Summary of Table of Contents

Chapter I  Introduction

Chapter II  Constitution and Common Law Principles
For Resource Conservation

Chapter III  Water Conservation: Legal Issues and Challenges

Chapter IV  Forest: Legal Issues and Conservation Strategies

Chapter V  Legal Regime relating to Conservation of Land

Chapter VI  International Law: Principles of Sustainable Development for Resource Conservation

Chapter VII  Resource Conservation and Management: Perspectives

  i. Need for Environmental Information and Public participation
  ii. Decentralized Environmental Governance
  iii. Customary Right, Common Property and Natural Resources

Chapter VIII  Conclusion

List of Cases

Bibliography
# Table of Contents

## Chapter 1

**INTRODUCTION**

1.1. Background 2

1.2. Resource Conservation: Historical Concerns in India 4

1.3. Resource Management: Problems in India
   - 1.3.1. Population and Resource Management 10
   - 1.3.2. Poverty and Resource Management 12

1.4. Economics and Natural Resources Market
   - 1.4.1. Property Interest in Natural Resources 14
     - 1.4.1.1. Private goods 15
     - 1.4.1.2. Public goods 15
     - 1.4.1.3. Common goods 16

1.5. Environmental Justice
   - 1.5.1. Environmental Justice as Distributive Justice 18
   - 1.5.2. Environmental Justice as Procedural Justice 19
   - 1.5.3. Environmental Justice as Corrective Justice 19
   - 1.5.4. Environmental Justice as Social Justice 19

1.6. Modern Age of Environmental Law
   - 1.6.1. Five Year Plans and Conservation strategies 20
   - 1.6.2. Development of Environmental Law: Post independence strategies 24

1.7. Perspectives of Resource Conservation
   - 1.7.1. Equitable Perspective 26
   - 1.7.2. Human Use Perspective 27
   - 1.7.3. Managerial Perspective 27

1.8. Research Problem 29

1.9. Hypothesis 32

1.10. Research Questions 32

1.11. Limitation of the present work 34

1.12. Importance of the present research work 37

## Chapter 2

**PART I: CONSTITUTIONAL LAW**

2.1. Introduction 39

2.2. Right to Environment
   - 2.2.1. Evolution of the Right 42
   - 2.2.2. Supreme Court and the Right to Environment 52

2.3. Freedom of Trade and Environment 57

2.4. Recommendation of the National Commission to Review the Working of the Constitution 59

2.5. International Comparative Constitutional Analysis 61

2.6. Proposal for Environmental Courts in India 63

2.7. Looking beyond Human Rights: Deep Ecology and Duty to preserve the Environment 64
2.8. A Scope for Improvement: Some Suggestions

2.8.1. Obliviousness in the society.

2.8.2. Judiciary: Yet to play the real role

2.8.3. A need to ‘green the bench and the bar’

2.9. Conclusion

CHAPTER 2
PART- II: COMMON LAW

2.10. Introduction

2.11. Law in relation to Nuisance

2.12. Criminal Law Principles

2.13. Civil Law Principles

2.14. Rule in Rylands v Fletcher

2.15. Non Natural Use: New Approaches to preserve and conserve resources

2.15.1. The Shriram Principle

2.15.2. Liability and Compensation in Shriram

2.16. Imposing Criminal Liability in Environmental Law

2.16.1. The Dialectic of Environmental law and Criminal Law

2.16.2. Inadequacies of Criminal law

2.17. Conclusion

CHAPTER 3
WATER CONSERVATION: LEGAL ISSUES AND CHALLENGES

3.1. Introduction

3.2. Historical recollection

3.3. Water Scarcity: Ground Realities

3.4. Strategies, Policies and Plans so far

3.4.1.1. National Water Policy 1987

3.4.1.2. National Water Policy 2003

3.5. Water Right

3.5.1.1. Prescriptive Right

3.5.1.2. Rights of States in Water

3.5.1.3. Conflicts of water users: Inter State

3.5.1.4. Common Law and Water Rights

3.5.2. Rights of Riparian Owners against Pollution

3.5.3. Dams and water rights

3.5.3.1. Dams and their Impact

3.5.3.2. History of the Narmada

3.6. Water pollution: Dimensions

3.6.1. Municipal Statutes

3.6.2. Rights of Riparian Owners

3.7. Interlinking of Rivers: Evaluating the possible solution

3.8. International Law in water
3.8.1. *The Helsinki Rules*  
3.8.2. *1992 Convention on the Protection and Use of Transboundary Water Courses and International Lakes*  

