CHAPTER III

FROM THE PERIPHERY TO THE CENTRE:
ENVIRONMENT, 'NEW' SOCIAL MOVEMENTS AND
DEMOCRATIC TRANSITION
FROM THE PERIPHERY TO THE CENTRE: ENVIRONMENT, 'NEW' SOCIAL MOVEMENTS AND DEMOCRATIC TRANSITION

The economic developmental strategy pursued since the 1930s, and more so since the advent of military rule in 1964, began to be critically evaluated in the 1980s. International criticism especially by international environmental and other non-governmental organisations had put the destruction of the Amazon on international agenda. Within Brazil, the rise of civil society in the wake of military regime's decision to liberalise the authoritarian system brought to fore all kinds of organisations and movements including the 'new' social movements, which began raising environmental and environment-related social issues.

Admittedly, the type of political regime and the nature of political system are not related to greater sensitivity to environmental issues, nevertheless one still cannot rule out a connection between the two as the transition to civilian rule in 1985 ushered in new forces and perspectives on environment. As public political domain expanded, environmental and myriad other groups entered the political arena making demands on the newly installed democratic system. Also around the mid-1980s, multilateral and regional financial agencies particularly, the World Bank and the Inter-American Development Bank–IADB had in their lending policies begun to incorporate environmental aspects; as, at the same time, governments in the developed countries came under increasing pressures from their domestic public opinion and voluntary organisations to incorporate environment into their economic and trade policies towards the developing countries.¹ Besides, many of the international environmental and other organisations in the developed countries, such as the World Wide Fund – WWF and Greenpeace, had by late 1980s acquired both a stature and capability to influence international opinion and policies through many of their scientific studies.

and style of campaigns for environmental protection. In short, for these and many other reasons, environment could no longer be either ignored or kept on the periphery of political and developmental debate; and the issue moved to the centre of Brazilian national politics and development process. Besides, notably, environment had become synonymous with Amazonian Rainforests, where deforestation and other environmental disasters had reached alarming proportions.

Several aspects bear significance, and have been treated at length in the present Chapter. (i) One needs to consider the evolution and growth of Brazilian environmental movement and its ability, or otherwise, to link itself with the political parties so as to make environment one of the key issues in the debate during transition to elected democratic rule. Here, one may as well examine the influence and role of the international environmental organisations. (ii) One also needs to looks into the incorporation of environment in the constitution-making process in 1987-88, and other subsequent legislations. (iii) One also needs to ask whether these constitutional and legal measures have modified the developmental priorities and strategies; and whether the democratic regimes have the requisite institutional capacity to implement the constitutional and other legal provisions. In other words, whether democratic regimes have the necessary political will to implement environmental laws and rules?

**Emergence of the ‘New’ Social Movements**

What are ‘new’ social movements—NSMs and how they differ from the social movements of the past? Social movements have long been part of the political process in Latin America. They have been varied in character and the causes they championed and the means they adopted for the realisation of their avowed goals. In the past, social movements were generally considered as building blocks for ushering in a ‘revolutionary’ transformation of the society; in that sense, they were considered as ‘pre-political’ and on the side of the various ‘progressive’ and ‘revolutionary’ causes.

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It is some time around the decade of the 1980s that the expression ‘new’ social movements—NSMs began to be used to describe movements that were avowedly different from those of the past. A variety of reasons have been proffered for the decline of the ‘old’ and the rise of NSMs. These generally include the decline and eventual end of Cold War, disintegration of the Soviet socialist bloc and decline of ‘socialist’ ideology, deep economic recession in Latin America, end of the ‘revolutionary’ turmoil in Central America, and the onset of democratisation process.

In contra-distinction to the ‘old’, the NSMs had few distinctive characteristics of their own. In the first place, it should be made clear that any precise definition of NSMs is nearly impossible. Still when it comes to identifying their distinctive characteristics, more notable is the spectacular range and variety of the movements that have been described as NSMs. All kinds of formal and informal, organised and unorganised causes and movements, ranging from the neighbourhood committees seeking access to safe drinking water to the local ecclesial base communities addressing various religious and social needs of the local communities are described as NSMs. So are human rights groups, environmental groups, and indigenous community organisations. All sorts of ‘revolutionary’ and ‘conservative’ causes have also been characterised as NSMs. Many even include in the category of NSMs, somewhat controversially, class-based organisations such as ‘independent’ trade unions of urban and rural workers and ‘progressive’ political parties, for instance the Partido Verde (Workers Party—PT) in Brazil.

NSMs also include international non-governmental organisations, advocating various causes. More importantly, NSMs are no more considered as building blocks for any social change; nor are they necessarily related to political parties. Politically, they may be speaking for a ‘revolutionary’ transformation of society; or they may as well be espousing some ‘conservative’ cause NSMs are localised and their non-political character is emphasised upon in providing different type of services. In other

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words, NSMs may in the end be serving a so-called ‘progressive’ cause; or they could as well be working in support of the market-oriented economic reforms.

International financial institutions including World Bank and the developed countries have come to support many such NSMs and other civil society associations for realising various developmental projects. In fact, several developed country aid projects are now administered through civil society associations in the recipient developing countries. As state in a liberalising economy reduces many of its social and welfare functions, governments in developing countries themselves are assigning developmental projects to the local community and self-help groups. Decentralisation has become the watchword in countries undergoing economic and administrative reforms. In fact, in Brazil, a concerted effort has been made under the 1988 Constitution and various laws to decentralise fiscal and decision-making powers authorising municipalities and rural local communities to manage local affairs.4

While considering the role and influence of various NSMs, especially when working in countries undergoing market-oriented economic restructuring, certain limitations of means and the desired goals have been noticed. They produce a new social and political equilibrium in favour of powerful domestic business and foreign investors, who are able to prevail on governments, for instance, against environmentally sustainable policies. State capacities to regulate and implement policies in areas such as social welfare and environment also decline. Budgetary cuts, institutional decline and lack of political will to protect and promote environment become the normal features of governments in market-oriented economies.

Many grass-roots level NSMs, for instance those of the indigenous communities and landless peasants, suffer disorientation and disarticulation as economic liberalisation, at least in the short run—and this has been the experience of practically all the Latin American countries—produces higher rates of poverty and economic inequalities. This makes any sustained mobilisation difficult; and often

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such grass-roots movements get co-opted by the political parties, for whom environment is not a major issue. In other words, many NSMs raising social and environmental issues are dispersed, and gets easily disorganised while the powerful business interests, who have large profits to make from environmentally destructive policies, are organised and able to influence the decisions of the governments. Besides, one should not assume that the very poor and the indigenous are in favour of environmental protections. In fact, quite often it is the very poor—and Brazil has some 30 million who live below poverty line—who are more likely to be affected adversely by environmental protection measures. Increasingly marginalised in the wake of economic liberalisation process, they resort more to forest resources to eke out a living; and, environmentally sustainable policies hurt their livelihoods directly.

NSMs apart from the grass-roots level movements and organisations include a wide variety of issues. It is a measure of rising consciousness and concerns about environment that all kinds of movements and groups do include environment in their agendas and programmes. For instance, there are urban middle class organisations fighting against pollution and sanitary conditions in the cities; professional environmentalists such as students and scientists advocating protection of Amazon Rainforests; political parties—such as the Workers’ Party in Brazil—who identify themselves broadly with all kinds of ‘progressive’ causes; entrepreneurs engaged in the ‘green’ businesses and ‘eco-tourism’; cash-crop farmers and communities affected by environmental degradation or those engaged in producing ‘organic’ food, international NGOs–INGOs such as World Wildlife Fund–WWF and Greenpeace, who are capable of influencing their governments’ as well as the multilateral banks and who are capable of mounting global campaigns, for instance, for the protection of Amazon Rainforests.

Throughout the 1980s and the 1990s, forests started becoming invaded by a host of NGOs. They in turn provided funds and infrastructure to the local

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organisations to research and take active part in the regional issues. Some of the major INGOs active in forest issues have been summarised in the following table 3.

**Table 3**

**Major INGOs in the Brazilian Amazon**

<table>
<thead>
<tr>
<th>Name</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Friends of Earth (FoE)</strong></td>
<td>Established a tropical forest campaign in 1984, linking UK and European timber companies and tropical deforestation. Organised a boycott against tropical hardwoods. Lobbying on trade and aid issues. Carried out work on illegal use of aid funding, the potential for sustainable management of tropical forests and the misuse of plantations as carbon stores.</td>
</tr>
<tr>
<td><strong>Greenpeace</strong></td>
<td>Set up a forest campaign in the 1990s, although has worked on pulp and paper issues for years. Blockaded some illegal logging in Siberia and involved in campaign against logging of Clayoquot Sound in Vancouver Island, Canada.</td>
</tr>
<tr>
<td><strong>International Union for the conservation of Nature (IUCN)</strong></td>
<td>Research organization although also runs many field projects and has a policy brief. Involved in tropical forestry and has drawn up guidelines for management of reserves and for timber operations; now interested in all forests.</td>
</tr>
<tr>
<td><strong>International Wild Life Coalition/Brazil</strong></td>
<td>Established in 1986, it is a non-profit institution. Dedicated to the protection of Wild Life and conservation needs of the local people.</td>
</tr>
<tr>
<td><strong>Native Forests Network</strong></td>
<td>Recently established international NGO, working on native forests and with a leaning towards direct action.</td>
</tr>
<tr>
<td><strong>Rainforest Foundation</strong></td>
<td>To support indigenous people and traditional populations of the Worlds Rainforests for securing natural resources and their culture.</td>
</tr>
<tr>
<td><strong>Survival International</strong></td>
<td>Operates in forest areas. Country of origin is the UK.</td>
</tr>
<tr>
<td><strong>World Rainforest Movement (WRM)</strong></td>
<td>Strong emphasis on local and indigenous peoples’ rights and on sustainable use of the rainforest. Occasional publications and lobbying role; closely connected with <em>The Ecologist</em> magazine. Active critic of the TFAP.</td>
</tr>
<tr>
<td><strong>World Wide Fund for Nature (WWF)</strong></td>
<td>Has run field projects in forest conservation for 30 years; policy work began on tropical forest issues in the 1980s and extended to all forests in the early 1990s. Influential in promoting independent timber certification and establishing the Forest Stewardship Council. Many national organizations also involved in forest conservation.</td>
</tr>
</tbody>
</table>

* in the USA and Canada it is still known as the World Wildlife Fund. Source: *Equilibrium* (1994).

