2 and purpose**

Refresher Course 2 was conducted from 29 June to 1 July 2012. The second refreshers course attempted to cover a variety of socio legal issues related to children, family and women related laws. Feedback forms, knowledge gaps analysis and needs and expectations analysis revealed that such issues are of immense importance at the village level and moreover a good number of Fellows were keen to address these issues at their local area of work. Further the procedural aspect of the above subject matter was also weak and there was specific demand from the Fellows. This refresher course also helped in building harmony and understanding between various government social welfare institutes and fellows by making them aware of the working of the supporting bodies like Women & child welfare department, SLSA, DLSA & SCPCR etc.

### **Mid Course Correction**

Although not strictly within the purview of the program, it was felt that a hand holding by reaching out to the sites would be useful. Several queries from Fellows on local situations and day to day issues which were otherwise discussed only at Training sessions or through the Advice and Referral Service, also required a more human to human interaction. Thus it was decided to send the State Coordinator along with a senior lawyer to visit those districts where there was a demand and where it was felt that a little more hand holding was required. In line with this above thought, a ten days visit by State Coordinator, YLFP was conducted from 19<sup>th</sup> to 30<sup>th</sup> July 2012 along with LPO as a supportive supervision of ongoing activities in YLFP programme.

### **Selection of subjects and preparation of training schedule, Conducting Advance Course 1 & Advance Course 2**

The course structure was selected in a manner that the Fellows, in accordance with their priority would be given a series of sessions by well known experts in the country on specific subject matters and also through advanced and specialise training material. As a method, the selection of the Laws for Advance Course 1 (AC1) was done on the basis of priority selected by Fellows themselves and two group of laws were finalised i.e. Natural Resources Laws & Laws related to Tribes, Self- rule, Decentralization & Panchayats to be covered in AC1. During Advance Course Fellows were provided intensive knowledge through case study, lectures, videos, presentations, experience sharing and exchanging views on the chosen subject and also with plenary sessions and open house sessions with all Fellows at the end of day session to not only facilitate a healthy exchange but also debate common issues of concerns in



their respective sites. An important session was also conducted to track individual progress and pledging of follow up of cases that the Fellows undertook. The above said Advance Course 1 was conducted from 5<sup>th</sup> to 7<sup>th</sup> of October 2012 at Ambikapur, Chhattisgarh. The core purpose of this training was to build capacity of Fellows to understand the practical approach of the Laws related to the subject chosen. Knowledge of the laws in context of Chhattisgarh was mainly emphasized. The Advance Course 2 (AC2) was conducted from 22<sup>nd</sup> to 24<sup>th</sup> of December 2012 at New Delhi. The subject i.e. Laws related to Family, Women & Children was intensively taken up by experts from each field. This training was also conducted so as to know the reasoning for the steps which are taken by Fellows in order to resolve the legal disputes or issues which they have taken up. This discussion resulted in sharing of at least 18 issues within the whole team and getting some different and fruitful probable steps. This was also aimed towards team building spirit along with knowledge sharing.

### **Final workshop “Kya Khoya Kya Paaya” and purpose**

Although not part of the original design it was deemed fit to conduct a two days final workshop on 9 February 2013 at Raipur, Chhattisgarh. The theme for the workshop was “Kya Khoya Kya Paaya” which mainly focussed the sharing of experiences, learning’s and associations which lawyers gained under this programme. This workshop was also conducted so as to talk about the sustainability of the lawyers and the programme. During the programme Fellows also expressed their will to continue if programme gets extension. Fellows shared that this programme had helped them in many ways i.e. professionally as well as personally. Fellows discussed how the trainings have helped them in improving their lawyering skills from recognising the issue till solving the issues. They also shared how their personality as a whole has transformed into much more confident, informed and learned being. One of the key outcomes of this session is the continued support that the Fellows and ELDF has built and it would be really worth the effort and resources to continue in a renewed form else we might loose on a good group built in the area of social welfare legislation.

