

CHAPTER: 9

CONCLUSION

For many years, there was a misconception that timber trade plays a negligible role in forest loss and that most of the deforestation is caused by agricultural clearance and fuel wood collection. Thankfully such misconception has been corrected and it is now recognized that timber trade is currently one of the most important causes of loss and degradation of forest around the world.

Timber trade has both direct and indirect influences on the environment. The direct influences are commonly considered to be more important. At the same time environmental conditions, policies, and regulations influence the market access and competitiveness of the timber trade. While regulation of trade in forest product is perceived to be a driving force for achieving sustainability in management of forest, international trade and the corresponding micro & macro-economic policy reforms are also dependent upon the trade in forest products. Lack of effective regulatory mechanism especially in the developing countries lead to unbridled and uncontrolled trade in forest products especially timber. In a number of countries like Africa, India, China, Indonesia, Brazil and Guyana Shield, illegal logging and

unregulated trade in timber apparently accounts for a significant share of forest loss and degradation.

In addition to these direct impacts, indirect impacts such as opening up of remote, inaccessible forest areas for encroachment which trigger a chain of underlying causes and effects of deforestation. Indirect impacts on deforestation are linked to such factors such as changing production and consumption patterns, expansion of subsistence agriculture, rising demand of fuel wood etc.

In spite of serious efforts at making sustainable cultivation of timber that is intended to contain both direct and indirect impact, there is an ever increasing demand for timber from sustainably managed forests in the international market. As a consequence thereof unlawful timber trade is on the rise. The subtle effects of deforestations can be seen in the form of forest fire, landslides, erosion, siltation, and global warming.

The reasons for the short supply of timber from sustainably managed forest are certain institutional deficiencies in the form of under developed land management systems, weak environmental protection policies and inadequate administrative control. Another significant factor is the rise in density of population and the onslaught of urbanization in the rural areas. Economic development involves agricultural development, environmental conservation, and industrialization. Agricultural and industrial developments earn the foreign currency that are fundamental to the growth of a nation but in both cases timber is an essential infrastructural requirement. Once the timber traders make an inroad in the inaccessible dense forest, the area opens up for non-traditional shifting cultivation, livestock grazing and fuel wood gathering. These activities create a vicious circle.

Excessive export oriented commercial logging, the conversion of agricultural land for business related plantations to grow oil palms, rubber, coffee; tea etc. and urbanization motivated land use coupled with non-traditional cultivation by landless peasants are some of the direct attributes of forest (mis)management. It would be oversimplification of matters if it is presupposed that deforestation is the fault of importing or exporting countries. Timber boom is not brought about by international market demands alone. Other socio-economic and political forces are equally responsible and actively involved in strongly encouraging both legal and illegal timber trade as it is highly revenue earning trade and till the last half decade the laws controlling logging and distribution was not properly enforced in many countries including India.

Illegal logging takes place when timber is harvested, transported, bought or sold in violation of laws. The harvesting procedure itself may be illegal, including corrupt means to gain access to forest, extraction without permission or logging from protected areas (such as national parks, sacred groves etc.), cutting of protected species or extraction of timber in excess of agreed limits or marking reserved forest illegally as private forests. Illegalities may also occur during transportation, illegal processing and export, mis-declaration to customs and avoidance of taxes and other charges. Possibly more than half of all logging activities in most vulnerable regions are conducted illegally.

An important aspect of the debate has been that the developed consumer countries are driving up the demand for timber & timber products and hence increasing the incentive for illegal logging. Illegal logging and the international trade in illegally logged timber is a major problem for many timber producing and exporting countries. It causes environmental problems in terms of depletion of scarce natural resources, destruction of ecosystems, loss of biodiversity, loss of carbon sinks and climate change. It causes economic and developmental problems with a loss of billions of dollars each year in Government revenues and inestimable environmental costs. It also causes social and economic problems as it promotes disregard for law and corruption which are damaging to governance and social cohesion alike. The loss of human life and property due to natural calamities resulting from forest degradation is incalculable.

