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**The National Environment Policy (Draft)  
India, 2004**

-A Review

by

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# **The National Environment Policy (Draft) India, 2004**

## ***- A Review***

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### **Introduction**

A new National Environment Policy is in the offing for India and the draft was posted on the website of the Ministry of Environment and Forests (MOEF), Government of India (<http://envfor.nic.in/nep/nep.pdf>) for public view in August 2004. Given its considerable significance, the complexity of issues and in light of the re-prioritization that it intends to usher in, it is necessary to have wide discussion. The National Environmental Policy 2004 (NEP2004) is proposed as a “comprehensive” statement providing an umbrella addressing the environmental management challenges within and across a large number of sectors with the hope of obviating separate sector/ cross-sector policies. It aims to provide a unified approach integrating multiple mechanisms – incentives and disincentives, regulatory and self-regulatory, fiscal and market-based, civil and criminal law, as well as all permutations and combinations of private, public and community partnerships. And with this ambitious goal, it underlines the need for a comprehensive review of the “earlier objectives, policy instruments, and strategies” in the light of the vastly improved knowledge base on all aspects – comprehension of the problems, causes, impacts, and solutions.

The policy document consists of five main sections 1) Preamble, 2) Key Environmental Challenges: Causes and Impacts 3) Objectives 4) Principles and 5) Strategies and Actions. The preamble argues that the current policies and related enabling frameworks are fragmented and sectoral. Therefore, it contends: “a need for a comprehensive policy statement has been evident for some time in order to infuse a common approach to the various sectoral, cross-sectoral, including fiscal, approaches to environmental management.” In particular, it emphasizes the “need to review the earlier objectives, policy instruments, and strategies” in the response to changed circumstances and new challenges. An overview of the causes and impacts of environmental degradation and the policy challenges arising from that scenario is presented in the section “Key Environmental Challenges”. The arguments presented, however, tend to be universal and steer clear of any attempt to pin point current strengths, weaknesses and the focal themes for reform.

The country specific studies on environment and development are overlooked while discussing the key national environmental challenges, proximate causes of environmental degradation, and the analysis of main problems and their impacts. The NEP revives the Malthusian preoccupation with population growth, discounting the large body of research that point to the enormous uncertainties in the relationship between population and environmental degradation. Some of these studies even go as far as to question the very existence of such a relationship (Panayotou, 1994, 2000). While population growth could be a trigger for land use change, attributing it as the prime driver for the overall rise in environmental degradation is rather contentious. According to one school of thought, the root causes are to be found in market failures that prevent the full costs of resource use to register in the private economic calculus. Under conditions of inefficient or distorted markets any trigger (e.g. trade liberalization, technological change, increased export demand) would have environmental implications that are social welfare reducing. The over-emphasis on considerations such as population only tend to ignore the need to seek the proximate drivers in a more complex terrain involving development path, policies and the specific historical and global contexts. Of course, one does not expect the policy statement to provide a comprehensive environmental-economic analysis or the articulation of an alternate development paradigm. Nevertheless, it would be rather inappropriate to place contentious notions in such an important document.

### **Relegating Biodiversity**

India is one of the 12 “mega” biodiversity countries in the world supporting nearly 8.1% of the global biodiversity. It is also one of the world's eight centers of origin of cultivated plants. Being a predominantly agriculture-based country, India also has a mix of wild and cultivated habitats, giving rise to very specialized biodiversity that is specific to the confluence of two or more habitats. As biodiversity conservation became the overarching concern, it came to occupy the center stage of international and national policy discourse culminating in the Rio Earth Summit (1992) and the resulting Convention on Biodiversity. The older environmental policy debates leading up to Stockholm UNCED (1972) sought to invoke technological fixes to realize a cleaner environment, without recognizing the need for a paradigm shift away from the development path that doggedly refused to internalize environmental costs. The movement from Stockholm Summit (1972) to Rio de Janeiro (1992) and Johannesburg (2002) marks a definite shift away from the policies preoccupied with technological fixes to pollution abatement. The shift elevated biodiversity conservation as the central theme of environmental policy and adopted sustainable development as the paradigm for economic growth. In this scheme of things, the cleaning up of the environment is just one of the many necessary components of an environment policy regime with conservation strategy as its central pillar. However, the NEP does not unambiguously state the centrality of biodiversity conservation. The approach evident in the NEP tends to relegate biodiversity conservation strategy as a lesser principle. It is not that the NEP does not concern itself with biodiversity, which it does. However, the carefully crafted approach of NEP reduces it to one of the many subsidiary concerns. The much needed change in approach ought to have been one that proclaims Biodiversity Conservation Strategy as the central theme.