### **PROTECTING & CONSERVING COMMONS FOR COMMON GOOD - NEED A FRESH LEGAL PERSPECTIVE - AN ANALYSIS OF THE LAWS OF STATES OF JHARKHAND AND CHHATTISGARH; FOUNDATION FOR ECOLOGICAL SECURITY**

*Acts and Policy review based programme to prepare a report on identified gaps, contradictions/need for modification and suggesting additional provisions in the Act and Policies of the National and State Governments of two states for the management of such resources as common pool/property resources*

State wise desk review of the Acts and Policies of Jharkhand and Chhattisgarh related to issues of land, forests, water and fisheries with the perspective of common property/pool resources were to be done in the course of this programme. The acts and policies were to be screened with the perspective of rights, access and benefits to the tribal and marginalized sections. Further more, gaps, contradictions (across acts and policies) /need for modification were also to be identified



along with suggesting additional provisions, if necessary in the Acts and Policies of the various states.

This review has been made in order to understand the role of law in regulating commons and how an inadequate legal framework can impact commons in terms of its use, access, conservations and acquisition. It is increasingly clear that conflicting laws and policies, different state priorities and legal uncertainties on commons can result in its total decimation and mostly affect the already affected – the marginalised especially in rural and tribal India. An attempt is made to critically examine the legal spaces within which common pool resources exist and how national and state actions in terms of their policy and legal choices are impacting them and thereby affecting the marginalised who perhaps are most dependent on them. It was therein examined whether there are patterns that demonstrate a design due to state priorities or there are also defaults where larger implications are misunderstood at the local contexts. Acts and policies of the two states were examined to demonstrate the contrasting examples with some good and some not so good practices on how legal spaces are being utilised for commons. What is increasingly becoming clear is that the past legal arrangements may not be adequate and the commons need a fresh approach if they have to survive for the larger sustainability of the rural and urban poor.



**IMPROVING AND STRENGTHENING FOREST GOVERNANCE IN INDIA THROUGH PROMOTION OF LOCAL RIGHTS - ESPECIALLY COMMUNITY RIGHTS - BENEFITS AND CONTROL OVER FOREST RESOURCES, FOREST GOVERNANCE LEARNING GROUP (FGLG) AND INTERNATIONAL INSTITUTE OF ENVIRONMENT AND DEVELOPMENT, UK**

Its specific objective is *‘Improved forest governance in ten countries in Africa and Asia – securing local rights, developing forest product legitimacy and combating climate change’*. The overall objective of the Social Justice in Forestry project in India is *‘improving and strengthening forest governance in India through promotion of local rights - especially community rights - benefits and control over forest resources’*.

This programme is part of the ‘Social Justice in Forestry’ initiative coordinated at the international level by IIED and is funded by the European Commission and the UK Department for International Development. FGLG India took active support of the foundation in continued monitoring implementation of the Forest Rights Act and actually engaged at the highest level in the drafting of Forest Rights Rules at the national level as well as at the state level. A policy paper is almost completed for the Ministry of Environment and Forests, following a study of the long-

term investment made in tree plantations, their current status, and their contribution towards meeting the need of legitimate forest products in the country; this will be examined in the context of much of India's demand from timber being met from cheap imports. The India team will continue to use its high-level contacts and influence in various fora, for example to feed into the National REDD Strategy – whilst at the same time developing a Farmer's Guide to REDD+ preparedness. The National Consultation titled "REDD+ and Perspectives of Community Forestry Stakeholders in India" was also conducted on 28<sup>th</sup> December 2011. Some members also contributed substantially to the report on forestry on private land and non forest land under government control.

(Please see: [http://envfor.nic.in/assets/Rep\\_Committee\\_Trees\\_on\\_Private\\_land-27122012.pdf](http://envfor.nic.in/assets/Rep_Committee_Trees_on_Private_land-27122012.pdf))

FGLG members also contributed to the drafting of the new Forests Rights Rules both at the National Level and contributed from the state level. Capacity building of a wide range of stakeholders and government officials on FRA is also being carried out under the FGLG flag in different parts of India including Rajasthan, Maharashtra and other states. In Orissa attempts are being made for Linking revenue land distribution with FRA and thereby creating an equitable design where the problems of OTFDs can be addressed and eventually approved by Gram Sabha. A Book for the Government of Orissa (GoO) on FRA and revenue land settlement has been prepared with partial support of FGLG. FGLG members have continued to play critical role in providing technical assistance, policy reforms processes, capacity building and knowledge sharing in FRA implementation in the country, COP deliberations, REDD discussions at the national and international forums. A paper titled "Forest Governance and Institutional Reforms in India: Urgent and now" has been prepared and subsequently it has been converted in to a publishable document, which shall be published soon.

