
AN ANALYSIS OF ENVIRONMENTAL CRIMES IN INDIA AND ITS CRIMINAL LAWS

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Naman Singh, Advocate, District & Sessions Courts, Tis Hazari

ABSTRACT

Environmental crime is the breaching of laws intended to protect the environment and the general population. These regulations control how trash and hazardous materials may be legally disposed of as well as the quality of the air and water. White-collar crimes can be committed by people or businesses when environmental regulations are broken. Crime against the environment and wildlife refers to acts that harm the environment and wildlife nearby. This category of organised criminal activity, which is the fourth largest in the list of organised crime, includes several types of crimes.

A 2017 report revealed a sharp rise in environmental and wildlife-related occurrences in India, which were up over 790% from the previous year. These crimes are on the rise. As public awareness of crimes against the environment and wildlife has grown, the government has adopted numerous measures to increase the reporting of cases. The environmental and animal rights movements in India have both flourished as a result of recent legislative changes intended to give a voice to the planet's inanimate inhabitants. Environmental crime encompasses a broad range of offences that harm both the environment and human life, from errors in administrative or record-keeping processes to the actual illegal dumping of toxins into the environment. This article attempts to analyze the concept of environmental crimes along with the legal framework governing it in India.

Keywords: *Air, Environmental Crime, Human Life, Offences, Water.*

1. INTRODUCTION

The environment is defined as "all, or any, of the following media, namely the air, water, and land" under Section 1 of the Environmental Protection Act of 1990. The definition of pollution of the environment in that section states that it occurs when pollutants that can harm humans or other living things sustained by the environment are released into any environmental medium. Governments have passed laws granting executive agencies the authority to enforce environmental laws and protect the environment. To ensure that state commitments are met, international environmental law and concepts have been incorporated into national law. Environmental crime is covered by a number of different pieces of legislation and has not been codified or combined into a single Act¹. The Water Resources Act of 1991 and the Environmental Protection Act of 1990 (as amended) contain some of the most commonly applied criminal penalties.

2. ENVIRONMENTAL CRIME: MEANING AND CONCEPT

Environmental crime has been characterised in a variety of ways and from numerous angles. The phrase has been employed "nearly arbitrarily" and without any generally recognised definition. It has been grouped under the heading of white-collar crime². From various angles, Mary Clifford and Terry D. Edwards provide a few definitions of environmental crime. One description covers the duties performed by the organisations responsible for enforcing environmental laws as well as the relevant statutory regulations. Thus: - An environmental crime is an act that violates an environmental protection statute that is applicable to the location where the act took place and that, for the purposes of police enforcement, explicitly identifies criminal penalties. Additionally, this definition serves the needs of practitioners who want a legal foundation³.

All offences related to the environment, whether they were established by statute or by common law, are considered environmental crimes. Simply put, the setting is the place where we dwell.

¹ Rupali Bhagel, *Green Collar Crimes – A Crime against Environment and Wildlife*, 4(1) INT'L J. L. MGMT. & HUMAN. (2021)

² Mansi Dagrass, *Crime against Environmental Law in India*, SSRN ELEC. J. (2021)

³ *Id.*

3. TYPES OF ENVIRONMENTAL CRIME

3.1 Wildfire Crime

Around the world, wildlife crime is a lucrative sort of organised crime. It comprises the unlawful poaching, exporting, or trafficking of a particular animal species or product by people or organisations for monetary gain or other associated gain, such as rhino horns, elephant tusks, peacock feathers, etc. The International Union for the Conservation of Nature and Natural Resources (IUCN) claims that Latin America, Africa, and Asia are the regions with the highest prevalence of wildlife crime. Mammals, birds, reptiles amphibians, insects, and plants of all types are affected.

3.2 Illegal Logging

Illegal logging is the practice of harvesting trees against the law. It occurs when timber is gathered, moved, processed, bought, or sold in defiance of national or international law. According to research by the International Union of Forest Research Organizations, illegal logging affects every continent in the world and is widespread in all tropical forest regions. The three biggest importers of both legal and illicit tropical wood products are China, India, and Vietnam. Due primarily to illicit logging and land grabbing, the Keo Seima Wildlife Sanctuary in Cambodia has lost about 5% of its forest cover since 2010⁴.

3.3 Illegal Fishing

Fishing that is done by foreign vessels without permission in international waters or that violates fisheries laws and regulations is referred to as illegal fishing. International waters and a country's Exclusive Economic Zone (EEZ) are where it takes place. The government of India has drafted a new bill with the aim of regulating fishing outside of the nation's territorial seas in order to

⁴ Dr. Sangeeta Roy, *Environmental Crimes- An Analysis of Legal Provisions with reference to India*, 5(1) NUJS J. REGUL. STUDIES (2020)

combat illegal fishing in the EEZ⁵. State governments will be able to grant a licence for fishing in EEZ under the proposed legislation.