No gainsaying, NSMs of various types—be they local grass-roots mobilisations or the international NGOs such as WWF—have on many occasions succeeded in building pressures for specific environmental projects. For instance, they
have succeeded in pressuring developed countries to include environment as a factor in their trade and aid policies towards developing countries; or make the World Bank and the Inter-American Development Bank—IAEB fund environmentally sustainable development projects. It is their campaigns and scientific studies that have made World Bank and the IADB to increase funding for projects dealing with forest management, protected areas, water quality and sanitation, soil conservation, watershed protection, and institution building for environmental agencies. The World Bank IADB has created large internal environmental divisions; and it has become more and more difficult to get foreign loans for road and settlement projects in the humid tropics. The imposition of the so-called environmental conditionality requiring Brazil to adopt certain environmental policies in order to secure loan or gain access to developed country markets has become more frequent. On at least one occasion, Brazil was asked to curb deforestation in the Amazon for securing developmental loans; also, it was the influence of international environmental organisations that made Brazil eliminate subsidies to the cattle ranching activities in the Amazon region.

Regime character is also important to the extent that democratic governments provide larger public space for environmental concerns to be publicly talked about and resolved, as compared to the 'authoritarian' ones. Grass roots environmental movements, especially of the 'socio-environmental' types—such as the rubber-tappers movement, the movement of the landless, and the protest launched by the indigenous communities particularly the Yanomamis—did emerge during the transition process in Brazil, virtually forcing the mainstream political parties to include environment in their political agenda.7 Certainly, the impact of these varied movements varies as far as the environmental reforms are concerned; and they do not succeed all the time, nor all reforms may be on account of their mobilisation and pressure. Nevertheless, their campaigns and the wide support for environmental causes have made the elected democratic governments responded, at least in the form of constitutional and legislative measures and institutional arrangements to protect the environment.

Environmental organisations such as the WWF and the Greenpeace are also bracketed as NSMs, and they enjoy considerable support among the middle classes and intellectual and scientific communities in the developed countries. Besides, many of the developed countries have ‘green’ political parties. Together, their influence on developing countries is felt in direct and indirect ways. There are similar movements in Brazil and other developing countries too. For example, out of the approximately 700 environmental organisations operating in Brazil in 1989, some 90 per cent were located in the prosperous southeast, with over 100 alone in the city of Sao Paulo alone.\textsuperscript{8} They may not be grass-roots movements, but it is undeniable that environmental issues have influenced vast sections of middle class in urban areas ideologically and culturally; and they focus on issues ranging from urban pollution, food safety to destruction of nature in the Amazon Rainforests. In fact, in many cases, it is the middle class concerns and their articulation of specific environmental issues that has obliged political parties to include environment in their political agendas and the governments to make specific conservation programmes.

Besides, there are those who may not be part of NSMs but have direct material interest in better environmental management and protection. These are companies and farmers who are focussed on ‘green markets’, ‘eco-tourism’; and producers and communities affected by environmental degradation. These groups have a direct interest in promoting environmental awareness, since it helps expand their markets, and in some places they have begun to organise themselves into federations and chambers of commerce. At the other end are producers and communities who are victims of environmental degradation; for instance, fishermen affected by water pollution, and rubber-tappers, Brazil nut gatherers and small-scale lumber producers. As democratic process gave an opening, these groups began voicing their concerns at the national political level; and on occasions, supported other grass-roots mobilisations. Besides, movements such as the indigenous peoples’ struggle to protect

\textsuperscript{8} These groups concentrated on protecting ecosystems such as the Atlantic forests, the Amazon and the watersheds of Parana, and on offering environmental education. They played an important role in getting environment included in the making of the 1988 Constitution and in the preparations of the 1992 UNECD.
their traditional land rights also are related to environmental issues. They are better described as eco-social movements. The most noticed in the 1980s was the struggle of the *Yanomami* Indians in the Amazon region in defence of their traditional land rights.⁹

In sum, concerns for environment increased and the larger political space afforded by the democratic regimes facilitated the movement of environment to the centre stage of national politics in the 1980s. The process of economic liberalisation and democratic change brought together a wide array of forces with different interests and motivations in the protection of environment. While democratic milieu certainly opened many more opportunities for environment to be discussed and defended; economic liberalisation at times hurt but on occasions have proved affirmative for environmental causes.¹⁰

In the 1980s, the satellite data on deforestation had alarmed both the international environmentalists and the government of Brazil.¹¹ An important issue that had emerged at the international level was the implication of Amazonian Rainforest destruction for global warming, species extinction and social justice. The lack of correspondence between the boundaries of ecological and political systems, exemplified by such problems as acid rain, global warming, nuclear fallout, the depletion of the ozone layer, and the destruction of biodiversity, called for political and economic arrangements that were not, and could not have been, contained within the existing nation-state structures. More importantly, as these issues focussed on human-nature relationship, it emerged as a new perspective to evaluate developmental strategies and national and international policies and conventions.

The main axis of environmentalism also led to the emergence of wider alliances, as other issue-specific movements joined the axis. As a consequence, the

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political spectrum of the international environmental movements showed a variability of positions; and labels, such as 'eco-feminism', 'eco-socialism', and 'eco-fascism' gained currency.\textsuperscript{12} The most common framework, used for explaining the appearance and internal dynamics of environmental activism around the world nowadays, tends to built on the concept of these varied 'new' social movements. Coming to the environmental movements specifically, they are often seen as an expression of society seeking answers and alternatives to myriad environmental problems. In a sense, they are described and characterised as representing new paradigms in response to the increasingly unsustainable patterns of natural resource use and inappropriate attitudes to the natural environment amongst people—in Brazil and throughout the world.

The environmental movements represent society's censure of the state as successive governments have failed to live up to their responsibilities in relation to protecting the environment. What they have often castigated the governments and the political and business elites for is the lack of political will to take environment seriously. Environmental movements and their organisation differ in terms of numbers, size and distribution, their voluntary and moral credibility as well as in terms of recognition by the diverse sections of the society. Their strength lies in the fact environment is recognised by the diverse sections of society as an issue that cannot be ignored any more; and it has acquired an ethical edge in the debates on development and participation.

Environmental movements exhibit a strong diversity of organisations and agendas, which results in different kinds of activities and ways of working in the society.\textsuperscript{13} Such diversity is an expression of the richness and vitality of the movements; but, at times, it could be the source of working at cross-purposes also. Notably therefore, environmental movements work sometimes effectively; at others, less so. The movement's characteristics viz., spread, diversity and local character make


\textsuperscript{13} Marie Price, "Ecopolitics and Environmental NGOs in Latin America", \textit{Geographical Review} (University of Nevada, Reno), vol.54, no.1, January 1994, p.47.
it difficult to establish a national agenda, and sometimes limit the activities of groups and networks. Informal mechanisms stimulate the development of common agendas between organisations.\textsuperscript{14} A striking characteristic of the environmental movements is that it works with a long-term perspective. Admittedly, the movements remain small in terms of their popular support base; but they have great capacity to mount campaigns and be heard.

Environmental movements are part of the rise and proliferation of civil society associations especially the NGOs. It is the trans-national dimension of NGOs which is more notable, and which allows them to carry out their activities in unconventional manners. They are concerned with variety of issues, ranging from urban facilities to preserving bio-diversity resources in rainforests, and work at multiple levels—from the local to the international. As compared, INGOs such as WWF, Greenpeace, Oxfam and Friends of the Earth have global concerns; and some of their scientific studies and surveys have proved immensely influential in global discussions on environment.\textsuperscript{15} Besides the NGOs and the INGOs, there are inter-governmental organisations (IGOs) too, which work to alleviate specific problems and promote certain agendas, but do so often only at the behest of, and remain fundamentally responsive to, states. More often, IGOs are composed of civil servants and their decision-making organs are composed of governmental delegates.\textsuperscript{16} In their different ways, all these environmental organisations and movements hold the belief in the diversity of possibilities and development models. They do not promote any one single model for the entire planet. The bottom line for the environmental movement is the defence of life in all its aspects. No gainsaying, such a larger perspective is hard to implement and live up to; and, in a general way, these organisations and movements seek to achieve it through local challenges, denunciations and activities aiming at the transformation of current consciousness and practices. This kind of action continues to be an important aspect of environmental activism. The great environmental issues that


\textsuperscript{15} Price, n.13, p.52.