(Please see: <http://fglgindia.org/fglgbuzz.htm>)

## FREE ADVICE AND REFERRAL SERVICE

One of the greatest impediments to addressing environmental issues in India is people's access to environmental justice. Environmental problems often go unaddressed because victims simply don't know whom to turn to, how to obtain correct advice and representation, or don't have the evidence to pursue the matter further.

The Foundation gets a number of legal queries almost on a daily basis from various corners of India from NGOs, CBOs, CSOs, urban and rural individuals, urban and rural tribals, non-tribals, activists, high profile, low profile, officials and non-officials, small time entrepreneurs and social workers irrespective of their background. Today the Foundation handles these queries through its own

***UK Floods case:** ELD Foundation assisted the Enviro Legal Defence Firm in the fight to prevent further disasters akin to the flash floods that occurred in Uttarakhand in 2013 leading to grave human and infrastructure loss. The case sought to address the human causes which caused and aggravated the disaster and prevent such causes like unmindful construction of hotels on riverbeds in the future. The National Green Tribunal took cognizance of this and the matter is pending before court and we hope will reach a positive conclusion and be a step forward in prevention of natural disasters.*

staff or takes technical help from the Enviro Legal Defence Firm housed in the same building to answer all these kind of queries to a variety of persons from all over the country.

The Foundation also draws upon and proposes to strengthen a national network of specialists in environmental law and technicians (toxicologists, hydrologists etc) who would be willing to look at a case or provide technical advice initially for free. Individuals or groups contact the service by post, by telephone, by email or personally with their complaints and are referred to an appropriate expert. In fact, a dedicated website has been created to provide free A&R services and the link is [http://eldfindia.org/advice\\_referrals.php](http://eldfindia.org/advice_referrals.php).

#### Advice & Referrals

If you have any questions related to environment or development law issue, please post your query via sms, helpline number & e-mail



**Post A Query**

Name

Phone

Email

Address

Query

Helpline Number +91 0120-2568000  
For SMS +91 95542 00206

Madam, ..they are cutting a huge tree in front of our house what do I do..? I really don't want this huge..old tree cut which I have been seeing since my childhood?

-Query from a neighbour in Sector 15A, Noida

Sir, I live in Kotda tehsil, Udaipur I grow my musli and want to take it to Udaipur to sell it- some NGO also told me that I have a right to do so..is this correct?

-Query from a tribal in Kotda tehsil a scheduled area in Rajasthan

Saheb we are being told to leave the Sanjay Gandhi National Park, in Sidhi, Madhya Pradesh for an amount of Rupees ten lakhs- what should we do? Is there any law that can protect our ancestral claim to our home?

-Query from a group of village elders in Sidhi Madhya Pradesh

Sir, there is a nilgai ( blue bull) on the national highway wandering aimlessly and also scared..what can be done legally to protect the poor animal?

-Query from a worried resident from ATS green village, Noida

## INTERNSHIP PROGRAMME

With a view to providing a forum to encourage young lawyers to contribute to the discipline of environment and development law, Foundation conducts Internship Programmes for both National and International law students. The internship programmes are often a mix of field and theory, where law students and fresh professionals from various law schools undergo rigorous training under senior staff of Foundation for a period ranging from six to twelve weeks. We have trained over 50 lawyers from within and outside the country so far.