SUMMATION OF CHAPTERS

The present research work examined various aspects of the timber trade issues. A brief summary of the findings at each stage of study is briefly summarized below:

The introduction to this study traces the genesis of the problem and details out the hypothesis, objective & significant of the present work.

At the outset in **Chapter 1** the research work has been conceptually and theoretically rooted. Theories are required to study a new and emerging phenomena and providing it with contours of investigation. Different theories help to focus on different aspects of the problem and reduce the complexity of the subject. In this manner a focused understanding of the issue can be achieved.

This explodes the theory of common pool resource which requires the planting of a tree for a tree and a cooperation and commitment among the group perusing it and absence of ego based competition and drive for excess profit. The theory of reformation that became popular during the 80s adopted two lines of thinking: one, analyzing fundamental policies and two, studying environmental NGOs and protest. Built strongly on Neo-Marxist analytical scheme the state is perceived to be structurally unable to regulate, control the inherent environmental side effects of the ongoing timber trade. The environmental crisis is seen as closely related to economic demands of the market and the consumer.

The contribution of the social sciences to environmental reform cannot be ignored. The decade of the 70s and the 80s were spent on understanding the continuum of environmental degradation. The decade of the 90s saw conventional political and civil society institutions receive more attention for contributing towards achieving sustainability. The decade of the 20s decidedly became aware of the global demand for privatization and open foreign trade but fail to provide any solution to its onslaught. The theory of ecological modernization empirically studies the methodology for environmental improvement, ecological restructuring and economic balance. The basic idea of this theory is that development crystallizes in constant ecological structuring of modernity. Ecological structuring means ecology inspired and environment induced process of transformation and reform of the society. The theory of network and flows applies the sociology of networks towards understanding environmental reform and reducing frictions with the contra elements such as infrastructure, travel, industry and cultural diversity.

But underline all these factors are the political will and the politics of environment. It is the political will that alone can bring about the desired policy framework of sustainable timber trade.

In this chapter in conclusion it is observed that the challenge is to frame policies which will induce biomass based development process. No biomass based strategy can succeed without the involvement of people especially women if a sustainable environment and a sustainable development has to be achieved, then nature will perforce have to be nurtured in a sustainable manner. This will also bring about general awareness among the common people and also reduce the work burden of women leading to greater literacy of women, economic growth and eradicate poverty. If India fails to recreate its environmental-trade policies on these lines then not only its villages but also its cities will become unlivable.

Chapter 2 of the research work deals with multiple issues relating to sustainability of timber trade and seeks to reconcile the conflicting interest in the light of doctrine of sustainability. It is generally recognized that the world and particularly India broke its slumber over sustainable environmental protection and development during the mid 80s. In this chapter the researcher has examined the legislative framework, the role of the judiciary, the contribution of the five year plans, national forest policy, international instruments etc. However in conclusion the researcher is constrained to note that drawing a balance between environmental and developmental sustainability remains the toughest challenge yet. The legal framework, the policy framework, the judicial contributions and the international instruments, all rich mine of knowledge and information have not been successful in achieving sustainability.

Chapter 3 specifically deals with the unique position and role played by the judiciary in achieving forest management through the number of decisions or orders passed in deciding the case of *Godavarman Thirumulpad v. Union of India*. This chapter analyses the case at length and examines the impacts of the judgment not only upon the forest policies but also upon each of the states which have been empirically studied by the researcher. In conclusion the researcher has expressed an opinion that although the Supreme Court has been accused of over stepping the delineated boundaries of separation of powers, the Supreme Courts interventions and aggressive stance towards forest management is most welcome. The Supreme Court's pro active role in sustainable development and sustainable forest management has already gone a long way in arresting the ecologically dangerous activities such as timber trade and it has raised awareness about forest among the general mass. Although its orders may have caused many predictable and unpredictable impacts but it has definitely benefited the forest in India.

