

# **UNEP GLOBAL JUDGES PROGRAMME**

**APPLICATION OF ENVIRONMENTAL LAW BY NATIONAL  
COURTS AND TRIBUNALS**

## **PRESENTATION 5**

# **SCOPE AND CONTENT OF NATIONAL ENVIRONMENTAL LAW**

# OUTLINE OF PRESENTATION

CONSTITUTIONAL PROVISIONS

NATIONAL LEGISLATION

SUB-LEGISLATION AND REGULATION

EIA, LICENSING, PERMITTING

POLLUTION CONTROL

CONSERVATION AND SUSTAINABLE  
USE OF NATURAL RESOURCES

CONSERVATION OF CULTURAL  
AND NATURAL HERITAGE

# CONSTITUTIONAL RIGHTS AND OBLIGATIONS

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- Right to life
  - Right to clean and healthy environment
  - Right to development and property rights
  - Obligation to protect environment

# CONSTITUTIONAL PROVISIONS ON THE ENVIRONMENT





# BRAZIL

Ch. VI, Art. 225: Everyone has the right to an ecologically balanced environment, an asset for the common use of the people and essential to the wholesome quality of life. This imposes upon the Public Authorities and the community the obligation to defend and preserve it for present and future generations.



# INDIA

- Part 4 , Art.37: “Application of the principles contained in this Part. – The provisions contained in this part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.”
- Part 4, Art. 48A: “Protection and improvement of environment and safeguarding of forests and wild life. – The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.” [Inserted by the Constitution (42<sup>nd</sup> Amend.) Act, 1976, s. 9 (w.e.f. 3-1-1977).]
- Part 4A. Art. 51A: “Fundamental duties. – It shall be the duty of every citizen of India –  
(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures ... “ [Inserted by the Constitution (42<sup>nd</sup> Amend.) Act, 1976, s. 11 (w.e.f. 3-1-1977).]

*(Constitution of India of Nov. 26, 1949, as amended up to the constitution (52<sup>nd</sup> Amend.) Act, 1985. 7 constitution of the Countries of the World (OCEANA) 33-239 (A.P. Blaustein & G.H. Flanz eds.))*



# THAILAND

*(Constitution (No. 13) of the Kingdom of Thailand, effective Dec. 22 1978 (replacing Interim Constitution No. 12 of Nov. 9, 1977). 15*

*Constitutions of the Countries of the World (OCEANA) 1-14 (A.P. Blaustein & G. H. Flans eds.)*

Ch. III, Sec. 33:’ ....

The expropriation of immovable property shall not be made except by law specifically enacted for the purpose of .... Exploitation of national resources, ... land reform, or other public interests ....”

Ch. V, Sec. 65: The State should conserve the balance of environment and eliminate pollution which jeopardizes the health and hygiene of the people.”

Ch. V, Sec. 69: “The State should have demographic policy appropriate for natural resources, economic and social conditions, and technological progress for the purpose of economic and social development and for the security of the State.”



# GUYANA

*(Constitution of the Cooperative Republic of Guyana, Act No. 2 of 1980. 6 Constitutions of the countries of the World (OCEANA) 25-26 (A.P. Blaustein & G.H. Flanz eds.))*

- Art. 25: “Every citizen has a duty to participate in activities designed to improve the environment and protect the health of the nation.”
- Art. 36: “In the interests of the present and future

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