### **Laudable principles; some notable omissions**

The document lays down seven principal objectives of the policy that are to be realized through various strategic interventions by public authorities at different levels. The seven strategic objectives having a universal character are: 1) Conservation of critical environmental resources, 2) Intra-generational equity to provide livelihood security for the poor, 3) Inter-generational equity, 4) Integration of environmental concerns in economic and social development, 5) Efficiency in environmental resource use, 6) Good environmental governance and 7) Enhancement of resources for environmental conservation. The use of certain terms like “critical” ecological systems and resources does raise the question of what, indeed, is implied by it and of who would be responsible for distinguishing the “critical” from the “non-critical”. Most of these seven principles are adapted from those enunciated in the UNCED documents, particularly from documents such as the Rio Declaration on Environment and Development, which espouses 27 principles in pursuit of establishing a new and equitable global partnership for sustainable development. The NEP invokes a set of 14 principles that would guide “strategic interventions” for the realization of the 7 principal objectives. It is asserted that each of these 14 principles has “an established genealogy in policy pronouncements, jurisprudence, international environmental law, or international State practice”. These conform to many of the principles contained in the Rio Declaration on Environment and Development, UNCED 1992 such as: “Human beings are at the Center of Sustainable Development Concerns”, “The Right to Development”, “Environmental protection is an integral part of the development process”, “Environmental Standard Setting” and “The Precautionary Approach”, “Economic Efficiency”. These are, respectively, the principles 1, 3, 4, 11, 15 and 16 of the Rio Declaration. In addition, there are a host of other broad principles such as: Conservation of “entities with ‘incomparable’ values”, “Equity”, “Legal liability”, “Public trust doctrine”, “Decentralization”, “Integration”, “Preventive action” and “Environmental offsetting”.

Each of the 14 principles is also defined or discussed briefly in the document. The document explains that “entities with incomparable values” are synonymous with the term “Incommensurable Values” in the “relevant academic literature” and the document illustrates this with the example of Taj Mahal, Valley of Flowers and Tiger. It would have made considerable sense to briefly review how correctly or incorrectly some or all of these are expressed in current policies. Just because these principles are broadly defined according to international norms does not, even under ideal circumstances, provide unambiguous guidance to a policy restructuring exercise. As a party to numerous multilateral agreements, international declarations such as that of Rio Earth Summit and several global conventions, India has accepted all these principles. However, there is considerable ambiguity of how these have been internalized into our environment policies and that retrospection is, unfortunately, missing from the NEP2004.

The basic pre-requisite for realization of the lofty principles is not only the technical access to information

resources, but also a legal rights regime that facilitates formal disclosure of information in public interest and for effective civil society participation in ensuring clean environment and ecological conservation. The NEP recognizes this in the section where the strategies are outlined, and emphasizes that access to information is a basic need at all levels of decision making as well as informed participation by different stakeholders. It must be added here that given the thrust given to economic instruments and envisaged role of market mechanisms for ensuring cleaner environment, information in public domain is also required to reduce the market imperfections that allow the industry to pass on the environmental costs to society at large. However, Right to Information is neither included as one of the guiding principles, nor hinted at in the explanatory notes for any of the 14 principles.

The Principle 10 of the Rio Declaration calls upon every nation to facilitate the right to information to enable informed participation in the relevant decision-making. The right to information needs to be treated as a pristine principle that is not subsumed under the general need for environmental awareness, education and access to information resources. It is not enough to facilitate access to information; people must be able to assert the right of access. Without a legal basis guaranteeing the option to seek and obtain crucial information, effective civil society engagement is not possible, particularly when the hapless victims are pitted against powerful interests. In the absence of a right to information regime, the victims are denied access to information having a bearing on their right to live, while polluters are allowed to withhold critical information. The series of environmental litigation and the accidents like of the Union Carbide Plant in Bhopal have repeatedly underlined the need for instituting rights to information regime in the context of environmental management and safety.