3.4 Pollution Crimes

Waste trafficking is primarily started in wealthy nations. The primary nations that export illicit trash are generally acknowledged to be the United States, the European Union, Australia, and Japan. African countries including Ghana, Guinea, Nigeria, Togo, and Benin, as well as Asian countries like Indonesia, India, Pakistan, and Vietnam, are the primary destinations for illegal trash trafficking on the two continents. Pollution crimes also include the unauthorised manufacturing and use of substances that deplete the ozone layer, such as hydrochlorofluorocarbons (HCFCs), chlorofluorocarbons (CFCs), and other substances. Global air, land, and water systems, including rivers and oceans, have been contaminated as a result of illicit garbage dumping and trade. The ecosystem is seriously threatened, and both flora and wildlife as well as human health are affected.

3.5 Illegal Mining

The public is gradually becoming increasingly concerned about illegal mining. It is prevalent throughout most of Asia, Latin America, and Africa. The environment is cruelly impacted by it. It eliminates radiation risks, pollution, and destruction of the landscape, and natural flora and wildlife. For instance, in Peru, unlawful gold mining destroyed the land of the native Kotsimba people⁶.

4 DAMAGE TO ENVIRONMENT TILL NOW

Human actions have had a significant negative impact on the ecosystem up to this point, however even if the harm is irreparable, it can still be repaired if people can comprehend the following figures.

- More than 50 billion tonnes of natural resources are consumed annually by people.

⁵ *Id.*

⁶ Dagrás, *Supra* note 2

- The rainforest will only exist for the next 80 years at the current rate of deforestation, regardless of the reason behind it. Because of the rainforest's significant contribution to the fresh oxygen needed for human life, we won't have any rainforests after that.
- By the year 2020, humans will have disposed of around 10 crore tonnes of hazardous trash.
- According to some predictions, humans will need another planet like Earth in order to support life on the actual Earth⁷. We are already consuming the planet's entire near future. However, people are unaware that they only have one.
- More than half of the world's coral reefs have already been eaten by humans, and at the current rate of consumption, there won't be any left in 30 years. Human activities are causing an increase in seawater temperature, acidification, and algae blooms, all of which are killing them.
- By 2050, all of humanity's fisheries—the environment's lungs—will be gone.
- Each week, more than 2 billion innocent creatures and plants are eaten, destroyed, or consumed by humans.
- Each year, humans are responsible for the extinction of about 10,000 animal and plant species.
- To produce 1 kilogramme of beef, almost 50,000 litres of fresh water are needed.

One species, out of thousands or perhaps more, is the only one responsible for the damage mentioned above. The planet can produce for needs, but not for greed, is no longer a quote; rather, it is regarded as the sixth mass extinction in the history of the universe. It is predicted that the end of starvation will come about if meat consumption declines by 10%.

5 LEGAL FRAMEWORK

By putting amendments to the Indian Constitution, impressive national efforts have been made to protect and enhance the environment. At first, our Constitution did not expressly guarantee the preservation of the environment. However, in the wake of the Stockholm United Nations

⁷ Debnath, *Supra* note 1

Conference on the Human Environment in 1972, the Indian Constitution was altered to make environmental preservation a constitutional necessity. The Indian Constitution's 42nd Amendment declares that safeguarding and enhancing the environment is a fundamental obligation. This is stated in Article 51A⁸, clause (g), 42nd Amendment. Every Indian has a duty to protect and improve the natural environment. They also have a duty to practise compassion for all living things. Protecting and strengthening the environment is one of the purposes of a policy or directive since it is one of the Directive Principles of State Policy, which gives the state more authority.

The state is mandated by Article 48A to protect the nation's woods and wildlife as well as to preserve and enhance the environment⁹. In order to maintain a healthy environment throughout the nation, India formed the Ministry of Environment in 1980. This became the Ministry of Environment and Forests in 1985. Overall management and enforcement of environmental laws and regulations is under the purview of the Ministry. A number of Acts and Rules provide support for constitutional provisions. The state or federal legislatures passed the vast bulk of our environmental laws. Generally speaking, these Acts grant regulators the authority to create regulations to carry them out. After the Bhopal Gas tragedy, the Environmental Protection Act (EPA) of 1986¹⁰ went into effect and is seen as protective legislation because it closed several legal voids.

Since then, numerous environmental laws have been passed to address various environmental problems. For instance, CNG is now required for public transportation vehicles in Delhi. This lowers Delhi's air pollution.

