
WHEN NATURE GOES TO COURT: REIMAGINING ENVIRONMENTAL LAW THROUGH THE LENS OF CRIMINAL JUSTICE

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ABSTRACT

The problem of ecological degradation is no longer an administrative issue but a criminal justice concern that needs rigorous enforcement through the application of law to preserve environment and societal well-being. This paper studies the correlation between environmental law and criminal justice in India and concludes that various environmentally damaging offenses-such as unauthorized mining, industrial pollution, flora/fauna trafficking, disposal of hazardous waste, etc.-ought to be looked upon as an offense against the society rather than as non-compliance of statutory provisions. The paper briefly discusses the constitutional basis for environmental preservation which has been highlighted in the Articles 21, 48A and 51A(g) of the Indian Constitution and various enactments relating to the environment along with the landmark judgments that have broadened the realm of environmental liability by asserting concepts such as Absolute Liability, Principle of Polluter Pays and Precautionary Principle. It enumerates the significant issues in enforcement such as poor investigations, dearth of scientific evidence, uncoordinated regulation structure and low conviction rates in environmental crimes and stresses on specialized environmental crime units, forensic tools, electronic surveillance, better coordination amongst the police and scientific institutions dealing with environment matters. Conclusively, it brings forward how embedding the criminal justice mechanisms with environmental governance is an intrinsic part of sustainable development, ecological justice and highlights on prosecution, corporate liability and public participation. This paper concludes with the imperative of strengthening the environmental criminal justice mechanism of India to protect the fundamental right to life, natural resources and ensure security of environment for future generations.

Key Words: - Environmental Criminal Justice, Environmental Law, Ecological Justice, Corporate Environmental Liability, Sustainable Development

I. INTRODUCTION

Can a river go to court. Ask for justice? Can a forest be a victim of a crime? These are questions that people used to debate about. Now they are really important in the courts. Environmental damage is not a mistake or a problem with the rules it is a serious crime that hurts peoples health, the environment and the economy. As environmental crimes get worse and happen across the world the courts have to act and be more effective.

Environmental law and criminal justice are not things anymore. They work together to make sure people are accountable to stop damage and to protect the environment. India is an example of this. Indias economy has grown a lot because of industrialization and urbanization. This has also caused a lot of environmental problems like air and water pollution, illegal mining and climate change. These problems are not just mistakes they are crimes that hurt people now and in the future. The Indian Constitution has laws to protect the environment like Article 21 48A and 51A(g). ¹There are also laws like the Environment Protection Act, the Water Act, the Air Act and the Wild Life Act that help regulate what people can do to the environment.. Even with all these laws it is still hard to enforce them. Investigations are often weak. People who break the law do not get punished enough. This makes it hard to protect the environment.

This blog is about how environmental law and criminal justice're connected in India. It looks at how criminal law can help protect the environment, how the courts have helped make people accountable for damage and what needs to change to stop environmental crimes.

II. ENVIRONMENTAL HARM AS A CRIMINAL WRONG

Crimes are different from other crimes because they can hurt a lot of people and the environment and the damage can last a long time. When people dump chemicals cut down forests or pollute the air it can hurt the environment and peoples health. The law says that these actions are crimes because they hurt the environment and people. Criminal law is not about punishing people it is also about stopping them from doing bad things again. It is like a warning to others not to hurt the environment. In India the laws say that people who break the rules can go to jail or pay a fine. The Environment Protection Act says that the government can take people to court if they do not follow the rules.

¹ INDIA CONST. arts. 21, 48A & 51A(g). Available at: <https://legislative.gov.in/constitution-of-india/>

III.CONSTITUTIONAL FOUNDATIONS OF ENVIRONMENTAL JUSTICE

The Supreme Court of India has said that the right to life includes the right to clean air, water and a safe environment. This means that people have the right to an environment and the government has to protect it. The Constitution also says that the government and people have to work to protect the environment.²The courts have also helped people get justice when the government did not do its job. Through public interest litigation people can take the government to court if they are not protecting the environment. This has helped a lot of people get justice and has made the government more accountable.

IV. THE JUDICIARY AS THE GUARDIAN OF ECOLOGICAL JUSTICE

The courts in India have been very creative in protecting the environment. They have used principles to make companies accountable for environmental damage. In one case the court said that companies that do work have to take full responsibility for any damage they cause. This has made companies more careful. Has helped protect the environment. The courts have also used the principle, which means that companies have to be careful and not hurt the environment before it is too late. They have also used the polluter pays principle, which means that companies that hurt the environment have to pay for the damage. This has helped make companies more responsible. Has protected the environment. In *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*, the Supreme Court evolved the doctrine of Absolute Liability, holding hazardous industries absolutely responsible for environmental damage.³The Court further recognised the Precautionary Principle and the Polluter Pays Principle in *Vellore Citizens' Welfare Forum v. Union of India*, making environmental protection a central part of sustainable development.⁴ Later, in *Indian Council for Enviro-Legal Action v. Union of India*, the Court directed polluting industries to bear the cost of restoring environmental damage, strengthening corporate accountability.⁵

V. EMERGING ENVIRONMENTAL CRIMES AND THE EXPANDING SCOPE OF CRIMINAL JUSTICE

² Environment (Protection) Act, 1986, No. 29 of 1986, ss. 15–17. Available at: <https://www.indiacode.nic.in/>

³ *M.C. Mehta v. Union of India* (Oleum Gas Leak Case), (1987) 1 SCC 395.