Another notable absence from the guiding principles is the commitment to protect the cultural identities, knowledge systems and livelihoods of the diverse indigenous communities who have direct dependence on ecological resources. In India, very large numbers of such communities can be found living in forests, on mountain ranges, within wildlife sanctuaries, along the coast, on Islands or as nomads. Admittedly, in the Indian context, very large numbers of such communities are caught in a near no-win situation between the pressures of modernity and the disempowerment inflicted by environmental laws on one hand and the need to preserve cultural identities and secure livelihoods on the other. Apparently, NEP does not recognize the need to elevate such an important concern to the level of a guiding principle, although it does take cognizance of the challenge in the proposed strategies and actions, in a manner that does not fully comprehend the seriousness of the issue. In contrast, the Rio Declaration specifically calls for initiatives at the national level to give due importance to the concerns of indigenous peoples and their vital role in environmental management. The Principle 22 of the Declaration enjoins each nation to recognize indigenous peoples and “*duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development*”.

Worthy guiding principles are certainly necessary to provide a direction to the policy. However, that is not sufficient to make it an effective instrument. The policy must also attempt some goal setting for the policy implementation and its translation into time bound targets. This is particularly so given the fact that we already have a large set of sector-wise policies and corresponding enabling mechanisms, and some clarity on what more needs to be achieved in each sector. For example, the NEP envisages an close integration of environmental protection legislation in line with the new policy, the use of economic instruments as a tool for environmental conservation in tandem with an appropriately modified regulatory framework, decentralization of the relevant decision making and a review of environmental standard setting. Some related aspects are: (a) considering a desirable time frame within which the new policy could be put in place (b) a time horizon for a through legislative review and the formulation of the alternative legislation (c) specific targets that could be considered such as those for the environmental standards, including the direction of change envisaged (e.g., emission targets for the country, improvements to water and air quality standards, etc.). Without getting into the merits of the proposal at this stage, it may be noted that the only time bound target proposed in NEP is that for raising ‘forest and tree cover’ to 33% of country’s land area by the year 2012 from the present level of 23% [Section: Strategies and Actions, 5.2.2 (i)b]. Surely, after more than three decades of experience, when a new and comprehensive policy is being fashioned, it must go well beyond making a wish list by proposing some milestones and time lines for the move towards the realization of the key policy goals. Some kind of a road map is a must to impart a sense of urgency and sufficient momentum to the forward movement and to provide a monitoring framework to ensure that the policy vehicle is, indeed, on the right track and direction.

While the larger goal of the NEP is to provide a comprehensive regime, it has not addressed the policy challenges of a cleaner and safer working environment or the issues of occupational health and safety, the question of environmental management related to industrial accidents and episodic events. These issues were highlighted after the Bhopal accident and the MOEF had taken certain initiatives. When a comprehensive policy is being developed, all these including environmental catastrophe from accidents and natural disasters must be addressed. These issues assume even greater significance when industrial clusters are promoted.

### **Strategies and Actions**

The suggested strategies and actions are grouped under eight categories: 1) Regulatory Reforms; 2) Enhancing and Conserving Environmental Resources; 3) Environmental Standards, Management Systems, Certification, and Indicators; 4) Clean Technologies and Innovation; 5) Environmental Awareness, Education, and Information; 6) Partnerships and Stakeholder Involvement 7) Review of the Policy and 8) Review of Implementation.

The regulatory reforms envisage reorientation of the regulatory system through changes in the legislative framework and several substantive reforms involving different aspects of regulatory decision-making and associated processes. The need to “institutionalize a holistic and integrated approach” to address environmental concerns within and across multiple sectors by identifying emerging areas for reform, review of existing legislation to bring about synergies with other relevant statutes and new multilateral regimes and to ensure accountability at various levels of government. The main thrust is to give primacy to civil law over what is perceived as the current pre-eminence of criminal law in the regulatory regime. The current emphasis on criminal law, it is argued, has proved to be rather ineffective and has only helped to “provide fertile opportunities for rent-seeking”. The civil law, in contrast, can be expected to encourage “preventive policing through orders and injunctions”. NEP advocates “a judicious mix of civil and criminal” approaches with the preference for civil actions in most situations and the use of criminal law as a last resort.