5.1 The National Green Tribunal Act, 2010¹¹

In order to provide those who have been affected by pollution or other environmental harm with administrative and legal recourse, the National Green Tribunal Act of 2010 was passed. In 2010, a special court with extensive background in addressing environmental disputes in the country was established; it is known as the National Green Tribunal (NGT). The Tribunal was

⁸ INDIA CONST. art 51A

⁹ INDIA CONST. art 48A

¹⁰ The Environment (Protection) Act, 1986, No. 29, Acts of Parliament, 1986 (India)

¹¹ National Green Tribunal Act, 2010, No. 19, Acts of Parliament, 2010 (India)

established on the advice of the Supreme Court and the Law Commission and in accordance with India's international legal duties to develop and effectively execute national environmental legislation. Most instances involving the environment entail questions from many other areas, hence this was done so that they may be discussed in their own dedicated forums. It is the responsibility of the Tribunal to resolve conflicts involving environmental protection, forest preservation, and the upholding of all legal rights associated with environmental protection. The Tribunal's ruling is binding and enforceable, and it has the authority to award damages and other relief to the victims.

Additionally, it supports Article 21 of the Constitution, which guarantees everyone the right to a healthy environment¹². Six months after being appointed, the National Green Tribunal must settle any cases that have been brought before it. The NGT is largely in charge of cases pertaining to significant environmental problems.

Fortunately, the National Green Tribunals encourage attorneys to focus on environmental law, and as a result, People see the Tribunal as a key part of getting justice in environmental issues. There will come a day when legislation dealing with the environment will be given the most consideration.

5.2 The Air Act, 1981¹³

One of the key goals of the Act is to prevent and manage air pollution in India.

1. reduce, avert, and control air pollution.
2. provide provisions for the creation of state and federal boards to execute the legislation.

The task was assigned to the Central Pollution Control Board (CPCB) and the State Pollution Control Board (SPCB).

There are limits on how much particulate matter, lead, carbon monoxide, sulphur dioxide, nitrogen oxides, and volatile organic compounds can be released into the air by things like internal combustion engines, businesses, cars, and power plants (VOCs). State governments are in charge of naming places with a lot of air pollution.

¹² INDIA CONST. art 21

¹³ The Air (Prevention and Control of Pollution) Act, 1981, No. 14, Acts of Parliament, 1981 (India)

5.3 The Water Act, 1974¹⁴

To maintain or restore the health of the nation's water supply, Congress approved the Water (Prevention and Control of Pollution) Act of 1974. Regulations were changed in 1988. The Water (Prevention and Control of Pollution) Cess Act was passed in 1977 to provide a system for taxing individuals who engage in specific industrial activities that consume water. According to the Act, it was imposed to increase the Central and State Commissions' resources for preventing and reducing water pollution. 2003 saw the final change to the law.

The Water Act was enacted to reduce and control water contamination in the subcontinent. Water pollution is defined as the introduction of foreign substances into water, or the alteration of water's physical, chemical, or biological properties, or the discharge of sewage or commercial sewage, or other liquids, gases, and solids (directly or indirectly) into water, which poses a threat to public health or safety, domestic, commercial, industrial, agricultural, etc.

In India, water pollution is a significant issue, and preventing and controlling it are also significant issues. The value of water conservation has not yet been made more widely known. Naturally, the legislation establishes a number of authorities that will seek to prevent this; it also establishes a number of complaint channels and the authority of a number of agencies. However, additional work must be done to strengthen the law's deterrent effects with harsher penalties, make it more comprehensive, and engage more locals. The enforcement component should receive more attention, as pollution can be regulated by legislation but also requires effective enforcement.

5.4 The Wildlife (Protection) Act, 1972¹⁵

The Act safeguards flora, fauna, and avian species. The entirety of India is included. The six separate schedules all have varying degrees of security.

Part II and Schedule I give the highest level of protection and contain the most severe penalties for infractions. It's worth noting that Schedule III and Schedule IV species are similarly shielded from extinction, albeit with far softer penalties.

¹⁴ Water (Prevention and Control of Pollution) Act, 1974, No. 06, Acts of Parliament, 1974 (India)

¹⁵ The Wildlife (Protection) Act, 1972, No. 53, Acts of Parliament, 1972 (India)

Common crows, fruit bats, mice, and rats are among the Schedule V creatures that are considered pests by the legislation and are consequently susceptible to hunting.

It is forbidden to cultivate any of the indigenous plants listed in Schedule VI.

.5 The Forest (Conservation) Act, 1980¹⁶

A valuable resource that nature has given to humans is forests. Therefore, it is everyone's obligation to safeguard the forest environment. However, rapid deforestation messes with nature's own cycles. As a result, laws are required to safeguard forests. The primary goal of the Act is to safeguard forests and the variety of flora, fauna, and other biological elements they support while maintaining the integrity and range of the forests. Additionally, it is forbidden to use forest areas for grazing, agriculture, or other commercial purposes.