**3.9. Ground Water**  
3.9.1. Introduction to the problem of overexploitation  
3.9.2. Development of legal doctrine for the exploitation of ground water  
3.9.3. Policies so far  
3.9.4. Judicial rethinking  
3.10. Water: will privatization work?  
3.11. Conclusion  
3.11.1. *Institutional reform*  
3.11.2. *State and Civil Society*  
3.11.3. *Rain Water Harvesting*  
3.11.4. *Integrated Approach*

**Chapter 4**  

**Forest: Legal Issues and Conservation Strategies**  

4.1. Background  
4.2. Introduction  
4.3. National Forest Policy of 1952  
4.4. Forest Law and Policy  
4.5. The Indian Forest Act, 1927  
4.6. Forest Conservation Act, 1980  
4.7. Forests and the Wildlife Protection Act, 1972  
4.8. Mining in Protected Areas  
4.9. Specific Rights of the Forest Dwellers as to Forestland and Resources  
4.10. Joint Management of Forest: State – People Management  
4.11. Non-Timber forest products: Issues for livelihood and sustainable management and conservation of resources  
4.12. Changes in the Forest Sector  
4.12.1. Diversion of Forest Land-The Forest [Conservation] Act  
4.12.2. The Forest Encroachment Issue  
4.12.3. Sequence of events in the ‘forest case’ on the encroachment issue  
4.13. The Biodiversity Act 2002  
4.15. International Law  
4.15.1. *Regulatory techniques*  
4.15.2. *Convention on Biological Diversity, 1992*  
4.15.3. *Asia*  
4.15.4. 1983 International Tropical Timber Agreement  
4.15.5. 1992 Forest Principles  
4.15.5. *Conservation of Plants: Comparative analysis*  
4.16. Conclusion
CHAPTER 5
LEGAL REGIME RELATING TO CONSERVATION OF LAND

5.1. Land Use Scenario in India 254
5.2. Land Resource: Absence of vision 256
5.3. Land Acquisition: Absence of Property rights over Land 258
5.5. Decision-Making: Coordinating Authorities 262
  5.5.1. Decision-Making: Strategies, Policies and Plans 263
  5.5.2. Decision-Making: Major Groups involvement 264
5.6. Green Revolution 266
5.7. Conversion of Land: Law and Policy 269
5.8. Open Lung Areas: Conservation strategies in the Courts 272
5.9. Tree preservation in Urban areas 278
5.10. Waste Land: Review 280
5.11. Degradation of Land through Waste dumping 282
5.12. United Nations Convention to Combat Desertification 284
  5.13.2. Regulatory Framework 287
  5.13.3. The Judicial Response 290
  5.13.4. Diversion of Forest Land 293
5.14. Conclusion 298

CHAPTER 6
INTERNATIONAL LAW: PRINCIPLES OF SUSTAINABLE DEVELOPMENT FOR RESOURCE CONSERVATION

6.1. Introduction 301
6.2. The Environment and International law: Defining terms 304
6.3. International Environmental law: Evolution 308
  6.3.1. Before 1940 308
  6.3.2. 1940-1972 308
  6.3.3. From Stockholm 309
  6.3.4. The Soft law Instruments-post Stockholm 311
  6.3.5. World Conservation Strategy 311
  6.3.6. Caring for the Earth 312
  6.3.7. Rio: The Earth Summit 313
  6.3.8. Agenda 21 314
  6.3.9. Forestry Principles 315
  6.3.10. Draft International Covenant on Environment and Development 316
6.4. Compliance of International Environmental Law 317
  6.4.1. Implementation 319
  6.4.2. International Law making process 320
6.5. Principles for Conservation of Natural Resources 321
  6.5.1. Duty to Prevent, reduce and Control Environmental harm 323
  6.5.2. Principle of Preventive Action 326
  6.5.3. Obligation to Cooperate 329
  6.5.4. Polluter pays Principle 330
  6.5.5. Principle of Sovereignty over Natural resources 334
    6.5.5.1. One State Sovereignty 337
    6.5.5.2. Shared Natural resources 337
    6.5.5.3. Common property and the ‘reasonable use’ principle 338
  6.5.6. Good Neighborliness 339
CHAPTER 8
Conclusion
8.1. The Jurisprudence of Environmental legislation: Few Concluding Observations
8.2. Evaluation and Suggestions
8.3. The Need: Integrated Natural Resource Management Policy

List of Cases

Bibliography