In order for such an approach to be effective, judicial action must move at a faster pace and reforms would also be needed to prevent money power from overwhelming the civil litigation. Additionally, the “polluter pays” is proposed as a guiding principle of the environmental law. However, being guided by such a principle is not enough. It is necessary to incorporate the principle of punitive damages as well to make an approach leaning heavily on civil law sufficiently robust. However, this principle, too, is neither well developed nor widely applied in India. Although the apex court has, in a few rare instances, pronounced certain judgments applying this principle, it needs proper codification to deal with the complex ramifications of environmental litigation where the dispute could range from cases involving an aggrieved individual to that of irreversible damage or complete loss of ecological entities of “incomparable” value. Further, the concept of “class action” also needs to be codified if the civil law is to assume the status that NEP envisions. Serious thinking is needed beyond what is contemplated in the NEP as all these have a bearing on the entire judicial process and is not limited to environmental litigation. Certainly, there is a need to move in this direction and, hopefully, the NEP may help to initiate the much-needed changes in civil law.

### **Quickening Environmental Clearance**

The suggestions grouped under the head “substantive reforms” have a heavy focus on environmental clearances for development projects and related issues. It suggests that governments - state and central - may be “encouraged” to institutionalize regional or cumulative environmental assessments (R/C -EIA) as sort of environmental planning exercise in order to identify major concerns autonomously of any specific projects so that these are well known both to the regulators and the industry before any specific project is even thought of. Even the apex court had asked for such a R/C-EIA to be carried out in response to certain litigations. However, the main difficulty with the whole process - whether it is project specific EIA or strategic EIA like the proposed R/C-EIA, at present the whole process has become considerably vitiated and the quality as well as scientific basis of a large number of EIA have increasingly been questioned. Situation, as it prevails, is one where the interest of the government agency more often than not coincides with that of industry, as each state tries to attract industry of any kind irrespective of the environmental cost. No state is willing to accord the requisite importance to EIA lest the industry will shift to another state. The NEP,

unfortunately, is concerned mostly with how to quicken the clearances without paying serious attention to the dire need for a comprehensive reform to the whole system of undertaking EIA, the attendant processes and institutional arrangements. The NEP also contemplates further decentralization of the clearance mechanism without even a cursory review of the prevailing system. The present system is already decentralized with each state having considerable say and the public hearings being left to the district authorities.

### **Whither Decentralization?**

The experience of the present system of environmental clearance has been a matter of serious concern with the apex court having to step in to save critical environmental resources after states have time and again resorted to de-notification of protected areas or consequent to PIL against clearances accorded without adequate environmental safeguards. In this context, it must be said that decentralization need not be and should not be applied as an absolute principle, as a short cut to facilitate speedy clearances of projects without proper evaluation of the environmental issues. The pressing need is for a fundamental shift by moving towards a regime that will free the technical scrutiny, monitoring and evaluation from both government control and industry influence. Without such a change, decentralizing all the way down to the lowest levels of the political system and bureaucracy will not help in the implementation of a sound environmental policy founded on scientific principles; rather it may thwart such a policy. Also, decentralization cannot be mechanically applied since with each step for decentralization must be accompanied by corresponding restructuring of the prevailing centralized systems to facilitate synergetic functioning. Technical and administrative capabilities at each tier must mutually reinforce if the decentralization is to be effective.