\textsuperscript{16} (Weiss and Gordenker 1996, p.19.).
cause society concern fuel the movements. The environmental community is motivated by the instinct to preserve life and sustain it; and the struggle for an ecologically sustainable society becomes an ethical imperative, which needs to be included in the developmental strategies.

**Democratic Transition and Environmental Movements in Brazil**

The Brazilian environmental movement had its origin in local activities that often emerged in protest against the environmentally destructive development policies. Since their origin in the 1970s, the national environmental movements have come a long way and today have the capacity to mobilise public support; and relate themselves to larger political and economic issues. Most of them also have technical, scientific and legal expertise to back up their demands and suggest alternative policies and programmes. 17

What contributed to the growth of environmental movements in Brazil, and in Latin America in general, since the late 1980s is the change in perception towards environment in general, and Amazon in particular. Many factors are cited for this; but one must include principally the transition from authoritarian to democratic rule, increased social mobilisation and public awareness, and, no less important, the changes in the types and levels of governmental institutional capacities.

Environmental movement and politics in Brazil can be divided into two periods: (i) the period between 1971 and 1986 can broadly be described as the period of environmental education *latu sensu*. The focus of various environmental organisations during the period was on dissemination of awareness of environmental deterioration. (ii) The period from 1987 to 1991 saw the gradual process of institutionalisation through the creation of laws and various agencies. 18

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18 Paulo F. Vieira and Eduardo J. Viola, “From Preservationism of Sustainable Development: A Challenge in the Environmental Movement in Brazil”, Maria-Pilar Guadilla and Jutta Blauert, eds., *Environmental Social Movements in Latin America and Europe: Challenging Development and*
(i) The period between 1971 and 1986 is the formative period of Brazilian environmentalism. As has been described in the previous Chapter, the military governments had formulated a number of policies and programmes to secure the Amazon ostensibly for reasons of 'national security' and 'national interest'. One major assumption that underlay development strategy during the military rule was that rapid economic growth should benefit the whole society through its 'trickle-down' effect. The larger national, including Amazonian, development strategies were stimulated through the introduction of commercial enterprises such as cattle ranching, logging, mining and large-scale agriculture, besides the development of large infrastructure. Heavily subsidised through the regional development agency Superintendency for the Development of Amazonia –SUDAM and a new regional Bank of Amazonia –BASA, cattle ranching alone had benefited to the tune of over US$5 billion in the 1971-87 period.\(^{19}\) As has been noted earlier, colonisation schemes for small farmers along the Transamazon Highway and in Rondônia (Polonoreste) were aimed at providing employment and acted as a 'safety-valve' for social tensions in the north-east and center-south, avoiding land conflicts and reducing rural-urban migration. In political terms, the construction of highways and the gradual occupation of Amazon also helped contain the political power of traditional regional elites and strengthened the presence of the federal government in the frontier region.

Formulation of rules and regulations and setting up of agencies dealing with environment had taken place all through the twentieth century. However, a systematic environmental policy began to be formulated with the creation in 1973 of the Special Secretariat for Environmental –SEMA in the then interior ministry.\(^{20}\) Based on the notion that development could not be sacrificed to preserve the environment, the

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\(^{19}\) Schneider, p.3.

Brazilian government's position at the Stockholm conference of 1972.21 was limited to reducing the industrial pollution in the south and the setting up of national parks and ecological stations. A further step was taken in 1981 with the establishment of the Plano Nacional do Meio Ambiente (National Environmental Programme –PNMA), with its emphasis on setting aside protected areas, together with the monitoring of ecological crimes and the imposition of sanctions and prosecution of the offenders.

As for the conservation measures, the dominant thinking was that the designation of protected areas or 'conservation units' would by itself be sufficient; and that conservation is independent of the developmental process. Throughout the period of military-backed frontier occupation of Brazilian Amazonia, the policy rationale was to conserve the strategic 'islands' of biodiversity—which would preserve all essential species—while all else around could be destroyed.22

Overall, about nine percent of 'legal' Amazonia, i.e. some 45 million hectares has since been set aside in around 120 'conservation units' in both federally and state-administered parks, biological reserves and ecological stations where no use of nature for economic purposes is permitted. Then there are 'direct-use' conservation units such as national forests and extractive reserves, which allow for some limited exploitation of natural resources. Around 16 per cent of the region is also covered under 366 indigenous reserves, which are at various stages of implementation; besides the armed forces control a further 1.4 per cent of 'legal' Amazon.

(ii) Many factors, both exogenous and endogenous, began catalysing the institutionalisation process from the mid-1980s. The exogenous factors included, among others, the role of a globalised mass media; the perceptible decline of the Marxist and other 'socialist' ideologies and political parties; return from exile of many

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21 UN Conference of the Human Environment, 1972 was held at Stockholm. Despite its title, the conference was concerned primarily with environmental problems of the industrialised world arising from pollution such as acid rain. Preoccupations included minimising the costs of conservation, and little thought was given at that stage to reconciling or integrating development with environmental concerns. See Patricia Adams, Odious Debts: Loose Landing, Corruption, and the Third World's Environmental Legacy (London: Probe International, 1991), p.41.

political leaders and intellectuals after the grant of amnesty in 1979, and the campaigns of the noted Brazilian environmentalist, Jose Lutzenberger. Some of endogenous factors were interwoven or coincided with the exogenous developments; and included the dramatic intensification of environmental devastation as a consequence of the ‘Brazilian economic miracle’ and the growth of a new middle class disposed to higher living standards over and above the notoriously conspicuous consumption culture of rest of the vast middle strata of Brazil. The process of abertura (‘political opening’) after 1974 had restored some political activities, which allowed some environmental issues and protest to come to the fore. In the changing milieu, the ambivalence between rhetoric of the sustainable use of Brazil’s natural wealth and the systematic plundering of its natural resource base was catching the attention of both the domestic environmental constituency and external activists and agencies. Lutzenberger’s initiative led to the creation of the Associação Gaúcha de Proteção ao Ambiente Natural (Association of the Gaucho for the Protection of the Natural Environment --AGAPAN-Rio Grande do Sul) – the starting point of Brazilian environmental politics.

The SEMA Federal Department for the Environment was created in 1973 mainly to mitigate the adverse coverage Brazil had gained after Stockholm conference. Some measures concerning pollution control and creation of natural reserves were undertaken, without giving up on the pattern of intensive exploitation of eco-systems. With SEMA in place, new directives concerning environmental quality

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23 José Lutzenberger (1926-2005) was an Brazilian agronomist, an acknowledged expert on soil science and organic fertilisers as well as plant health. Agriculture, however, was only one of his concerns: he is also widely know in Brazil as the father of the environmental movement. From 1990 to '92 he was Special Secretary for the Environment to the President of Brazil. In this post he was instrumental in the demarcation of Indian territories, especially the land of the Yanomamis, as well as in the decision to abandon the atom bomb and in Brazil's signing of the Antarctic Treaty and the Whale Convention. One of Lutzenberger's main concerns had always been the preservation of the tropical rainforest of Amazonia as well as other important elements of the biosphere.

24 AGAPAN Associação Gaúcha de Proteção ao Ambiente Natural Association of the Gaucho for the Protection to the Natural Environment was established April 1971. The AGAPAN considers itself the first environmental non-governmental organization in Brazil. It fights against forest fires, deforestation, for the recycling of the garbage. It fought against the installation of Thermoelectrical Plant at Jacuí and also participated in the environmental projects together with the municipal, state and federal governments assisting in the creation of laws and environment codes.

25 See n.25.
had been advanced, rooted in the principle that not only the polluter but also the whole society should pay for environmental damage. In this context, the relation between state agencies and environmentalist groups remained somewhat diffident. Grass-roots organisations perceived state agencies as dealing too softly with polluting industries, while state agencies perceived grass roots as politically naive and technically incompetent. As a consequence, political space for the environmental movement was built up through a dialectical relation between state and society. This was so since the civil society has been historically weak in Brazil; and military rule had further weakened the civil society fabric.

In this formative phase of the environmental movement, the most common targets for struggle were the industries which conspicuously polluted the atmosphere or water systems; projectd industrial plants which were suspected of being highly pollutant; protected green areas which had fallen prey to the private semi-clandestine exploitation; the designated ecological reserves such as national, state or country parks, which suffered neglect by official agencies and departments; and urban areas of historical or architectural value under threat of being devoured by developers. Popular awareness about the high use of insecticides, herbicides and fungicides in agricultural products added to campaigns in the early 1980s against their excessive use in the food products.

Environmental organisations had begun proliferating in the first half of the 1980s, mainly in the south and south-eastern parts of the country.26 The number of associations, those which were at least one year old, had risen from around 40 in 1980 to around 400 by 1985. Environmental and related NGOs proliferated in the second phase; their number doubling within two years—from 2,500 in 1991 to 5,000 in 1993. The number of NGOs concerned exclusively with environment (the ENGOs) also

grew from an estimated 40 in 1980 to an estimated 2,000 by the year 1984.\textsuperscript{27} Significantly, notwithstanding the rise in number of organisations and the issues they raised, the efficiency of environmental struggle during this period remained generally very low in terms of effective short-term gains. But what cannot be denied is that environment, and ecological issues as a whole, had begun having an impact on the thinking of those who occupied important positions in politics and the economy.