The students from various National Universities namely University of Delhi, Faculty of Law, NALSAR,

**Name: Eisha Krishn**

**Period of Internship: June – July 2012 and February – March 2013.**

*Interning at ELDF marked the commencement of my life long ambition of effectuating change in the environment and enhance my limited legal knowledge on the various issues that plague it and more importantly, work on solving these problems. With its challenging environment, ELDF also made me aware of my own qualities such as the ability to work under pressure, which I did not know I had. In entirety it has been a huge learning opportunity, one which I shall hold in very high steam for the rest of my life!!*

Hyderabad, NLSIU, Bangalore, Symbiosis Law College, Pune, NLIU, Bhopal, Amity Law School, Indraprastha Law College, New Delhi, Lucknow University, Faculty of Law, Government Law College, Mumbai, Banaras Hindu University, GNLU, Gandhinagar, Faculty of Law, Government Law College under Guwahati University, National Institute for Advanced Legal Studies, Kochi, Kerala, and International Universities namely Louis & Clarke Law School, College of Law, London, Vermont Law School, USA, Michigan Law School U.S.A, Harvard Law School, U.S.A, UC Berkeley, USA and the University of Manchester, UK have participated in this programme. The Internship Programmes will continue to be an important component of ELDF's work in the future.

## EDUCATION AND PUBLICATION ACTIVITIES

The Foundation wishes to convert a number of enviro legal researches that the firm has undertaken into simple user-friendly documents in various forms such as monographs, working papers and guidebooks on environment and development law. Members of the foundation have already written a number of books on the sector. However, they are technical and for niche audience. The foundation publishes simple documents to educate key targets audience through resource material as well as lectures and seminars. Members of the foundation have had rich experience and it would be important to coordinate with other experts in developing the education and publication profile.



***FRA Pamphlet for A2J Project***

### **Training Programmes and Resource Specialists**

ELDF provides training programmes through its vast network of environmental lawyers in the region on specific themes and subject areas at various levels for different target audiences. Some illustrative training programmes are given below:

- Fellowship Programme for Young Lawyers from State of Chhattisgarh where local lawyers were trained on the socio-legal rights of the marginalized communities, i.e. Women, Scheduled

Castes, Scheduled Tribes, Children, Differently-Abled people and Minorities, November 2011-February 2013.

- Resource Person and environmental laws and disasters; National Institute of Disaster Management, April 2013.
- Resource person in Second Indian Biodiversity Congress, National Seminar held at Indian Institute of Science, Bangalore from 9<sup>th</sup> to 11<sup>th</sup> December 2012.
- Resource person and Guest of Honour at discussion (Samvad) on Panchayat (Extension to Scheduled Areas Act)-PESA, held at Udaipur on 12<sup>th</sup> December 2012.
- Resource person at practitioners' conclave for "Save the Western Ghats" held at Mahabaleshwar on 2<sup>nd</sup> December 2012.



## Publications

- A manual on FRA & PESA *“Towards Creating A Model Forest & Scheduled Area Governance In Chhattisgarh”* for GoI - UNDP, November 2012.
- A manual on FRA & PESA *“Towards Creating A Model Forest & Scheduled Area Governance In Jharkhand”* for GoI - UNDP, November 2012.
- A manual on FRA & PESA *“Towards Creating A Model Forest & Scheduled Area Governance In Madhya Pradesh”* for GoI - UNDP, November 2012.
- Hamara Gaon Hamara Raj- ASTHA and ELDF (Hindi)-2013 (In press).
- Community Forestry and Law; ELDF Publication Series; 2013.
- Do the Hon’ble Governors Govern Schedule Areas of India, the hub of Left Wing Extremism (LWE); ELDF Publication Series; 2012.