The extent of decentralization desirable must be seriously examined in the context of current capabilities at different tiers of administrative and political hierarchy for independent scientific and technical scrutiny. In fact, the NEP notes that “technical capabilities, monitoring infrastructure, and trained staff” are inadequate. With or without decentralization there is a need to maintain minimum standards in the environmental clearance process. It must also be noted that the devolution of powers from state to the local bodies is a rather complex issue with considerable heterogeneity across states. It is important to carefully study the full ramifications of decentralization with respect to environmental clearances before hastening to prescribe it more as a means to expedite investment process. We need to review the soundness of the current system for environmental clearances primarily vis-à-vis its performance in its principal function of preventing, minimizing or avoiding potential environmental damage. While inordinate delays could be one of the problems, more worrisome is the lack of rigor the environmental clearance system. While unwarranted delays need to be eliminated, emphasis of the clearance process must shift to genuine and conscientious scientific scrutiny with a long-term view of the environmental concerns. The measures for streamlining the system must ensure proper completion of the due process in a transparent manner. For all practical purposes, the environmental clearance is the last chance that hapless biodiversity has before the interests of investors begin to dominate over environmental concerns in a regime of non-compliance and weak enforcement. Devising time bound scientific and technical scrutiny that will not dilute the needs of environmental conservation could speed up the clearance process. Reforms are needed to ensure greater transparency and public participation. These reforms must provide legal basis for the right to know to both individuals and group of individuals including local bodies and NGOs.

### **Coastal Areas, Water Resources**

Considerable attention is devoted to the coastal environment under the sections on substantive reforms (5.1) and resource conservation (5.2). It repeatedly states that the coastal environmental management must be “firmly founded on scientific principles”, almost implying that this is not so at present. It pleads for “exempting certain activities” and vesting to the “extent feasible” in the hands of the state government, the environmental clearance to projects in the coastal zone. It appears that NEP is oblivious of the stormy seas that the measures to address coastal environmental management had to encounter due to the stubborn refusal of almost all the coastal states to fully cooperate. State after state had sought exceptions to the regulatory framework and allowed development activities deleterious to the coastal ecology. There is no recognition of the conservation challenges of riverine and coastal-marine biodiversity or fishery sector. It may be noted that exotic fishes have been introduced into the inland water bodies and riverine systems without effective

mechanisms to examine the ecological consequences, particularly on biodiversity and on endemic aquatic life. The policy needs of the marine protected areas also find no mention anywhere in the document. While the proposal to ‘revisit the Coastal Regulation Zone (CRZ) notifications’ so as to provide a holistic approach is welcome, the accompanying suggestions cast doubts on the net benefit for coastal zone environmental management. The proposals on freshwater resources rightly focus on water as a scarce resource. However, insufficient attention is paid to the problem of decline in water quality, which has emerged as a major concern with heavily polluted rivers, and even contamination of groundwater by toxic industrial wastes and by agricultural chemicals including pesticides. These definitely find mention, but are absent from the action points.

### **Emphasis on Economic Instruments**

The NEP has mooted several steps for internalizing the environmental costs into the financial decisions of enterprises. The proposed policy shift is expected to usher in a new era in environmental regulation based on judicious mix of economic and regulatory instruments in contrast to the present emphasis almost entirely on fiat-based instruments and criminal law. The NEP proposes to further strengthen the initiatives of Central Statistical Organization for incorporating Natural Resource Accounting into the System of National Accounts. The approach depends heavily on economic valuation of environmental resources and the use of ‘standardized’ environmental accounting practices and benchmarks in the financial audits of large enterprises. Additionally, financial institutions will be encouraged to adopt appraisal practices that examine environmental risks adequately while financing projects. NEP places much hope on the experiences gained in developed countries. However, in all these countries the integration of economic instruments have followed a long history of stringent environmental regulation, existence of institutional arrangements for ensuring full compliance, public participation assisted by the wide acceptance of the right to know principle and a long history of civil law that applies not only the principle of polluter pays but also that of punitive damages. The NEP offers very little by way of reform to instill confidence in the proposed regime. As it stands, much of NEP is a mix of good intentions and what appears at times as the outlines of an action plan. However, no milestones are suggested for either policy shifts or the necessary supporting actions.

### **Conservation of Environmental Resources**

Some of the themes for conservation relate to forests, biodiversity, wetlands, aquatic systems, mountain areas, deserts etc. The NEP proposals for these different challenges suggest continuity with the prevailing approaches with some modifications. For example, legal recognition to traditional rights of forest dwelling communities will supplement the framework of National Forest Policy (1988) and the Forest Act. It also proposes increasing forest and tree cover from the present 23% to 33% by year 2012. This is sought to be achieved by complementing current efforts with multi-stakeholder partnerships involving the Forest Department, local communities and investors, ‘rationalization’ of restrictions on the cultivation of ‘forest species outside notified forests’ and ‘universalization’ of Joint Forest Management.