Several developments were noteworthy including the inter-mingling of environment with social issues; emergence of environment as an issue in the political process and making of environmental laws and institutions; and the birth of 'green' politics including the formation of \textit{Partido Verde} (the Green Party -- PT).

\textbf{Environmental and Social Issues}

The making of the 1988 Constitution led to a national debate on environment and the incorporation of several provisions that directly or directly impinged on environment in the Constitution. Armed with constitutional powers, civilian elected governments also went to establish new agencies and made a number of laws including importantly Law 9,605/98.

Notwithstanding the enactment of laws and institutions, environment, however, has continued to suffer on account of lax implementation of laws, insufficiency and inefficiency of institutions and overall, lack of political will. From the perspective of the environmentalists, provisions of the Constitution and enactment of laws and institutions alone are not sufficient to protect the environment. For them, working in alliance with other social movements towards the improvement in socio-economic conditions could yield better results. While forests continue to yield to ranchers and the soy exporters, stringent implementation of environmental laws in the Amazon, such as excluding whole populations from too many protected areas, is affecting mostly the impoverished indigenous communities and other forest dwellers.\textsuperscript{28}

\begin{itemize}
\item \textsuperscript{27} Joseph J. Domask, "Evolution of the Environmental Movement in Brazil’s Amazonia", delivered at the \textit{Meeting Of Latin American Studies Associations} (Chicago), 24-26 September 1998 p. 39.
\item \textsuperscript{28} Kolk, Ans, \textit{Forest In International Environmental Politics: International Organizations, NGOs and the Brazilian Amazon} (Utrecht, Netherlands: International Books, 1996), p.33.
\end{itemize}

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the more radical NGOs, such as the Greenpeace and Rainforest Action Network, are realising the complexities of the issues involved, and are incorporating socio-economic components into their conservation programmes.29

This is bringing the environmentalists and those engaged in social action programmes together; for, they face the same adversaries, and they realise that environment cannot be disassociated from the local social conditions that obtain in the Amazon region. Other broader linkages are also developing. Their goals and adversaries are becoming broad in nature, such as the struggle against the free market economic policies of the home governments or the restrictive and discriminatory agricultural product import policies of the developed countries. For both environmentalists and social activists, their shared interests also include same antagonist interests and forces—be they the garimpeiros, ranchers, loggers, government agencies and their mega development projects, and even the whole trend toward unchecked capitalism that had for decades been pillaging the forests and the rural areas.30

In Acre and Rondônia, different groups have come together to stop ranchers and soy exporters from clearing more forests; whereas in Pará, both groups have come together to protect the forests from being flooded by the construction of hydro-electric dams. For both sides, habitat protection is a primary goal. Environmentalists protect the forests to protect biodiversity, reduce further contributions to global warming, and, among others, protect the aesthetic value of forests; while social actors seek to alleviate the poverty and destruction of the cultures, livelihood and habitats of people who have lived in forests for centuries. Both local and outside organisations and movements are also often coming together for their different reasons. For instance, indigenous community organisations and extractivists protect the forests to protect their livelihoods. Beyond these incentives for cooperation, there are a number of other tactical incentives as well. For example, one movement may be in need of financial resources or political leverage at the national level; while the other may be in need of

29 Greenpeace works with many grass-root level organizations and labour unions.
30 They are alluvial gold-seekers along the borders of Venezuela and Guyana.
grass-roots support for its goals. Of course, as pointed out earlier, such working alliances of diverse interests often prove unstable; their mutual differences of goals and tactics make them take divergent positions at the political level. But, these are the debilitating tendencies, which generally characterise all the NSMs and are a challenge for a concerted national or international action. Notwithstanding these shortcomings, there is a widespread recognition at governmental level that socio-environmental groups working in tandem are needed in the enforcement and overseeing of environmental laws and projects.  

As for the Brazilian environmental movement, it has shown signs of maturity especially since the Earth Summit held in Rio de Janeiro in 1992. As has been discussed elsewhere in the present Chapter, not only in terms of number, they have also grown building capacity through cooperation with specialised technical/research organisations, foreign NGOs and foundations, Brazilian government agencies and IGOs, and with the World Bank, the Global Environmental Facility -- GEF, and PPG-7 agencies. They have also gained an unprecedented access to sources of external funding; with one internal military document reporting that Brazilian NGOs of all types included had a combined budget of US$8 billion during the 1986-1996 period; and most of it came from foreign donors.

The Earth Summit had powerfully catalysed the formation of NGOs in Brazil, and facilitated their coming together in many ways. The Earth Summit had preceded the formation of the umbrella Brazilian NGO Forum (Forum Brasileiro de ONGs e Movimentos Sociais para o Meio Ambiente e Desenvolvimento) in 1990. Beginning with only 40 organisations in 1990, the Forum had as many as 1,200 affiliates by 1992. At the Earth Summit, there were NGOs representing the widest possible spectrum of Brazilian social groups—rubber-tappers, indigenous representatives,

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32 Chatterjee, n.5, p.102.

labour unions, ENGOs, human rights groups, health organisations, coconut harvesters, fishing organisations, research institutes and many more. Many of the organisations including the Pro-Nature Foundation (Funatura), the Brazilian Foundation for the Conservation of Nature (FBCN), and SOS Mata Atlântica had also worked in close relationship with government agencies to develop a national environmental agenda.

Majority of Brazilian NGOs remain involved with the management and stewardship of the Amazonian Rainforest eco-systems. The reasons are the rapid degradation of the eco-systems, high rates of deforestation and persistently high incidence of rural violence in Amazon. Reports on rural violence confirm the rise in intensity in the 1990s as compared to the 1970s. It remains to be seen whether or not the societal and governmental actions will yield enduring, fundamental changes in the patterns of environmental destruction and social violence in the region. Even the governments realise that a key factor in checking both environmental destruction and social is the extent to which Brazilian civil society can sustain the alliances that have been forged across the many interests involved in the sustainable development agenda. In many specific situations, such alliances are mutually contradictory, and have proved difficult to sustain. Now, environmental groups find it more feasible to work in cooperation with governmental agencies including Instituto Brasileiro do Meio Ambiente e Recursos Renováveis (IBAMA), sometimes against slash-and-burn farmers who in their own way contribute to deforestation and forest fires. The same environmental groups then also conflict with the government agencies as, for instance, when squatters receive assistance from the Istituto Nacional da Colonização e Reforma Agrária (National Institute for Colonization and Agrarian Reform --INCRA). Ironically, INCRA and IBAMA, both of which are government agencies, also find themselves at odds with each other over the resettling of the landless in environmentally sensitive areas.

In brief, environment is a complex issue in the Amazon region. That it is not simply a case of reversing developmental policies, creating ecological zones, or non-

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34 Price, n.13, p. 54.
35 Refer to Chapter iv for details.
governmental civil society actors raising issues and mobilisation began to be realised in the 1990s. Paradoxical situations, conflicting interests, governmental agencies and NGOs working at cross-purposes make the task of policy-making, implementation, and funding extremely difficult. Many of the complexities and contradictions that obtain in the Amazon became evident in the movement, which was led by Chico Mendes who has been described as the first 'eco-martyr' of the world.

**Inter-relationship between Environment, Social Movements and the Democratic Process**

It is the ability and pattern of alliances between environmental and social movements and their interaction with political parties and organisations that had enabled them by early 1990s to thrust environment into the national political discourse. As the decade of 1990s wore on, many of the ENGOs and other groups had also succeeded in raising their level of participation in the management of the nation's ecological resources.36

A notable feature of Brazil's environmental movement in the 1990s is the extent to which the theme of environmental protection has become inter-woven with the social issues of poverty, inequality, and injustice. Some of these movements therefore are better described as socio-environmental movements.37 In part, the social and environmental goals are equally important to the various organisations that espouse them; but in part these two goals have been co-sponsored in a strategic alliance between environmental groups, on one hand, and the social organisations, labour unions etc. on the other. Although only loosely and haphazardly coordinated at the national level, these alliances have at times provided both sides with significantly stronger levels of political and financial leverage in public affairs as well as significantly enhanced capacities to implement projects in the field. Such linkages between environmental protection and socio-economic issues grew more prominently in the Amazon region, where different voluntary actors have pursued their diverse goals in conjunction.

36 Rittberger, n.31, p.148.
37 Rittberger, n.31, p.119.
To illustrate the diverse actors, interests, their interaction with each other and outside agencies—both governmental and non-governmental—and their varied capacities and funding situation, all of which make the issue of environment in Amazon a highly complex subject, one may take the case of the rubber-tappers movement that was headed by Chico Mendes.

With the end of the rubber boom by 1910s, many tappers had found themselves trapped on the lands. As rubber prices collapsed in the 1960s, the class of landowners had abandoned the rubber estates of the Acre river valley, leaving the tappers seemingly ‘free’ on the abandoned estates. Soon, the cattle ranchers from the southern Brazil moved on to the abandoned estates. As cattle ranchers began clearing the forests, they ‘discovered’ large population of rubber tappers living on and off those lands. The development of cattle ranching produced a different production relationship from that of the past; and therefore a new social equation and sources and nature of social conflict.