5.6 The Public Liability Insurance Act and Rules 1991

The Public Liability Insurance Act and Rules, 1991 and Amendment, 1992 were made so that people could get public liability insurance in case they hurt someone by accident while handling a dangerous substance.

5.7 The Biological Diversity Act, 2002

The Biological Diversity Act, 2002 established State Biodiversity Boards (SBBS), Biodiversity Management Committees (BMCS), and a National Biodiversity Authority to implement the Convention on Biological Diversity (CBD), prevent biopiracy, protect biological diversity, and support local growers (NBA).

The Act's overarching objectives are to protect biodiversity, to regulate and guarantee its components are used correctly, and to guarantee that the benefits of doing so are shared fairly. The claimed goals of the law include protecting traditional knowledge, combating biopiracy, and prohibiting unapproved patent applications, among other things. Specific sections of this Act, Sections 36, 37, and 38, highlight the goals of biodiversity protection. These paragraphs discuss the creation of national policies and programmes to safeguard biodiversity, the notification of biological diversity regions by states, and the ability of the federal government to designate

¹⁶ The Forest (Conservation) Act, 1980, No. 69, Acts of Parliament, 1980 (India)

specific species as critically endangered, endangered, or protected from collection. In contrast, regulating natural resource usage runs counter to the principles of sustainable use of the system's components.

The distribution of the Act's benefits is governed under Article 21. Its goal is to guarantee that both the person requesting the use of the resources and the local entities involved in the dispute receive fair compensation for the benefits they receive from the utilisation of the accessible biological resources, their byproducts, knowledge, and associated practices.

5.8 The Noise Pollution (Regulation and Control) (Amendment) Rules, 2010

These rules specify what has to be in place before loudspeakers or public address systems can be used for religious or cultural activities held late at night in order to minimise noise pollution (between 10:00 p.m. and midnight).

The Amendment's main characteristics are as follows:

- It is not appropriate to use loudspeakers, sound systems, or amplifiers after dark unless it is an emergency, or you are inside a building.
- The decibel level from any loudspeakers or public address systems must not exceed 75 dB or 10 dB, whichever is lower.
- In a residential area, only use a horn in case of an emergency.
- Construction machinery that makes noise won't be used after dark.

6. OUTLOOK OF COURTS

- **Municipal Council, Ratlam v. Vardhichand and Others**¹⁷: In this case, the court ruled that the right to public health is a human right, making it the responsibility of the Ratlam city council to ensure that the city's drainage systems are properly managed. This case, also known as the Ratlam City Case, was heard by India's highest court and is widely considered a milestone decision. The court took note of the effect that a deteriorating city environment has on low-income city dwellers.

¹⁷ Municipal Council, Ratlam v. Vardhichand and Ors, 1981 SCR (1) 97

- **M.C Mehta v. Union of India (Shriram Industries Case)¹⁸**: This case is a landmark in Indian environmental case law; several names for it include the Shriram gas leak case and the food chemical gas leak case. There was a gas leak involving food chemicals in New Delhi, and the court ruled that the firm was fully responsible for compensating the victims. While this was the first-time absolute liability had been utilised in a case in India, it was also the first time the accused had been acquitted.
- **M.C Mehta v. Union of India (Ganga case)¹⁹**: Despite being one of India's major rivers, the Ganga is plagued by pollution from the many factories that line its banks. The Ganga contamination case is the most important legal battle to date for rivers' rights. Multiple tanneries in the Kanpur, Uttar Pradesh, area were investigated and shut down by the court. Justice E.S. Venkataramiah has ruled that a tannery that fails to install a primary treatment plant should be shut down, just like a company that fails to pay its employees the minimum wage.
- **Tarun Bharat Singh, Alwar v. Union of India and Others²⁰**: The court determined that mining operations could not proceed in the vicinity of Sariska National Park. To make matters worse, 2015 studies show that mining in Sariska is still active and has negative effects on the local ecosystem. No writ petitions have been submitted to the Supreme Court under Article 21, which guarantees the right to a safe and healthy environment.

7. CONCLUSION

Environmental conservation in India is linked to the human rights agenda and has even become part of the country's foundational law. Every person has the inherent right to enjoy a healthy, pollution-free environment; this much is now generally agreed upon. In a warm and accepting community, people feel valued. Our development process is damaging the environment, and this fact needs to be acknowledged by the public, government organisations, states, and the federal government. In addition, stringent enforcement is essential. The enforcement of laws mandating

¹⁸ M.C Mehta v. Union of India, AIR 1987 SC 965

¹⁹ M.C Mehta v. Union of India, 1988 SCR (2) 530

²⁰ Tarun Bharat Singh, Alwar v. Union of India and Ors, (1993) INSC 209

minimum levels of cleanliness is a powerful weapon in the fight against pollution. The environmental protection legislation in India needs to be brought up to date.

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