Chapter 4 of the present research work makes an endeavor to locate timber trade within the framework of WTO. It must be mentioned that the WTO framework and the international trade framework does not deal directly with timber trade. However, there are some provisions which impact upon timber trade sometime directly and often indirectly. It is observed in this chapter that during the journey of the WTO in 1999 from Seattle (Doha Development Round) till 2005 in Hong Kong and onward to 2014 the WTO was not able to convince the developing countries of an acceptable trade policy. Issues' relating to agriculture still remains "the last major frontier for trade liberalization". Since WTO itself does not possess the resources to deliver this aid, it relies heavily upon the members to propose the modalities for

achieving a balanced and acceptable trade policy. Timber is also listed on the non-agricultural market access product but that too is suspended because it is linked with other issues relating to agriculture. Import tariff is generally low for logs from developed countries but high for the developing countries, especially those countries which have a natural resource base like Indonesia and those countries that are expanding their timber plantation.

Non-tariff barriers involve restriction of import of illegally harvested and traded timber. They are meant to control and regulate the entry of illegally felled timber into the market for export import purposes, even if the price for such timber were kept very low. The real obstacle for effectively implementing the barrier comes from the developed consumer countries. GATT Article 3 requires that imported and domestic ‘like products’ should be treated equally with regard to internal taxes and regulations. This brings the goods produced from illegally felled timber at par with goods produced from legally felled timber. The GATT does not define like product. This is in direct conflict with the WTO norms of non-tariff barrier.

WTOs technical barrier to trade agreement is design to control and regulate standard of the goods. Requirement of proof of legality of the timber can brought within this category as a technical requirement. This provision aims at transparency, predictability and encourages the use of international standards even in the case of timber. The Forest Certification System [FCS] and Programme for the Endorsement of Forest Certification are international in scope but are not in the same categories of bodies accepted by the WTO system of standard setter. Voluntary Certification System is wide spread but not well recognized. The International Tropical Timber Agreement came into being in 1994 and was enforced in 2008. This agreement too did not have any significant impact upon illegal timber trading. Thus the international mechanisms of trade have failed to ensure a sustainable timber trade.

Chapter 5 focuses upon illegal logging in south, east, and south East Asian countries that are home of dense to very dense forest. These regions are vulnerable to vandalism. A clear root for illegally logged timber lies from Indonesia to Thailand to Myanmar to China and another root via Mizoram to Myanmar to China. From China the illegally felled timber reaches the international market.

This chapter examines the situations in all SAARC countries such as Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka. In the South Eastern region the focus has been placed upon Indonesia, Malaysia, and Myanmar. China is the only country that is focused upon in East Asia as it is a strategic culmination point of illegal timber trafficking. In

china the timber is laundered of its illegality and pushed into the international market for consumption of the developed countries.

It is noted in this chapter that issue of illegality has not been openly addressed until now with commitments made by the governments of South Asian countries and the South East Asian countries. The timber industries are expected to participate in ensuring that the resources from which the timber is obtained and the process of procuring is legal. There is an urgent need for imposing international sanctions against countries who have failed to ban trade in illegal timber. The international instruments merely express concern for environmental degradation and advocate sustainability without effectively addressing the issue under criminal law and imposing necessary sanctions not only upon the individuals indulging in illegal trade of timber but also against those countries who have failed to devise a mechanism for prevention of illegal timber trade. There is also failure on the part of the WTO and also the international trade policy because the non-tariff barriers and the technical barriers to trade do not address the issue of timber trade directly. Thus there is an indifference of international organizations towards the issue of indiscriminate trading of timber. Laundering of illegal timber is in itself a massive commerce for those who control the syndicates and cartels. In other wards it operates as a parallel economy. The governments need to develop new procurement policies that ensure timber and wood products come from legal sources. Industries too need to adopt transparent chain of custody processes which allows timber tracking from source to market. The producing countries must also formalize a system of cross border cooperation between national enforcement authorities and to enact legislation allowing the confiscation of illegal timber and those dealing in it outside the country of origin.