## FINANCIAL STATUS

### BALANCE SHEET AS ON 31<sup>ST</sup> MARCH, 2013

LIABILITIES	CURRENT YEAR	ASSETS	CURRENT YEAR
<b><u>RESERVE &amp; SURPLUS</u></b>		<b><u>FIXED ASSETS</u></b>	
Balance as per Last Balance Sheet	132,447.00	Computer	46,120.00
Add: Excess income over expenditure	231,396.00	Less: Depreciation	27,672.00
	3,63,843.00		18,448.00
<b><u>CURRENT LIABILITIES</u></b>		<b><u>CURRENT ASSETS</u></b>	
UNDP Grant (Project Activities in Progress)		Cash in Hand	9,371.00
		ICICI Bank Ltd.	2, 09,419.00
			2, 18,790.00
<b><u>Outstanding Liabilities</u></b>		<b><u>LOANS AND ADVANCES</u></b>	
Chaudhry Kumar & Co.	15,730.00	Advance recoverable in cash or in kind or for value to be received or pending adjustment	
TDS Payable	-	Telephone Security	500.00
Expenses Payable	665.00	Tax Deducted at Source 2010-11	70,000.00
		Tax Deducted at Source 2011-12	30,000.00
		Tax Deducted at Source 2012-13	42,500.00
	3,80,238.00		1, 43,000.00
	3,80,238.00		3,80,238.00

PLACE: NEW DELHI  
DATED:

TRUSTEE

AUDITORS REPORT  
This is the Balance Sheet referred to  
in our separate report of even date.

(HARISH KUMAR)  
B.COM, F.C.A. M.No. 080105  
FOR CHAUDHRY KUMAR & CO

**INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDING 31<sup>ST</sup> MARCH, 2013**

<u>EXPENDITURE</u>	<u>AMOUNT (Rs.)</u>	<u>INCOME</u>	<u>AMOUNT (Rs.)</u>
To Salary Paid	74,000.00	By FES - Receipt	4,25,000.00
To Printing & Stationary	11,638.00		
To Water Shed Expenses	21,000.00		
To Telephone Expenses	7,418.00		
To Travelling & Conv. Expenses	17,262.00		
To Bank Charges & Interest	2,429.00		
To Website Expenses	16,455.00		
To Legal & Professional Charges	4,494.00		
To Audit Fees	11,236.00		
To Depreciation	27,672.00		
To Excess of Income over expenditure for the year	2,31,396.00		
	----- 4,25,000.00 =====		----- 4,25,000.00 =====

PLACE: NEW DELHI

DATED:

TRUSTEE

AUDITORS REPORT  
Annexure to Balance Sheet

(HARISH KUMAR)  
B.COM, F.C.A. M.No. 080105  
FOR CHAUDHRY KUMAR & CO

**Schedule of UNDP Grant for the year ending 31.03.2013**

**RECEIPTS**

Opening balance of Unspent Grant	1202128.00
Add: Received during the year	1034850.00
	<hr/>
<b>Total receipt</b>	<b>2236978.00</b>
	<hr/>

**PAYMENTS**

To Transportation Cost	122550.00
To Others (Publication) Cost	618360.00
To Personnel Cost	169000.00
To Contracts (Audit)	44000.00
To Printing & Stationary	24332.00
To Premises Cost	70000.00
To Training/Seminar/Workshop cost	1059736.00
To Miscellaneous Cost	129000.00
	<hr/>
<b>Total payment</b>	<b>2236978.00</b>
	<hr/>

NIL Balance grant of UNDP as on 31.03.2013 0.00

AUDITORS REPORT  
Annexure to Balance Sheet

PLACE: NEW DELHI  
DATED:

(HARISH KUMAR)  
B.COM, F.C.A. M.No. 080105  
FOR CHAUDHRY KUMAR & CO

TRUSTEE



**DETAILS OF ACCOUNTS AS ON 31.03.2013**

**LOANS AND ADVANCES**

Advance recoverable in cash or in kind or for value  
to be received or pending adjustment

Tax Deducted at Source 2010-11	70,000.00
Tax Deducted at Source 2011-12	30,000.00
Tax Deducted at Source 2012-13	42,500.00
Telephone Security of Ph. No. 2568000	500.00
	-----
	143000.00
	=====

## HUMAN RESOURCES

### BOARD OF TRUSTEES

SN	Name of Trustee	Position
1.	Mr. Sanjay Upadhyay, Hony. Managing Trustee	Advocate, Supreme Court of India Chamber: 419, MC Setalvad Chambers; Supreme Court; Bhagwan Das Road, NewDelhi-110001 Ph. No. +91-11-23070071
2.	Dr. BhaskarVira, Founder Trustee	Lecturer in Environment &Devt. Fellow Fitzwilliam College University of Cambridge Downing Place, Cambridge CB2 3EN England, t-+44-(0)1223 333399 t-+44-(0)1223 339823 (d) f-+44-(0)1223 333392
3.	Dr. C.M. Tiwari Founder Trustee	S C-179/159, (Opposite Hanuman Mandir), Betiahata, Gorakhpur - 273 001(U.P.) Tel: 0551-2337140