One very prominent socio-environment movement that emerged in the 1980s was that of the rubber tappers. Acre’s economy underwent a profound change on account of the new Amazon policies for populating the area. A veritable rush on lands in Acre, the second conquest of Acre took place between 1971 and 1975 when some 4,000,000 hectares or 30 per cent of the land were sold to people from outside who became generically known as Paulistas. This resulted in rise in speculative drive and rubber estates were converted into pasture lands. In 1973, the National Confederation of Agricultural Workers (CONTAG) was organised in Acre to resist the onslaught of the cattle ranchers. In response to the action of the Church in promoting the interest of the rubber tappers, the government adopted a policy viewed as hostile to the Paulistas Grass-roots level leaders including Wilson Pinheiro and Chico Mendes defined a new strategy to stop forest clearing and protect the rights of the tappers to live on and of the forests. Chico Mendes and Wilson Pinheiro demanded

the establishment of exclusive extractive reserves, which was an innovative idea, to resolve the conflict over the proprietorship and use of land and the protection of natural resources. It was a massive grass roots mobilisation against cutting down of rubber and Brazil nut trees, with the rubber tappers demonstrating and striving to protect a peculiar tie between a tree and the collector of its product. When Wilson was assassinated in 1980, Mendes took the lead. Mary Allegretti, an anthropologist who had carried out an extensive research on rubber tappers played a major role in articulating the demands of the Union. Big projects such as Bruynzeel cattle ranches, the Jarí cellulose project and the Carajás mining project became emblematic for misdirected government policies. In 1983 the occupation of Rondônia as per the POLONOROESTE programme financed by the World Bank was targeted by indigenous rights groups in the US, the Sierra Club, Cultural Survival and the Environmental Defense Fund. As a result of the campaign the World bank loan disbursement was suspended in early 1985. 39

In the course of these campaigns, the first national-level meeting of the rubber tappers was organised in Brasilia; and in 1985, the Conselho Nacional dos Seringeiros (the CNS—the National Council of Rubber Tappers) was established. With the setting of CNS, the new social movement of the rubber tappers drew worldwide attention. The extractive reserves were presented as a strategic element in the model for Amazon development. In the mean time, for the international environmental community, Chico Mendes was the ultimate grass-roots environmentalist. He was an underdog, who was resisting the powerful class of ranchers and their political masters. For others, he was essentially a labour leader organising the rubber tappers. In that sense, he was not an ecologist, except in a tactical sense. Union leaders—mostly urban and, nonetheless, historically anathematic to rural mobilisations—found it difficult to accept, what they saw as a struggle by organised (and unionised) rural poor over land rights being

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39 POLONOROESTE programme was the outcome of an agreement between Brazil and the World Bank in 1980. It was intended to rationalise the colonization process and included measures in the areas of health care, local infrastructure to support colonists. It had and small budgetary allocation for the creation of protected areas and the demarcation of indigenous reserves. As the result of intense public pressure in the US the loan disbursement was suspended in 1985 and the programme slowly gave way to PLANOFLORA.
appropriated by environmentalists as ‘a fight to save of the forest’. Regardless, the alliance of the CNS with environmentalists proved fairly strong and effective, due to the fact that the alliance was so specific in nature and consisted of ideal conditions: an intense struggle against a clear enemy with a clear project, and a partnership between a poor grass-roots movement on one hand and a powerful and influential collection of foreign NGOs on the other. About the movement itself, this is what Mendes himself had to say:

I believe that the rubber tappers have advanced much farther with the issue of the extractive reserves, and this has had an impact in Brazil and abroad. I can affirm that what the unions have not done in 12 years, the National Council of Rubber Tappers has achieved in less than two. 40

There were at least three dimensions to what came to be called the Chico Mendes phenomenon—a person who was seeking redressal of injustices committed against his people; a grass-roots peasant leader defending rights to possession of land threatened by deforestation; and a legitimate international defender of the interests of local Amazonian populations and environment. Not only Chico Mendes received support for his ideas from international media, there were many who lent a scientific support to his movement. Many scientists argued in favour of extractive reserves as a new mode of reconciling social and conservation objectives.41 He was seen by many as the first phenomenon of a certain type of globalisation: a simple rubber tapper who came to be recognised by environmental and political leaders and development officials around the world because of his ideas about the Amazon.42

In later years, the CNS sought alliances with other movements and political parties importantly the Workers Party (PT). This led to internal dissention and dilution of its earlier programmes. For instance, in 1992, CNS entered into an alliance with the PT, and lost the support of other parties and politicians. Its alliance with the small farming interests who have traditionally been held responsible for the slash-and-burn agriculture in the Amazonian region, it was alleged, showed CNS’s lack of

41 Ribeiro, n. 1, p.181.
commitment to environment. These conflicting interests and modes of functioning emerged as the CNS expanded; but which also threatened to weaken it. The CNS eventually suffered a permanent rift with the Institute for Amazon Studies (INPA)—the very NGO that had helped CNS to organise itself. Even the Alliance of Forest Peoples, another partner of CNS, became largely ineffective due to insufficient solidarity among the seringueiros (rubber-tappers) and the indigenous communities.

Pressure to act continued from the US as campaigning peaked in 1988. The Kayapó opposition to the Xingú hydro-electric dams was backed by their representative making an appearance at the World Bank and Raoni accompanying rock singer Sting on and trip round the world. At the end of that year on 22 December Chico Mendes was assassinated in Xapuri. There was major reaction all over the country against the murder. But Mendes had succeeded in drawing the governments attention towards the creation of extractive reserves.

**Birth of the ‘Green’ Politics: Formation of Partido Verde (PV)**

It was in the early eighties that for the first time the Brazilian electorate became somewhat systematically acquainted with the assumptions of political ecology. The established political parties, both old and new, were still mostly insensitive to environmental issues; although PT, drawing support from the urban and rural poor, had more than others identified itself with the environmental causes. It were however the exiles returning from Europe, who brought along alternative mobilisational techniques and developmental ideas of European ‘green’ movements and parties, that gave a boost to the Brazilian ecological movement after 1979. Although their return did not lead immediately to the launch of a ‘green’ political movement, their influence was felt soon in the form of popular demonstrations, direct action programmes etc.

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Prominent writers, intellectuals and artists among the exiles included Fernando Gabeira, Alfredo Sirkis, Herbert Daniel, Carlos Minc, John Neschling, Guido Gelli and the noted actor Lucelia Santos. In the beginning, they functioned quite well as a group launching environmental awareness and raising issues, but when it came to organising regular party structures, activities and democratic decision-making, there were obvious challenges that they could not overcome. Nonetheless, amidst full electoral democratic activities in play, a large segment of environmentalists decided to get involved with the politics in 1986. This is when the Partido Verde (PV—the Green Party) was launched in Rio de Janeiro by ecologists, artists, intellectuals and those who had the experience of participating in the anti-nuclear movements of Europe.\footnote{Chatterjee, n.5, p.85.} In its first foray in politics, the PV fielded ecologist Ferando Gabeira as the candidate for governorship of Rio de Janeiro.

The year 1988 was the best for PV; and the party expanded to several other regions including in the Amazon, where it aligned itself with the rubber tappers’ movement led by Chico Mendes. In November 1988, Chico Mendes took part in the PV-led ‘Save the Amazon’ demonstration in Rio. The limitations for an environmental party to work in a developing country and, more important, in an electoral partisan context, caught up with the PV around the 1989 presidential and legislative elections. By the time, Brazilians were for the first time to directly elect the president, PV was beset with internal dissensions, personality clashes, and struggles and splits over what to do in the presidential campaign. Such limitations of political action and mobilisation notwithstanding, the PV still had succeeded in making its mark as environmental issues were raised during the 1989 presidential campaign by all the candidates and their parties.

During the 1992 Rio Conference (UNCED—United Nation’s Conference on Environment and Development), the PV hosted the first green planetary meeting, where the ‘greens’ from all over the world met to exchange ideas and experiences, and
agreed to coordinate for a global action programme.\textsuperscript{46} The PV also got actively involved in the political protest movements and mass agitations demanding the impeachment of president Fernando Collor de Mello on corruption charges in 1992. Notwithstanding its limitations, compared to established political parties, the PV raised issues related to probity in public life and accountability and transparency in governance. In other words, it called for a participatory democracy in place of the existing elite-dominated and -manipulated political process. In this task, PV also made tactical alliance and coordinated actions with other political parties importantly the PT. It had also made some inroads in the north-eastern Brazil. It was finally on 30 September 1993 that the PV was granted registration as a political party by the Superior Electoral Court of Brazil. Different from the conventional Brazilian political parties, PV’s strength lay in the prominence of its leaders and support from the network of NGOs and grass-roots movements.

In the 1994 presidential election, the PV supported the candidacy of the PT’s Luis Inacio ‘Lula’ da Silva. Since then the PV has expanded in all but one of the Brazilian state and functions more like a federation of various environmental and socio-environmental groups. It remains a minority party, nevertheless has made its presence felt at the national level by influencing the national political agenda at the local grass-roots level.

In the 1990s, the environmental agenda by itself has expanded. The issues of social justice and environmental protection have expanded beyond the deforestation in Amazon. Brazilian environmental movement and NGOs are raising issues about environmental resources in other biomes. In addition, new issues within Amazonia do not fit well into the standard interpretation of Brazilian environmental issues. There now is a broad spectrum of environmental concerns in Brazil, ranging from recent legal developments to ongoing land-use threats in the Cerrado biome, and to the increasing popularity of carbon sequestration schemes. A broad coalition of grass-

\textsuperscript{46} The UNCED was held in 1992 at Rio de Janeiro. Known as the Earth Summit it concluded in the signing of many important treaties related to pollution and climatic change. This was the first time that nearly 1,400 NGOs were accredited and the GEF was the important outcome of this summit. A joint statement entitled ‘An Environmental Agenda for the Future’ was signed.
roots activists and politicians has successfully pressurised the Brazilian government to end or modify road-building projects and subsidies to cattle ranches in Amazonia. An example of the way socio-environmental concerns are being tackled with the participation of domestic and foreign voluntary organisations and governments is the establishment of the Pilot Programme to Protect the Tropical Forests of Brazil (PPG7-has been described in details in chapter V). By mid-2000, more than US$ 240 million had been spent under PPG-7 on more than 400 different projects in the Amazon and Atlantic forests.