The World Bank estimates that up to 10 billion US dollars per annum of the global market in timber is lost through illegal trade.⁶⁴¹ The European Union is one of the major consumers of illegally sourced timber and wood products and is estimated to be responsible for about a loss of 3 billion euro's per annum of revenue⁶⁴². This crime costs the developing countries a loss of 10.7 billion euro's per annum. Illegal logging funds armed conflicts and helps to fuel violence against those dependent on the forest. It creates conflict within the communities and is a tool by which those who seek power obtain great wealth. Undermining the rule of law,

⁶⁴¹ . www.worldbank.org/Forest and Forestry.

⁶⁴² . Failing the Forests, Europe's Illegal Timber Trade Report, 6bis7bis8WWF.

corruption and the ruin of any possible sustainable development are also symptoms of illegal logging⁶⁴³.

Chapter 6 is based on empirical work. This chapter is based on empirical work. Although the focus of the theses is the State of Tripura, but in order to understand the implementation of law related to timber trade, the researcher has done a comparative field study in Kerala, West-Bengal, Assam, and Mizoram also. It focuses on the implementation of the laws relating to timber trade at the ground level in five states of India.

The objective of this chapter is to study the various laws prevailing in different states in addition to the central laws. It may be recalled that matters relating to forest and forest produce figures in item no.17A, 33(a) in List III [Concurrent List] & Item 18, 27, 45 of List II [State List] in schedule VII of the Constitution of India. Therefore each state in addition to the central laws has customized its own laws for the protection of the forest and forest produce within their territory.

During the empirical study the researcher had anticipated a certain degree of fear and resistance from the respondents. In order to reassure them each questioner had an undertaking from the researcher stating that the researcher is a registered Ph.D. scholar in the University of North Bengal and the information given to the researcher shall remain strictly confidential and shall be used solely for the purpose of writing the thesis.

The names and/or identities of the respondent shall not be revealed to anyone under any circumstances. The researcher further gave a copy of the filled in questioner to the respondent for the purpose of cross checking the authenticity of his presentation by the respondents if they so desired. Despite such assurances and genuine efforts of the researcher the respondents were not willing to be interviewed. So in order to reach them the researcher met some knowledgeable and influential persons in research organizations such as various forest research institutes like Kerala Forest Research Institutes (KFRI), Assam Forest Research Institute (AFRI) and Local MLAs, Union Leaders, Secretaries of Timber Associations and through them approached the respondents to obtain authentic responses free from fear etc.

The framework of **Chapter 7** is limited to the state of Tripura. The researcher looks into the legal provisions relating to trade in timber in the state of Tripura both from the substantive

⁶⁴³ . Faith Doherty, Illegal Logging and The Illegal Trade In Timber and Wood Products-Fueling Conflict, eas.eurpoa.eu/ifs/publications/articles/bookto/book%20vol2_part3_chapter

and implementation perspective. The focus of this chapter is on timber trade within the state of Tripura and the mechanism for its implementation.

The present research work is with special reference to state of Tripura. The purpose of this chapter is to assess how well and to what extent the laws are amended for the purpose of suiting the need of Tripura and the stringency of their implementation.

Chapter 8 deals with a sketch of the situation in the State of West Bengal. Since this is a descriptive chapter, there is no specific conclusion save for the need for engaging the youth of West Bengal by providing incentive and engaging a civil forest police force.