### TEAM AT ELD FOUNDATION (AS ON 31<sup>ST</sup> MARCH 2013)

S. No.	Name	Designation
1.	Ms. Geetanjali Dhankar	Legal Coordinator
2.	Mr. Tushar Thareja	Legal Coordinator
3.	Ms. Suparna Jain	Legal Coordinator
4.	Ms. Shyama Kuriakose	Legal Coordinator
5.	Ms. Sheethal Menon	Legal Coordinator
6.	Ms. Naysa Ahuja	Legal Coordinator
7.	Ms. Divya Sharma	Legal Coordinator
8.	Mr. Desh Ratna	Legal Coordinator
9.	Ms. Eisha Krishn	Legal Coordinator
10.	Mr. Vishambar Dutt	Project Coordinator
11.	Ms. Sonali Maheshwari	Project Coordinator
12.	Izhar Ali	Accounts Associate
13.	Hitesh Arora	Accounts Associate

14.	Rajkumar	Driver cum Office Assistant
15.	Ramesh	Helper

### FIELD PARTNERS

SN	Partners
1.	Sewa Bhaskar Samaj Kalyan Sansthan Bhaskar Bhavan, Kedarpur, Ambikapur, District Sarguja - 497001 Chhattisgarh <a href="mailto:sewabhaskar@gmail.com">sewabhaskar@gmail.com</a> +91-9826168359
2.	Path Pradarshak, Saksharta Marg (Bhatti Road), Kedarpur, Ambikapur District - Sarguja- 497001 Chhattisgarh tel: 0777-4230894 m-+91- 9406090669 <a href="mailto:p.pradarshak@rediffmail.com">p.pradarshak@rediffmail.com</a> <a href="mailto:pathpradarshak.tiproject@gmail.com">pathpradarshak.tiproject@gmail.com</a>
3.	Vindhya Environment and Livelihood Trust Near Pani ki Tanki, Dakshin Korondia Siddhi, Madhya Pradesh m-9752188878 <a href="mailto:em-churhatkk@gmail.com">em-churhatkk@gmail.com</a>
4.	Tiger Initiative Group for Earth Revival Bandavgarh Road, Village Tala, Khaira Gram, Post Office-Khaira, District-Umaria, Madhya Pradesh m-9868882400 <a href="mailto:tiger_initiative@hotmail.com">tiger_initiative@hotmail.com</a>
5.	Institute of Community Forest Governance, A-B/1 Abhilasha apartment 11 Purulia Road (behind Top Gear Motor Garage) Ranchi – 834001 <a href="mailto:sanjay_samar@hotmail.com">sanjay_samar@hotmail.com</a> 0651-2532067 m-09431103041

6.	Shri J.P. Srivastava Advocate Chamber No. 1, District and Session Court Ambikapur Sarguja– 497001, Chhattisgarh m-09826183783 JP.shri.197@gmail.com t-07774-220520
7.	Mr. Anuk Pratap Singh Tekam Advocate District and Sessions Court Ambikapur Sarguja– 497001 Chhattisgarh m-09406222265 m-09926860551 <a href="mailto:anuktekam@gmail.com">anuktekam@gmail.com</a>
8.	Rajiv Singh Chauhan Advocate, 11 “D” Lawyers Chamber District Court, Sidhi – 486 661 m- 0940 7354 200 m – 09425179586 <a href="mailto:sidhirajiv@yahoo.in">sidhirajiv@yahoo.in</a>
9.	Pushpendra Nath Dwivedi 09425472945 <a href="mailto:babadwivedi99@gmail.com">babadwivedi99@gmail.com</a>
10.	Rajesh Shankar Advocate, Madhya Pradesh m-09835116014 t-2311746 (R)