Environmental Provisions in the Constitution of 1988

As the process of making a new constitution began with the onset of democratic rule, making new laws and establishing new institutions for the protection of environment got a boost. These laws and agencies have also been a reflection of the evolving thinking on issues related to the Amazonian Rainforests.

Legal codes were enacted and an occasional agency and several national parks were also established. These Portuguese legislations were rooted in medieval customs and practices; most of these old statutes (Ordenanço des do Reino) had different names according to the kings who proclaimed them and remained in force from the sixteenth to the twentieth century. The transfer of the Portuguese court to Brazil in 1808 had led to several initiatives aimed at the protection of the environment and the preservation and conservation of native species. For example, the Royal Botanical Gardens were created in the same year:7. In 1917, most of these codes were superseded or revoked by the first Brazilian Civil Code (Law 3017 of 1 November 1916), which had bearings on environmental and ecological issues and resources.48 In the wake of the political developments of 1930 that ushered in the era of Getulio Vargas, special legislations on environment including regulation and protection of natural resources were enacted.

48 Alvazzi, n.47, p. 138.
These laws and regulations were fostered by the nationalistic, state-oriented developmental thinking of the period.\(^{49}\)

It was however in the 1970s, more particularly after the 1972 UN Declaration on the Human Environment (the Stockholm Declaration) that many organisations came to be formed and environmental experts began criticising the ruthless exploitation of natural resources and destruction of the Amazon Rainforests and other ecological resources. The media played an important role highlighting and extending the environmental issues beyond the narrow circles of ecological agencies and experts—many of whom had started their pioneering and popularising works by concentrating on the defence of specific natural areas—mostly *Amazonia* and the Atlantic forests—against the predatory practices.

One outcome of the awakening and growing environmental concerns was the First National Encounter of Ecology—a non-governmental forum that was organised at Curitiba, Parana, in September 1978.\(^{50}\) It was partly in response to the growing public criticism and the government’s own initiative to tackle the deteriorating environmental situation in Amazon that the National Environmental Council (CONAMA) was created in 1982. CONAMA was meant to coordinate the national environmental policy, which had some advanced provisions; the agency however remains stymied by lack of enforcement clauses in its mandate.

By the time the Constitution was promulgated on 5 October 1988, the environment had come to be considered national patrimony and environmental problems had emerged as a national issue. Besides, it was recognised that environment is closely related with social issues and there are communities and

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\(^{49}\) Article 199 of the Brazilian constitution of 1946 had provided for the establishment of a regional development programme and special fund to be financed through a 3 per cent share in the total tax revenue over the next twenty-year period. This had paved the way for the formulation of a regional development plan and creation of a development agency in the form of the Superintendency for the Economic Valorisation of Amazonia (SPVEA) in 1953 based in Belem. SPVEA was designed to stimulate ‘extractive, agricultural, livestock, mineral and industrial activities’. A heated debate had ensued over the SPVEA’s geographical area of jurisdiction; and finally, for political reasons and possibly in order to conform to the economic exigencies, SPVEA’s jurisdiction was changed from ‘classic’ to the much-expanded ‘legal’ Amazon.

\(^{50}\) Viola, n.26, p. 142.
specific interests who are affected differently by different environmental and social programmes. Re-emergence and expansion of political arena for discussion, contestation and consensus had contributed largely to move environment from the periphery to the centre of political discourse.\textsuperscript{51} After nearly two years of work, the constituent assembly had finally prepared the draft constitution, which incorporated various laws, statutes and decrees. The Constitution provided for varieties of legislation that could be enacted—regular federal laws enacted by the national legislature; ‘special laws’ to deal with specific social and environmental issues; and state and municipal laws having their specific territorial jurisdictions. Overlapping and sometimes challenging each other, in all cases, the Constitution empowered the judiciary to resolve the competence of jurisdiction. Besides, the Constitution also provides for ‘decree’, i.e. an act or resolution by an agency or competent public authority, which has been endowed with power to compel with the aim to secure political, social, legal or administrative order; or to acknowledge, proclaim or attribute a right. The Constitution also provides for ‘provisional laws’ (medida provisoria) which can be promulgated by the president, and which remain effective of 30 days unless approved by the national legislature.\textsuperscript{52}

The 1988 Constitution constitutes a land-mark in Brazilian environmental history, as it contains a whole chapter dealing with environment. In the past, in the absence of a specific constitutional framework, the enactment of environmental laws had to be justified by an indirect reference to the prevailing constitutional precepts recognizing the right to health, etc. This lack of a consistent constitutional basis had brought about several legal controversies about the environmental laws, particularly concerning the powers of state and municipal governments to legislate on the subject. By providing a clear definition of environmental rights and an adequate distribution of general legal responsibilities for environmental protection, the 1988 Constitution has set a new legal framework for environment to be interpreted.


\textsuperscript{52} Viola, n.26, p.143-144.
The 1988 Constitution delineates a new legal-institutional context for both the state and civil society in regard to environmental policy-making and action; and this is important. It makes both the state and society responsible for protecting the environment. In political-institutional terms, it recognises the concurrent power of all the three levels of government to legislate on environmental matters. As a result, many important environmental laws have been enacted since then, improving even further the country's environmental legal-institutional order.\textsuperscript{53} The Constitution recognises the collective nature of right to have a balanced environment. By doing so, it recognises and encourages the direct participation of civil society in the political decision-making process concerning environment. It also guarantees broad conditions of access to courts for the protection of 'diffuse' environmental rights to both the individuals and environmental non-governmental organisations, as well as to the prosecutors for the government.

The Chapter III of the 1988 Constitution has several provisions pertaining to agriculture and land policy and to agrarian reform, all of which have a direct or indirect bearing on environment.\textsuperscript{54}

**Article 184 Provides:**

It is within the power of the Union to expropriate on account of social interest, for purposes of agrarian reform, the rural property which is not performing its social function, against prior and fair compensation in agrarian debt bonds with a clause providing for maintenance of the real value, redeemable within a period of up to twenty years computed as from the second year of issue, and the use of which shall be defined in the law.

Paragraph 1 – Useful and necessary improvements shall be compensated in cash.

Paragraph 2 – The decree declaring the property as being of social interest for agrarian reform purposes empowers the Union to start expropriation action.

\textsuperscript{53} Report by Jose Arthur Rios, in March 1992 on Brazilian Constitution, p.143.
\textsuperscript{54} This and the subsequent sections have been quoted directly from the Constitution of Brazil, 1988.
Paragraph 3 – It is incumbent upon a supplementary law to establish special summary adversary proceeding for expropriation action.

Paragraph 4 – The budget shall determine each year the total volume of agrarian debt bonds, as well as the total amount of funds to meet the agrarian reform programme in the fiscal year.

Paragraph 5 – The transactions of transfer of property expropriated for agrarian reform purposes are exempt from federal, state and municipal taxes.

Under Article 185, expropriation of the following for agrarian reform purposes is not permitted:
- small and medium-size rural property, as defined by law, provided its owner does not own other property;
- productive Property.

Sole paragraph – The law shall guarantee special treatment for the productive property and shall establish rules for the fulfilment of the requirements regarding its social function.

Article 186 reads as follows:

The social function is met when the rural property complies simultaneously with, according to the criteria and standards prescribed by law, the following requirements:
- relational and adequate use;
- adequate use of available natural resources and preservation of the environment;
- compliance with the provisions that regulate labour relations;
- exploitation that favours the well-being of the owners and labourers.

The provisions of Article 187 are as follows:

The agricultural policy shall be planned and carried out as established by law, with the effective participation of the production sector, comprising producers and rural workers, as well as the marketing, storage and transportation sectors, with especial consideration for.
- the credit and fiscal mechanisms;
- prices compatible with production costs and the guarantee of marketing;
- research and technology incentives;
- technical assistance and rural extension;
- agricultural insurance;
- cooperative activity;
- rural electricity and irrigation systems;
- housing for the rural workers.

Paragraph 1 – Agricultural planning includes agro industrial, stock raising, fisheries and forestry activities.

Paragraph 2 – Agricultural policy and agrarian reform actions shall be made compatible.

Article 188 states:

The destination given to public and unoccupied lands shall be made compatible with the agricultural policy and the national agrarian reform plan.

Paragraph 1 – The alienation or concession in any way of public lands with an area of more than two thousand and five hundred hectares to an individual or legal entity, even if through an intermediary, shall depend on the prior approval of the National Congress.

Paragraph 2 – Alienations or concessions of public lands for agrarian reform purposes are excluded from the provisions of the preceding paragraph.

Article 189 states:

The beneficiaries of distribution of rural land through agrarian reform shall receive title deeds or concession of use, which may not be transacted for a period of ten years.