CONCLUSION

At the outset it may be mentioned that there is a conceptual crisis and lack of theoretical rooting where timber trade is concerned. There is lack of clarity in this field and hence formulations of controlling and regulatory mechanisms are in isolation from the ground level reality. A holistic approach is lacking in relation to timber trade and it has not been linked with social and economic issues especially with a target group of people living below poverty line and the rich and affluent afflicted with corruption. Therefore, the arena of timber trade enjoys no legal social or economic controls which can be effective. On the issue of sustainability it is found that there is no dearth of information and materials. The Indian judiciary has time and again through innumerable cases ruled in favor of sustainable management of environment. However, during the decade of the 20s there is a significant paradigm shift towards sustainable development. The clarion call of the hour is to balance both environmental conservation and development. It however, befalls upon the shoulders of the policy makers to draw policies and strategies to achieve the balance contemplated by the judiciary and satisfy the popular demand. It must be understood that underlying the above is the question of cost. Development apparently appears to be beneficial but is achieved at stupendous environmental cost which in the long run is detrimental. It appears that the policy making machinery has entered a vicious circle. The indications of climate change and global warming can no longer be dismissed as incidental. Policies' relating to poverty eradication has a direct relationship to policies relating to sustainable development. The international community has responded to the crisis at hand through a number of instruments. It may however be recalled that even if countries are bound by those instruments there are no

effective sanctions, there may be economic or political sanction but one is yet to see them imposed upon any nation.

The national legislative scenario is replete with legislations intended to control, regulate and prevent environmental pollution. In other words the focus is on prevention of pollution and not on sustainability. Even the Indian forest Act, 1927., Forest Conservation Act, 1980., & the National Forest Policy 1988., belong to this school of preventive mechanism. It is important that the legislations and the policy adopt a focus on sustainability. It is appalling to note that until 1988 timber trade was considered as an important means of earning revenue for the state. India seems to have open up to the disaster staring at its face merely 25 years ago.

The situation is not much different under the five year plans. The plan documents did not appear to be sensitive to the issue of sustainability till 1988. Till the 4th five year plan forest was not a separate issue for consideration. In the 5th five year plan, the plan document outlaid a programme for development and felt the need for maintenance of forest because it was a source of timber for infrastructural use. Therefore programmes for social forestry and economic plantation were encouraged. In the 6th plan issues of deforestation and erosion were taken note of and for the first time during the plan period 1980 to 1985 India looked at its forest for conservation point of view. Then onwards and especially from the 8th plan India has been expressing concern over depleting forest canopy and emphasizing the need for controlling and regulating timber trade.

Despite all these the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Act 2006 has thrown open the gateway for forest land encroachment. Due to lack of individual information data bank at national level, it is easy for anyone to obtain a certificate from the panchayat stating that he is legitimately entitled to rehabilitation under the Act. The result is the encroachment of large areas of forest. Therefore, lack of practicality and focus has not helped India to achieve the desired sustainability.

It is again the Supreme Court which has taken the first decisive step towards control and regulation of timber trade in the Godavarman Thirumulpad case in which it has generated more than thousand directive orders clearly drawing a map at the ground level for sustainably managing the forest and carrying on timber trade. However it must be admitted here that even such a ground breaking step taken by the Supreme Court did not take into account the issues of poverty, occupation and trade. Therefore to a large extent the steps taken by the Supreme Court, in Godavarman case, have become unrealistic.

The international trade regime also fails to focus on issues relating to timber trade. Processes like non-tariff barriers and technical barriers to trade could have been utilized effectively for sustainable management of timber trade and prevention of illegal trading in timber. Unfortunately that is not being done. The forest certification system and the programme for effective forest certification are not recognized as they are endeavors of the private body and are not recognized as international standard setters. The International Tropical Timber Agreement 2006 aims to promote the expansion and diversification of international trade in tropical timber from sustainably managed and legally harvested forest and to promote sustainable management of tropical timber producing forests but the agreement does not lay down the process for achieving the same.

Illegal logging is rampant in South, East and South East Asia wherein the illegal root of the problem lies. This is an open secret. Yet very little has been done to prevent illegal trafficking in timber. This criminal activity does not even figure under the conventional criminal justice system both at the national and international level.