The most crucial policy issue is the relationship between indigenous communities and the Forest Department. If these communities have to exercise their civic rights in the full sense, then fundamental changes are needed involving the granting proper autonomy from the Forest Department to the governance institutions of the communities. While community would become a pro-active partner in conservation, Forest Department would have to recognize the autonomy of the community. Such autonomy would have to involve reciprocal responsibilities and obligations such as giving up hunting by the community and the forgoing of control on marketing of non-timber forest produce by the forest department. The proposal to ‘give legal recognition of traditional rights’ is highly ambiguous in the absence of even the contours of a policy for restructuring the role of forest department and enhancing the role of community institutions in local governance. While most documents call for a change in the ‘mind set’ of the forest department, it is clear that this cannot come about without a major policy restructuring involving mainstreaming of the Forest Department mandating it to work in tandem with the civil society initiatives. Nothing of the sort is envisaged in the NEP, which provides a rare opportunity for ushering in a major institutional reform. Instead, NEP, it appears, will allow the Forest Department to retain its immunity to change.

### **Biodiversity Conservation**

The biodiversity it must be emphasized, at the risk of repetition, is a concept that encompasses several levels: 1) diversity of species or the multiplicity of different distinct species 2) genetic variations within each species and 3) different populations of each species and 4) diverse life support systems or habitats. In a national strategy it must also cover domesticated biodiversity consisting of thousands of cultivated plants, the local variants and many breeds of animals. India's wide range of climatic and topographical features has resulted in a high level of ecosystem diversity encompassing forests, wetlands, grasslands, deserts, coastal and marine ecosystems, each with a unique assemblage of species. Based on the contemporary scientific knowledge, the policy ought to address challenges at all these levels. From the perspective of biodiversity conservation, the NEP falls short of presenting a new comprehensive policy or even the broad outlines it. Further expansion of the Protected Area (PA) network is contemplated for wildlife protection, albeit subject to certain norms. However, no major changes are considered in the institutional arrangements for the PA network. The addition to the suite for wildlife conservation is the rather loosely formulated suggestion of promoting multi-stakeholder partnerships for enhancement of wildlife habitats in "Conservation Reserves" and "Community Reserves" to "derive both environmental and eco-tourism benefits". Local communities in these reserves are zealously conserving the biodiversity without formal partnerships involving government agencies. The precise nature of these is unclear and there is a danger of the rights of the communities being abridged by these arrangements, which has all the trappings of a hostile takeover bid. Since the exclusion of communities continues to be the central tenet of PA network management, NEP need to explain the proposals and the rights regime contemplated.

A major national exercise - the National Biodiversity Strategy and Action Plan (NBSAP) - was undertaken to address the whole gamut of these issues. NBSAP is India's biggest planning and development process aiming at conservation and sustainable use of biological diversity. The approach presented in the NEP does not address wide range of issues in a comprehensive manner. Instead of building on the NBSAP, the NEP merely states that the NBSAP requires to be reviewed in terms of the NEP. The NBSAP addresses the biodiversity conservation challenges at all levels rather comprehensively. The NEP, in contrast, appears to gloss over some of the major concerns. Even the new policy and action challenges that have emerged, which needs to be seriously addressed are not properly articulated. Such challenges may involve issues such as securing survival of an endemic species like the Asiatic Lion existing as a single population restricted to a single geographical setting, question of controlling the populations of certain wild animals, the dangers that feral animals are posing to local ecology in certain locales with unique ecosystem, the need for maximal protection to certain biodiversity hotspots, ensuring the viability of populations of several endangered species, reversing and arresting the fragmentation of many habitats, countering the threats posed to native biodiversity by introduced exotic species of animals and plants and so on. The NEP does a great disservice by avoiding any discussion on the specific suggestions that have emerged from NBSAP and by mere restating of some generally accepted principles.