Sole paragraph – the title-deed and the concession of use shall be granted to the man or the woman, or to both, irrespective of their marital status, according to the terms and conditions set forth by law.
Article 190 provides:

The law shall regulate and limit the acquisition or lease of rural property by a foreign individual or legal entity, and shall establish the cases that shall depend on authorisation by the National Congress.

Article 191 states:

The individual who, not being the owner of rural or urban property, holds as his own, for five uninterrupted years, without opposition, an area of land in the rural zone, not exceeding fifty hectares, making it productive with his labour or that of his family, and having his dwelling thereon, shall acquire ownership of the land.

Sole paragraph – The public real estate shall not be acquired by prescription.

In addition, the 1988 Constitution contains provisions directly related to environment, which are enshrined in Chapter V. These provisions are contained in Articles 225 and 231.

Article 225 states:

All have the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both the Government and the community shall have the duty to defend and preserve it for present and future generations.

Paragraph I – In order to ensure the effectiveness of this right, it is incumbent upon the Government to:

- preserve and restore essential ecological processes and provide for the ecological treatment of species and ecosystems;
- preserve the diversity and integrity of the genetic patrimony of the country and to control entities engaged in research and manipulation of genetic material;
- define, in all units of the Federation, territorial spaces and their components, which are to receive special protection, any alterations and suppressions being allowed only by means of law, and any use that may harm the integrity of the attributes that justify their protection being forbidden;
- for the installation of works and activities which may potentially cause significant degradation of the environment, to demand, in the manner prescribed by law, a prior environmental impact study, which shall be made public;
- control the production, sale and use of techniques, methods or substances, which represent a risk to life, the quality of life and the environment;
- promote environment education in all school levels and public awareness of the need to preserve the environment;
- protect the fauna and the flora, with prohibition, in the manner prescribed by law, of all practices that represent a risk to their ecological function, cause the extinction of species or subject animals to cruelty.

Paragraph 2 – Those who exploit mineral resources shall be required to restore the degraded environment, in accordance with the technical solutions demanded by the competent public agency, as provided by law.

Paragraph 3 – Procedures and activities considered as harmful to the environment shall subject the infractors, be they individuals or legal entities, to penal and administrative sanctions, without prejudice to the obligation to repair the damages caused.

Paragraph 4 – The Brazilian Amazonian Forest, the Atlantic Forest, the “Serra do Mar”, the “Pantanal Mato-Grossense” and the coastal zone are part of the national patrimony, and they shall be used, as provided by law, under conditions which ensure the preservation of the environment, there included the use of mineral resources.

Paragraph 5 – The unoccupied lands or lands seized by the states through discriminatory actions which are necessary to protect the natural ecosystems are inalienable.

Paragraph 6 – Power plants operated by nuclear reactor shall have their location defined in federal law and may not otherwise be installed.

Article 225 and its paragraphs constitute the core of every action towards the legal protection of the environment and provide the matrix for all subsequent legislations. Its six paragraphs, which are divided into seven items, contain basic environmental and legal ideology. The general statement presaging Article 225
guarantees to all the right to an ecologically balanced environment for healthy quality of living. The statement reads: "Every Brazilian citizen is entitled to an environment endowed with ecological equilibrium, and, as such, a property of common use of the people, essential to a healthy quality of life, is being incumbent on public authorities to protect it for the benefit of present and future generations."55

While Article 225 makes clear and unambiguous statement about environment, Article 231 is extremely important in recognising the "originary" right of indigenous groups to their traditional territories; and defines this right as taking precedence over all other rights. It states: "All acts having as their purpose the occupation and ownership or possession of [indigenous land] are nullified and extinct, without legal force."56

It is noteworthy that the Constitution provides for a three-tier government. In order to prevent significant environmental degradation, Article 23 specifies that the municipalities have a 'common competency' at par with the Federal and the State Government to implement environmental legislation.57

No gainsaying, the 1988 Constitution contain the most comprehensive and the most-clearly worded provisions about environmental protection. Still however, these provisions and many of the subsequent legislations remain plagued with legal loopholes and contradictions. Moreover, the problems and laxity in enforcement are acknowledged; and so much still rests on the case to case rulings of the courts.

Article 225, Paragraph 3 of the Constitution states: 'Behaviour and activities offensive to the environment will place law-breakers—individuals or legal persons—under penal and administrative sanctions, in addition of the obligation of repairing the damage caused." (Recheck the quotation marks.) This is a contradiction; as the penal law of Brazil envisages the penalisation only of individual persons. In a number of

55 Rios, n.53, p.146.
rulings, courts have been adamant in refusing to consider the penal responsibility of legal persons—indeed, authorities, companies (public or private), or other collective agents. In reality, such court rulings have excluded government agencies and private organisations and firms from being penalised for environmental crimes.

As stated in the Article 19 of the 1988 Constitution. National Security Council—since renamed as the Council of National Defense (SADEN) — is mandated to “propose criteria for the preservation and exploitation of all types of natural resources”, and to “propose criteria for the use of all areas considered indispensable to national security, especially for faixa de fronteira, 150 kilometre around the national borders.” That was not all, however. The so-called “progressive” forces also succeeded in getting broad public rights to a healthy environment recognised in the Constitution. Amazonian forests with certain other ecosystems have also been recognised in the Constitution as “national patrimony”.

After the Constitution was promulgated, scores of laws and rules have been enacted by various levels of government and agencies. The maze of environmental legislation has given rise to duplication; and even confusion about the basic concepts. Pollution, for instance, is variously defined according to whether the pertinent law is a federal or state subject. All this leads to a need, for the unification of environmental legislation, which would create the opportunity to erase obsolescence and contradictions; and make enforcement mechanisms more rational, rapid and effective. IBAMA took the first step towards developing such a unified code.

The best instrument to prevent offences against the environment is, however, the environmental impact assessment - EIA, which is required for any economic endeavour with the potential to cause environmental degradation (Article 225(d), Federal Constitution).

In penal legal system, the concept of negligence, as applied to environmental protection, also needs to be clarified. At present, the Brazilian penal system makes provision for only two types of crime from the point of view of motivation: intentional
and unintentional. Whereas the concept of intentional crime turns on the will and behaviour of the agent; the concept of unintentional crime does not focus on the purpose of the agent’s activity, thus making punishable the agent’s behaviour. (The idea is not clear. Should not it read ‘thus making unpunishable the agent’s behaviour? Recheck.) Besides, some times, goals are not easily identifiable, causal relations are not clearly perceived, evidence is difficult to collect, and sanctions are difficult to implement blocked by social and cultural contradictions.

**Major Environmental Laws and Agencies**

With the onset on development strategy in the 1930s, which was premised on the exploitation of natural resources including those of the Amazon region, a number of laws and mechanisms were created for the protection of environment and proper use of resources.

However, since the framing of the 1988 Constitution, environmental laws and regulations have undergone significant change. For example, it is said that new federal and state-level legislations are ‘revolutionising’ the management of water resources. In the state of São Paulo, watershed committees—made up of politicians, technicians and civil society representatives—make decisions on investments in water-resource infrastructure such as erosion control and sewage treatment.

Vigorous debate has accompanied state and federal public policies for genetic resources, including Genetically Modified GM organisms. Major changes have been made in laws regulating Brazil’s conservation units; and the definition and prosecution of environmental crimes. Shedding its past apprehensions, there is a renewed commitment to its international obligations. Brazil has passed the Convention on Biological Diversity into law; and there is wide range of opinion among government officials, academics and civil society regarding Brazil’s participation in the attempts to define how the Kyoto Protocol’s flexibility mechanisms will operate.
PV's federal deputy, Gilney Vianna had in 1992 proposed the National System of Conservation Units (SNUC), with a view to reclassify protected areas into two general types—based on 'total protection' and 'sustainable development'. To the existing categories of national forest and extractive reserve would be added new categories that would facilitate locally based management by councils comprising of communities and local governments. These would include importantly 'ecological-cultural reserves' and the 'integrated ecological reserves'. It (what?) accelerated during the second administration of president Fernando Henrique Cardoso (1998-2003?) and was made into a law in late 1999.

**Environmental Agencies:**

Some of the agencies and programmes were formulated as per the provisions laid down in the constitution. It would be within the context to identify and describe some of the major agencies.

(i) **SEMA or Secretaria de Assuntos Estratégicos** (Secretariat for Strategic Affairs): In 1973 the Special Secretariat for Environment was created. It was the pivot of all policy-making in Amazon. SEMA took a few years to really start to make headway for Amazonia. In 1981 SEMA enacted Law No. 6938 which established the National Environment Policy—NEP. to produce more "hardlined" protection decrees; that being of stronger regulations and penalties for rainforest degradation. From the NEP the Brazilian Institute for Environment and Renewable Natural Resources was established in 1989, and then in 1992 the Ministry of Environment. 58

(ii) **Nossa Natureza**: Until 1989, when president Jose Sarney had launched the Nossa Natureza (Our Nature), responsibility for monitoring and control of environmental abuse was allocated to separate agencies. 59 Nossa Natureza was intended to put in practice, the principles that had been provided in the Constitution. The programme was designed to incorporate the Amazon and its indigenous communities into the

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58 See http://www.history.vt.edu/Arnold/Aaron/EnvironR.htm

59 Agencies were given specific areas—the forests to the Instituto Brasileiro de Desenvolvimento Florestal (IBDF); for coastal fisheries to the Superintendencia do Desenvolvimento da Pesca (SUDEPE); and for rubber to the Superintendencia da Borracha (SUDHEVEA).
national economy; and towards that end, the Institute on Environment was created to centralize all government actions.