The empirical experience of the research shows that except in Kerala there is illegal trade in timber in the other states investigated such as West Bengal, Assam, Tripura, and Mizoram. The post Godavarman scenario may have restricted illegal logging to a large extent but has held corrupt indulgence. Tripura has made strict laws following the Godavarman judgment but has not been able to root out corrupt practices detrimental to the forest. It has been noticed that in all the states under investigation that there is an expansion of private timber estates but there is also the tendency of encroaching/converting the reserved forests into private forest. Kerala reflected least illegal activity. On asking around the researcher gathered that the literacy rate being very high in Kerala, and being a small state with saturated employment opportunities a large number of keralites prefer going abroad. This requires police verification for passport purposes. Smallest entanglement with law may extinguish an opportunity of going abroad. Besides this Kerala has a heightened awareness of social issues. Therefore exploitative tendencies and corrupt practices are comparatively less. On the contrary the literacy rate in Tripura is higher than Kerala and corruption is also higher than Kerala. The reason being that the Tripura youth do not aspire to travel abroad in search of job opportunities like the Kerala youth. So unlike Kerala, employment saturation has increased corruption in Tripura.

SUGGESTIONS

In the light of the foregoing discussion, the researcher humbly submits the following suggestions:

1. Legislations and policies relating to environment in general and timber trade in particular must be linked to the poverty eradication programmes taking into account the socio-economic conditions of the state/country in question. There is a lack of clarity in understanding the ground level issues and factors relating to environment in general and timber trade in particular are compartmentalized and hence isolated from ground realities as a result people below poverty line and the affluent both participate in corruption. Issues of climate change, protection of biodiversity, and trade in minor and major forest produce are all linked with poverty and subsistence of people.
2. Offences relating to illegal timber trade, Timber trafficking and timber mafiaism should be made a subject of national and international criminal law regime and also a subject of the department of revenue service calling for most stringent punishments.
3. The Indian legal framework should shift from “prevention of pollution” mode to “promotion of sustainability” mode. Judiciary can be the guiding beacon in this process.
4. The Godavarman process is still open. In the ongoing deliberations the Supreme Court should now take into account the socio-economic condition of the state vis-à-vis the environmental cost. Only then the Godavarman case will achieve its logical conclusion.
5. There should be a direct and committed policy framework of international trade regime directly addressing the issues of timber trade. The non-tariff barriers and the technological barriers must be made directly applicable to timber trade.
6. The countries of South, East and South-East Asia must enter into a multilateral agreement for prevention of passage of illegally felled timber within their countries and for transboundary cooperation. The existing root of passage of illegal timber must be sealed.
7. More emphasis is to be given on strict implementation of laws and prevention of corruption in the Indian states in order to promote fair and legal timber trade.

8. Measures must be taken to spread awareness regarding sustainable forest management and community based forest management (JFM) must be given greater impetus.
9. Effective land reform is necessary for cultivation of timber plantation with necessary incentives, so that people are encouraged to cultivate timber as a part of their livelihood.
10. The scientific community must come up with substitutes of timber so that the demand of timber in the market is reduced which will also protect the natural canopy.
11. The researcher has been through his study stating that environmental issues especially matters relating to forest is linked with the socio-economic condition of a place. Had the youth been given sufficient incentive to protect the forest, they would have guarded the forest effectively instead of smuggling timber. The West Bengal government has started a new cadre called the Civil

Police Force a similar force called the Forest Policing Force can be created with proper training to assess the forest guard.

An ideal situation is banning of timber trade. However, reality would be different. So it is desirable to have a sustainable timber trade. All natural forest should be left untouched. The forest must do its own selection and survival without human interference. Timber required for infrastructural purposes may be obtained from these plantations. Timber trade in India, if it has to survive, must be done through scientific processes without affecting the natural forest canopy.