The many dimensions of conserving aquatic biodiversity are not well articulated in the NEP. The rivers, lakes, wetlands, tanks, reservoirs, estuaries, coastal-marine waters, etc are also home to enormous range of biodiversity - both aquatic and non-aquatic plants and animals. The issues range from conservation of rare and endangered biodiversity to eliminating the ravages caused by exotic species introduced into these waters either deliberately or inadvertently. There are also issues related sustainable harvests of biological resources from the aquatic systems. These include not only fisheries but also an enormous range of plant resources as well. There are major challenges here requiring policy directions for actions at national, state and local levels. For example there are questions like laying of oil pipelines through ecologically sensitive marine habitats to aquaculture in small tanks. A major concern that is increasing calling for attention of policy makers is the need to allocate some water for maintaining the ecological services.

Water having become an extremely scarce resource, it is being diverted for human use, without allowing even the minimal flows needed to sustain aquatic life. Also, as an environmental issue, the difficult problem of land-water linkage is not being addressed in the present water or land policies. For example, in many areas surface flows of water have in the past prevented increase in soil salinity by leaching of the salts. The reduced surface flows have led to increase in soil salinity in many areas with negative environmental and social impacts. There is little that local action can do to reverse or arrest the problem. Integrated land-water resources management is one challenge crying out for a place in a comprehensive environmental policy initiative, because at present not even broad contours of such a policy is in place.

Having promised a comprehensive policy framework cutting across sectors, one would have expected the approach towards biodiversity conservation to explicitly recognize the crucial linkages between biodiversity and livelihoods that is the hallmark of the situation prevailing in countries like India. NEP does not appear to acknowledge that a large part of biodiversity lies outside the PA network. Both within and outside the PA network, the conservation strategy cannot be complete without exploring the opportunity inherent in the complementarities between livelihood and ecological security that characterize people-nature relationships in a large number of contexts. Based on these kinds of considerations, an effort like NBSAP, for instance, suggests a major re-working of the conservation strategy. While NBSAP may require some review, the NEP too ought to have considered the rather comprehensive approach emerging from the NBSAP as a basis for recasting the biodiversity conservation strategy.

A disturbing tendency in the NEP is the return to the old approach of conservation through alienation of local communities. For example, the main principle for protection of biodiversity hotspots is the elimination of the stake of local communities, albeit gradually, while development projects are not altogether disallowed. While local communities would be encouraged to find alternative livelihoods, large projects could be considered even in such areas subject to a regular 'cost-benefit analysis' with the proviso that such hotspot bio-resources would automatically be assigned "values" that are either "at or near the upper end of the range of uncertainty"! There is, of course, quite a large ambiguity on how the upper bound of "values" would be determined or who would adjudicate over the estimated ranges of "uncertainty". Presumably, all these determinations would play themselves out during the environmental appraisal process. The multi-stakeholder approach mentioned very often in the document would become really meaningful only when it is applied in such situations. In case of biodiversity hotspots, the wise approach would be to prohibit all large alterations that would have irreversible impacts and adopt a truly multi-stakeholder conservation strategy involving local community as empowered partners.

Fortunately, the question of Living Modified Organisms (LMO) including the Genetically Modified Organisms (GMO) has been addressed with suggestions for avoiding the unforeseen but "significant risks to ecological resources" posed by different LMOs. Another welcome suggestion is for designating areas of high ecological significance requiring special attention for conservation as "Environmentally Sensitive Zones" and creating local institutions for the participatory management of such areas. The proposal to give legal status to community-based organizations for undertaking monitoring of compliance with environmental regulations and to develop public-private partnerships are welcome suggestions that should help in improving the level of compliance and deter those who flout the laws.

## **Conclusion**

The NEP presents a new direction to environmental policy and conservation strategy by seeking to give primacy to economic instruments and supporting such an approach by facilitating economic valuation of environmental resources and services. It hopes to rely primarily on civil rather than criminal laws for compliance with environmental regulations and envisages greater civil society involvement in such a process by enabling multi-stakeholder partnerships. All permutations and combinations of public, private, community and voluntary organization partnerships are considered. If the challenge is to provide credible policy directions for recasting biodiversity conservation and environmental protection as true multi-stakeholder partnership, then much rethinking is needed on the approach propounded in the NEP 2004. Given the history of conservation ethics of the diverse communities in India, the current state of scientific knowledge, the central concern of the NEP must unambiguously be biodiversity conservation and sustainable development, rather than the overemphasis on monetary values of environmental resources.

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