



**ENVIRONMENT LAW AND  
DEVELOPMENT FOUNDATION  
- ANNUAL REPORT 2011-2012**



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

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## FOREWORD

*The ELD Foundation marched into this year with the rich learnings of Access to Justice Programme. It was fortunate enough to support the law firm on the Young Lawyers Fellowship Programme in Chhattisgarh. The mission to develop and hand hold barefoot lawyers on issues of social relevance was a dream come true for the Foundation where it helped nineteen practicing advocates of fifteen districts in Chhattisgarh alongwith the Enviro Legal Defence Firm. Key issues of the remotest part of the country and the most vulnerable populations were resolved through this programme. ELDF is proud to state that the seeds of the barefoot lawyers have been sown and the wisdom and knowledge in the field of environment and development law and social welfare legislations are now reaching out to the remotest part of tribal India.*

*ELDF also contributes regularly to the Forest Governance Learning Group at the Secretariat wherein members of the foundation support key forest governance connected people in taking their message of sound forest governance on tenure rights, on biomass energy, on CAMPA among others to the policy makers.*

*ELDF's internship programme specifically has now supported lawyers from India and abroad and a number of them are now environmental lawyers. Some of them have also joined ELDF either through the law firm or through the Foundation owing to their training in the Foundation. ELDF continues to publishes rich material and contribute regular updates in the field of environment and development law for the public at large through the website specially created for the same ([www.eldfindia.org](http://www.eldfindia.org)).*

*I hope that the increase in the field officers and field partners will increase the reach of the foundation and will become a resource center on Environment and Development Law and Policy for the South Asian Region in the near future. I wish the Foundation very best for the future.*

**( 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://www.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 marginalized 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 2011-12, Foundation's Board of Trustees met on 20<sup>th</sup> June 2011.



**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, decentralization 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 co-ordinating 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 Geetanjali Dhankar and Naysa Ahuja 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 Sarguja, Chhattisgarh and Ranchi, Jharkhand. ELDF is also supported by informal networks of lawyers in Ranchi in Eastern India 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 2010-2011 are as follows:

- Tiger Initiative Group for Earth Revival, New Delhi
- Vindhya Environment & Livelihood Trust, M.P
- Path Pradarshak, Chhatisgarh
- 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 marginalized sections (women, tribals, dalits and other resource poor) among forest dwelling and dependent peoples, so as they can manage and utilize 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 second 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.

### **Panchayat Shivirs**

As per planned activity for fifth quarter, 7 panchayat shivir were undertaken. IEC material in the form of leaflets, simplifying the two laws was also prepared and distributed amongst the participants. The focus of the Panchayat Shivirs was on PESA as it was observed in the past visits that the village community does not know about PESA and the powers of Gram Sabha under PESA. With examples from the common issues, problems, needs of the village, importance of PESA was explained. The project team strove to drive home the relevance of Gram Sabha and its decisions. A participatory exercise with the participants was also conducted where the team asked them to list down criteria for selection of beneficiaries for schemes of socio economic development. The team noted the parameters mentioned by the people and suggested that at the time of gram sabha in each village under the program, a resolution shall be passed deciding the criteria for selection of beneficiaries as per PESA and should be sent to PRI department with the help of LPOs and LL. The team felt that there is a need to do more intensive sessions on PESA with the village community and also to build the capacity of LPOs and LL.



### **Quarterly District Forum Meeting**

The district forum meetings are aimed at resolution of emergent issues at the district level by the involvement of different functionaries to this process. In keeping with the significance of the quarterly district forum meetings two district forum meetings were held in Chhattisgarh and two district forum, meetings in Madhya Pradesh.

### **Tracking back administrative issues and legal cases**

A matrix of issues and potential strategies to resolve those issues has been prepared for the three states to track their progress. Each legal issue in the matrix has been documented and action points were discussed. New issues which emerged in this quarter are as follows:

#### **Chhattisgarh**

**Alienation of tribal land:** In Maheshpur village some non-tribals occupied the land of the tribal and then managed to get patta in their name of that land. This issue would be taken up at the gram sabha meeting and restoration of land under PESA and land revenue code would be initiated.