(iii) The Environmental Control Agency IBAMA: IBAMA along with SEMA, absorbed all the local smaller organizations and their responsibilities to so as to have a coordinated monitoring and control system. Notwithstanding setting up of a large network of organisations, governmental capacity to police conservation units effectively however remains constrained by a number of factors and forces. IBAMA, for example, employs just 150 field personnel in Amazonia to cover as many as 68 federal conservation units, occupying a total area of no less than 27 million hectares. The agency's effectiveness has been further compromised by regular accusations of collusion on the part of IBAMA officials with illegal logging activities; and occasional reports highlight massive logging. During 1999, new environment minister Jose Sarney Junior had dismissed a number of IBAMA officials due to their proven involvement in illegal sales of timber from areas under their jurisdiction. Another handicap has been the fact that, for long, IBAMA had been deprived of statutory powers to enforce environmental laws. Congress had failed to authorise a measure proposed in the 1988 Constitution that would have allowed executive agencies to enforce environmental laws. The Law against Environmental Crimes, which became effective from 30 March 1998, provides for large fines and prison sentences for a range of offences, including illegal logging. The issue of enforcement however leaves much to be desired; and this leaves enough room for corruption involving officials and loggers.

When IBAMA was created in 1989, state-level environmental agencies, called the Organizacoes Estaduais do Meio Ambiente (OEMAs), were also set up by the nine Amazonian states, following the decentralisation principle enshrined in the 1988 Constitution. OEMAs however have tended to be weak agencies because their effectiveness is determined very much by the commitment of particular state governments to seriously address environmental issues. For example, state

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60 Hall, n. 23, p. 103.
governments in Amapa, Tocantins and Acre are considered progressive and have
instituted state-level agencies; others, where the political influence of the vested
interests is notable, have not created state-level mechanism to supervise and enforce
laws and regulations. Notwithstanding widespread public consciousness and concern,
and the spread of several hundred environmental organisations, the level of civil
society participation, as a countervailing force in policy debates and implementation,
also somehow still remains poor.

(iv) PLANAFOLORO or the Plano Agropecuário e Florestal de Rondônia (Rondônia
Agricultural, Forestry and Livestock Plan): It was reformulated by the World Bank in
1986 because of the criticisms of large-scale environmental violations. Its successor
was the infamous POLONOROESTE in Rondônia, which include local NGOs, rural
unions and other similar groups. This has set a precedent that remains to be emulated
elsewhere in the region.

(v) POLAMAZONIA or the Programa de Polos Agropecuários Agrominerais da
Amazonia (Programme of Agricultural and Agro-Mineral Poles of Amazonia): It
envisaged setting up of 15 poles of growth.

(vi) PPG-7: In 1990, the G-7 (now the G-8) countries had sponsored Pilot Programme
to Conserve the Brazilian Rainforest (PPG-7), which proposes innovative conservation
programmes. Under PPG-7, plans are being drawn to establish seven ‘ecological
corridors’ with a view to strengthen the biodiversity conservation. The seven
‘ecological corridors’ would eventually link existing conservation zones permitting the
greatest possible flow of species and genetic material throughout the region. The
PPG-7 also covers vigilance over forms of resource use, such as eco-tourism,

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61 The G7 Pilot Program to Conserve the Brazilian Rainforest (PPG7) was launched in Houston,
Taxes in 1990 at the request of the Group of Seven industrialised countries, spearheaded by
Germany. The US$300 million aid package is designed to support conservation and sustainable
development within the Amazon and Atlantic rainforest while strengthening institutional capacity
and environmental policy-making for the region. It comprises a US$60 million central Rainforest
Trust Fund as well as bilaterally pledged funds, with Germany and the European Union being the
major financial contributors. The programme is administered through the World Bank as trustee
and the Ministry of the Environment. For further information on the Pilot Programme, see Friends
of the Earth (FOE, 1996) and the Rain Forest Pilot Program Update, a quarterly newsletter
published by the World Bank.
sustainable forestry and production of non-timber forest products. It also seeks participation of local population and non-governmental organisations in the design and execution of management plans for the corridors. Motivated by the directives of the PPG-7, the institutional capacity of OEMAs is also being strengthened. Introduction of pilot Integrated Environmental Management Plans (PGAIs) has also started to move the concept and practice of environmental control towards a more integrated, multi-institutional approach involving collaboration among a range of local actors.

There were a number of laws and decrees passed after the promulgation of the Brazilian constitution. Most of them dealt with environmental crimes and with past irregularities. To name a few would be appropriate.

**Federal Law No. 9,605/98**

From the making of the Constitution in 1988 until 1998, a significant gap had existed in the legal order between the need to establish a federal law defining environmental crimes on one hand, and procedural conditions for punishing such crimes on the other. There were also problems in assigning responsibility under administrative law for environmental damages. Indeed, if the matters of responsibility for environmental action and protection as well as of civil responsibility for environmental damage had been progressively addressed by ordinary and constitutional legislations, the matter of criminal and administrative liability for environmental damage would not have arisen. It was to address some of the aforementioned issues and fill the gap between law and its enforcement that Federal Law No. 9,605 was approved on 12 February 1998. It "establishes criminal and administrative sanctions for behaviour and activities harmful to the environment". Commonly referred to as the ‘Environmental Crimes Law’, it in fact deals with both criminal responsibility and responsibility under the administrative law.

The law had in fact been in the making since 1991, when it was first proposed by the president Collor. It indeed took very long to enact the law, which on one hand

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62 PPG7 (1998)
reflects the complexity and fragile nature of environmental politics in Brazil and, on the other hand, the inadequacy of the democratic conduct of politics. After the Secretariat for the Environment was replaced in 1992 by the Ministry for the Environment, the specific environmental apparatus has since increased in size and importance; and environmental matters and concerns have been treated in a more organised way.

It was after a prolonged contestation and bargain that the federal government could reach an agreement in January 1998 with the National Confederation of Agriculture, the National Confederation of Industry and the federal deputies; and could defeat some of the provisions that had already been approved by the Senate. After federal law no 9,605/98 was approved by the National Congress on 28 January 1988, president Cardoso had to again veto some of the legal provision on 12 February 1998. The prolonged discussion and the delay were mainly on account of the perception of powerful vested interests, who apprehended adverse effects of such a law on their economic and political interests. Given the exclusionary and elitist nature of the democratic system and the organisational fragility of the environmental movement, vested groups could block the legislation in the congress for as many as seven years.

The 'Environmental Crimes Law'

This is divided into eight main chapters, and entails: (i) general provisions; (ii) application of sanctions; (iii) apprehension of products of, and instruments used for, environmental offences; (iv) criminal legal proceedings; (v) crimes against the environment; (vi) administrative offences; (vii) international co-operation for environmental provision; and (viii) the final provisions.

The wide definition of criminal responsibility is the most important development that has been introduce by the new law. The Chapter-V provides a clearer definition of environmental crimes comprising five sections covering a wide range of situations harmful to the environment, which can be treated as crimes. Last, but not the least, Chapter-VII highlights the importance of international cooperation.
for the promotion of environmental preservation. It establishes the rules, and requests the Brazilian government, to provide information “concerning the environment” to other countries.

**New Environmental Policy-NEP**

In 1981 SEMA enacted the Law No. 6938 which established the National Environment Policy—NEP to produce more "hardlined" protection decrees; the most important being that of stronger regulations and penalties for rainforest degradation. From the NEP the Brazilian Institute for Environment and Renewable Natural Resources was established in 1989, and then in 1992 was established the Ministry of Environment.

It is admitted that the new law has not been able to properly address some of the problems viz., lack of a proper definition of objectives, responsibilities, mechanisms and resources; lack of integration and coordination among public agencies at various levels of government; sectoral treatment of matters that are global in character and their implications; lack of adequate financial resources and technical capacity to monitor the implementation of plans and programmes; insufficient and ill-trained personnel; and lack of continuity in monitoring and enforcement. Another major problem is the conflict between social and environmental policies, which at the ground level often become irreconcilable. 64.

By most indicators, the social and political situation in Amazonia had changed considerably at the end of 1990s; in many other respects, there was little noticeable change. Record numbers of fires, many of them the handiwork of loggers, and record levels of deforestation—averaging 20,086 square km in recent years—persist. 65 Declines in deforestation rates and fires are occasionally registered but they seem to be more closely tied to climatic fluctuations than to the hundreds of millions of dollars invested in environmental protection and sustainable development initiatives in the

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region. Social indicators have for the most part remained unacceptable as well. Indian populations continue to be decimated by newly introduced diseases, while Indians, peasants, and other activists, even church leaders and government agents are subject to assassinations and constant threats of violence from other interests in the region. For instance, in the 1990s, there were on an average of 40-50 murders in land disputes each year. While rule of law is conspicuous by its absence, in the vast stretches of Amazon, the local inhabits also face threats to their survival because of lack of opportunities and amenities.

Alarming though these figures seem but things began looking up. The coming to power of Fernando Henrique Cardoso, in this light, becomes crucial to carrying forward the good work done by president Collor. Cardoso was a liberal president who was open to advice from all quarters and would pay heed to these suggestions and orient his policies accordingly. The following chapter gives a detailed treatment to the major initiatives and programmes undertaken by him. There is also a critical evaluation of his policies including those related to the indigenous population.