**Installation of tower by Cellphone Company:** A mobile phone company has installed a tower on land which has both private and panchayat land. The company is paying lease money to the private owner but no lease money is being paid to the panchayat.

#### **Madhya Pradesh**

**Community claim for performing puja in Bandhavgarh fort:** A community claim is being preferred for performing puja in the fort which is managed by the forest department.

**Non-grant of land 30 degree slope:** Some of the individual claims have been granted for land which is at a 30 degree slope which according to the forest department is more prone to soil erosion and which would affect the productivity of the land thereby impacting conservation practices of the forest land. The forest department is of the view that such land should not be granted under FRA.

**Community claims:** The awareness on community claim is very less in District Umaria.

#### **Jharkhand**

**Difficulty in proving 75 years of residence for Other Traditional Forest Dwellers under FRA-** Santosh Mehto is a resident of Murgi village, Murphiri Panchayat in Burmoo block. He falls under the category of Other Traditional Forest Dweller under FRA. He is claiming 1acre and 52 dismal lands for cultivation and has evidence to prove 71 years of residence through a Hukumnama issued on February 12, 1940 by the erstwhile state of Chota Nagpur, which gives him the right to cultivate the land. However, since the evidence is of 71 years and falls short only by four years only to prove the prescribed limit of 75 years, it can be assumed that the claimant has been residing on the claimed land for more than 75 years. Therefore, to strengthen his case, the team suggested that other evidences given in FRA such as written statement of elders along with a photo of a tree which is more than 75 years old should be taken and attached with the claim form. This will be followed up by the team

**Forest Offence-Summons** were issued against Vinod Naik, a resident of Murmoo in Burmoo Block under section 33 of Indian Forest Act, which levies penalties for violations of notification issued for reserving trees under section 30 and also of rules made for access and use of protected forest under section 32 of Indian Forest Act, 1927. However, it was informed by Vinod Naik that he has already filed a claim under FRA over the land on which the above said offence is alleged in the summons. However, section 4(5) of FRA says that except when expressly stated, no member of a FDST and OTFD shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete. This matter shall be taken by the LL and will be followed up.

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)



## THROUGH FELLOWSHIP PROGRAMMES

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 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.

### Special Focus on Women

The training and sensitization program would specially focus on social, economic, legal and, political empowerment of women. Among other objectives, it aims at enhancing legal and political empowerment of women so that they are aware of their rights and duties as informed citizens, contribute effectively in local decision-making and, collectively demand their rights, entitlements and quality public services under government programmes and are able to assert their position at all the levels – household, community, Panchayats and society. Apart from that, the training itself has atleast 33% women lawyers who are being trained through this project in each state. This is being carried out in two ways. First a capacity building exercise by experts in the ELDF team and then the trained women legal professionals would be encouraged to take up cases for women for their empowerment.



### Training & sensitization of Fellows and Methods to be Employed in Training

Trainings & sensitization programme shall be conducted in two stages- refresher course and advanced course. A comprehensive course module for orientation, refresher and advance training course were prepared. The module comprised of bare acts of the relevant laws to be covered, easy to understand manuals, user guidebooks, short notes on issues and next steps, pamphlets, handouts and other reference material in both Hindi and English language to facilitate learning. The module also focused on the ways to further create legal awareness and interact sensitively and professionally with clients who may be victims of abuse. In addition, the module also threw light on the codes and procedures to litigate cases in Courts of Law. Processes followed while conducting the Programme are as follows:

- Interactive Session and Thematic Presentations
- Case Studies
- Use of Legal Interpretation Aids in Training
- Finding Solutions- Expert Legal View
- Situation Analysis and Role Play
- Screen shots and the discussion
- Background study material and informational support
- Training Aids for preliminary assessments, needs, expectations, feedback and analysis
- Usage of Training Module

**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. The Hon’y Managing Trustee was the Convener for FGLG-India in 2011 before his handing over of the convenorship to another FGLG- India member. FGLG India took active support of the foundation in developing certain thematic papers on **Forest Rights Act- Implementation, Institutions and in 2011** and other support to carry out the various activities of the larger group. Some of the activities taken up under the guidance of the FGLG national convener are as follows:

- For issues on FRA implementation, three states have been closely looked at– Chhattisgarh, Jharkhand and Madhya Pradesh along with several other states such as Assam and Maharashtra. Currently the focus of the work is on examining reasons for rejected claims. No one informs the relevant bodies for rejection of claims. Applications under Right to Information (RTI) have been filed for the same and a Section 8 FRA notice has also been put to the State Level Monitoring Committees (SLMC), through the Gram Sabhas.
- A request has also been made to the Welfare commissioner and Welfare Secretary, Jharkhand to issue a clarificatory order to all the Sub Division Level Committees (SDLC) in the state that

SDLC does not have the power to reject claims. However, the response has been delayed due to the transfer of the earlier Welfare Secretary.

- Apart from this, a post claim strategy has been prepared for Umaria District in MP. About 60 – 70 programs have been identified which can be used for the development of lands granted to claimants under FRA. A note on this has been prepared and circulated to the Group for comments.
- In Jharkhand another big issue identified was the lack of clarity on evidence for OTFD.
- FRA implementation in peri or semi urban areas has to be looked at especially since the land prices are high.
- The next issue acknowledged in Chhattisgarh is of delineating the habitat of Primitive Tribal Groups (PTG) and the procedure for claiming such habitat, as FRA is silent on this.
- Delineation of CFR is another issue, due to the absence of a clear provision in FRA. It needs to be seen whether a circular from the Ministry of Tribal Affairs would be required to solve this issue.
- A Paper on Governance and Institutional Reforms has been prepared.
- Besides, the Role of SLMC will be looked into more closely. Its monitoring process under FRA needs to be seen and also whether such monitoring has resolved any issues or not.

### **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 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.

**Querist:** Mr. Ali Naqvi / Ferozpur road Lahore, Pakistan

**Query:** I want to know that is there any law or work by ELDF for the pollution on the river?

**Answer:** The foundation with the technical partnership with the Enviro Legal Defence Firm is currently involved in the raising the issue of pollution of River Arpa by Municipal drain in the city of Bilaspur, Chhattisgarh in Central India and pollution to the river Mahanadi in the state of Chhattisgarh. The firm is at an advanced stage of gathering the relevant information and will be filing a Public Interest Litigation (PIL) before the Chhattisgarh High Court in this regard.

**Querist:** Umang Choudhary/ Chandil/ client

**Query:** Sir, I have seen sand mining being done on river subanrekha banks with JCB machines. As far as my I know there is no mine lease. Is this valid? And how can we fight against it, considering the fact that the violator is a man from ruling party and corruption levels are really alarming?

**Answer:** It is little difficult to provide a complete reply of your query on the basis of the facts provided by you. Firstly it is important to ascertain whether the quarrying of sand is being done illegally or the licensor is not adhering to the conditions of the license.

Secondly following laws will be triggered if it is a case of illegal quarrying:

The Mines Act, 1952

Jharkhand Minor Mineral Concession Rules, 2004

Mines & Minerals (Development & Regulation) Act, 1957

Thirdly it is important to ascertain that the area where quarrying is taking place in a schedule area or not, if yes Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA) read with Jharkhand Panchayati Raj Act 2001 which adapts PESA shall also be applicable.

Fourthly, you can also file a criminal complaint under Section 144 CrPC with the District Magistrate in this regard.

We will be glad to provide you more detailed information if you wish to share the related documents. You can also approach the Legal Aid Committee of NGT.

#### Improving Access to Justice for Marginalized Communities in Schedule V Areas through FRA and PESA

##### Legal Query

##### 1. Information of complainant seeking Legal Aid/Advice

1. Name of LPO/Local Lawyer:
2. Name of affected Village:
3. Name of the Panchayat:
4. Name of the District:
5. State:
6. Date:

##### 2. Nature of Query/Complaint:

Individual/ Group/Community/General Public Interest:  
Urgency (Immediate/Short Term/Long Term):

Whether it relates to scheduled area governance or forest area governance:

##### 3. Legal issue involved:

Description of Legal query  
Factual background to the issue

##### 4. Expectation of the complainant:

##### 5. Applicable statute (PESA/FRA):

##### 6. Legal provisions invoked:

##### 7. Response /Action Taken/Output:

##### 8. Legal Advice rendered:

##### 9. Feed Back from LPO:

## 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, Hyderabad, NLSIU, Bangalore, Symbiosis Law College, Pune, NLIU, Bhopal, Amity



- Resource Person at the Wildlife Institute of India for IFS Probationers on Environment Law and Public Interest Law for last ten years.
- Resource Person on Forest Tribal Interface at the Indian Institute of Public Administration, New Delhi for Senior Government Officials from various departments such as MoEF, MoRD, MoTA for the last 10 years

## Publications



- Does India Need only a Special Green Bench? ELDF Publication Series, 2011.
- Tigers or tribals? The true targets of India's Forest Rights Act; IUCN, 2011.



## FINANCIAL STATUS

### BALANCE SHEET AS ON 31<sup>ST</sup> MARCH, 2012

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	119,046.00	Computer	31,600.00
Add: Excess income over expenditure	13,401.00	Less: Depreciation	9,480.00
	----- 1,32,447.00		----- 22,120.00
<b><u>CURRENT LIABILITIES</u></b>		<b><u>CURRENT ASSETS</u></b>	
UNDP Grant (Project Activities in Progress)	12,02,128.00	Cash in Hand	8,070.00
		ICICI Bank Ltd.	12,73,469.00
			----- 12, 81,539.00
<b><u>Outstanding Liabilities</u></b>		<b><u>LOANS AND ADVANCES</u></b>	
Chaudhry Kumar & Co.	12,921.00	Advance recoverable in cash or in kind or for value to be received or pending adjustment	
TDS Payable Institute of Community	5,617.00	Tax Deducted at Source 2010-11	70,000.00
Forest	50,546.00	Tax Deducted at Source 2011-12	30,000.00
	----- 14,03,659.00		----- 1, 00,000.00
			----- 14,03,659.00

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, 2012**

<u>EXPENDITURE</u>	<u>AMOUNT (Rs.)</u>	<u>INCOME</u>	<u>AMOUNT (Rs.)</u>
To Salary Paid	133,000.00	By FES - Receipt	3,00,000.00
To Printing & Stationary	9,625.00	By Tribal Welfare Commissioner	40,000.00
To Welfare Expenses	40,000.00		
To Travelling Expenses	26,320.00		
To Bank Charges & Interest	1,613.00		
To FES Research Remuneration	94,000.00		
To Legal & Professional Charges	8,427.00		
To Audit Fees	4,494.00		
To Depreciation	9,480.00		
To Excess of Income over expenditure for the year	13,401.00		
	----- 3,40,000.00 =====		----- 3,40,000.00 =====

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

Schedule of UNDP Grant for the year ending 31.03.2012

**RECEIPTS**

Opening balance of Unspent Grant	2436259.00
Add: Received during the year	1034850.00
	-----
<b>Total receipt</b>	<b>3471109.00</b>
	-----

**PAYMENTS**

To Transportation Cost	266458.00
To Others (Publication) Cost	19500.00
To Personnel Cost	273000.00
To Printing & Stationary	44852.00
To Premises Cost	309268.00
To Training/Seminar/Workshop cost	1274903.00
To Miscellaneous Cost	81000.00

**Total payment** 2268981.00

**NIL Balance grant of UNDP as on 31.03.2012** 1202128.00

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 31.03.2012

**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
	-----
	100000.00
	=====

## 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 2012)

S. No.	Name	Designation
1.	Ms. Geetanjali Dhankar	Legal Coordinator
2.	Mr. Tushar Thareja	Legal Coordinator
5.	Mr. Abdul Basit Gania	Legal Coordinator
6.	Ms. Naysa Ahuja	Legal Coordinator
8.	Mr. Desh Ratna	Legal Coordinator
9.	Mr. Vishambar Dutt	Project Coordinator
10.	Izhar Ali	Accounts Associate
11.	Hitesh Arora	Accounts Associate
12.	Rajkumar	Driver cum Office Assistant
13.	Ramesh	Office Assistant

## 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-churhatk@gmail.com">em-churhatk@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)