⁴ *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

⁵ *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

Crimes are not just about pollution they are about a lot of other things like illegal mining, wildlife trafficking and hazardous waste. These crimes are often done by companies and criminal groups that work together and use loopholes in the law to make money. For example illegal sand mining is a problem in India. It hurts the environment causes erosion and affects peoples livelihoods. It is not a small problem it is a big crime that needs to be punished. The same is true for wildlife trafficking, which hurts endangered species and affects the environment. Environmental crimes are not about the environment they are also, about economics. Companies that break laws often also break economic laws. They hide the truth to make money. This is not a victimless crime it hurts people and the environment.⁶

VI. PRE-CRIMINAL JUSTICE SYSTEM

India has a rich statutory regime, yet environmental crimes present enforcement challenges. The major one is the technicality of environmental crimes. They demand more scientific evidence, technological skills, laboratory analysis, and a keen understanding of environmental norms and impacts. Investigators are frequently under-resourced, poorly trained in the technicalities of environmental crimes, and thus their prosecutions are either belated or ineffective. Another concern is the low conviction rate in most environmental cases. Pending for years, these prosecutions tend to diminish the deterrent effect of the criminal sanction and in many instances polluting companies can continue their environmentally harmful operations while a legal process drags on. Regulatory fragmentation also exacerbates this problem. There are multiple authorities (Pollution Control Boards, forest departments, local authorities, etc.) responsible for environmental regulation, but coordination among these agencies is often poor. Overlapping responsibilities lead to inaction, jurisdiction disputes, and inconsistent enforcement.

VII. STRENGTHENING ENVIRONMENTAL CRIMINAL JUSTICE SYSTEM

Corporate environmental offences are particularly troublesome since liability may be shared across various levels of corporate hierarchy and can be elusive. This requires sophisticated investigations and, statutory framework which enables bringing to book errant corporate managers or companies for environmental violations. Environment Criminal Justice -

⁶ Wild Life (Protection) Act, 1972, No. 53 of 1972. Available at: <https://www.indiacode.nic.in/>

Reinventing for the Future A robust environmental criminal justice system requires changes to laws and institutions.

Firstly, environmental investigations should be equipped with advanced forensic laboratories to analyze pollution, hazardous waste and damages. These institutions are needed to lend credibility to prosecution evidence. Secondly, specialized units for environmental crimes should be established within police departments with personnel adequately trained to deal with these technically complex cases.

Special programs need to be instituted for ongoing training of police officials, prosecutors and judicial officers in environmental laws and enforcement techniques. Specialized environmental courts, such as the NGT, can be an effective way to address complex issues of environmental litigation with specialized knowledge and efficient resolution. While NGT largely works under civil law framework, the judgments in environmental disputes are a useful complement to environmental criminal prosecutions. A greater integration and co-operation between regulatory bodies, the NGT and the criminal justice system could improve environmental protection. Moreover, technology could be employed to effectively combat environment crimes. Surveillance technologies like satellite monitoring, drone surveillance, geographic information system (GIS) mapping, Artificial intelligence (AI), and remote sensing technologies can help to detect cases of illegal mining, encroachment on forests, destruction of green belts and industrial pollution without needing regular site inspections. This reduces opportunities for corruption and ensures effective timely intervention before the damage becomes too significant to remediate.⁷

Public awareness and participation are also equally crucial. No environmental protection scheme can be successful without people's participation. Creating awareness, community monitoring, responsible corporate governance and the constitutional directive in Article 51A(g) to protect and improve the environment makes people a part of environmental protection regime. Environment criminal justice needs a balanced approach that covers both prevention, penalty, compensation for damages and restitution. The goal should not be just punitive but also restorative to preserve

⁷ National Green Tribunal Act, 2010, No. 19 of 2010. Available at: <https://www.indiacode.nic.in/>

the ecology for the sake of current and future generations. Environmental law needs to focus on this broader objective.

VIII. CONCLUSION

Environmental protection, therefore, is no longer only an administrative function but has a significant dimension in criminal justice and constitutional governance. Given that the impacts of environmental degradation pose increasing risks to public health, biodiversity, climate stability, human dignities and intergenerational equity, criminal law play a pivotal role. In view of the rich constitutional framework, progressive judicial interpretation and the comprehensive statutes already in place, ecological balance in India appears inseparable from the right to life. While India has made strides in addressing environmental crimes through comprehensive statutes and an increasingly concerned judiciary, it still needs to strengthen enforcement mechanisms. These measures should include developing scientific and investigative capacity, providing training to the police and judiciary, effective coordination among different regulatory and enforcement agencies and stringent application of the law against habitual and large-scale polluters. As the world grapples with evolving industrial processes and rapidly advancing technologies, it is imperative for India's legal system to remain proactive, responsive and uncompromising in protecting the nation's natural heritage, and ensure a clean environment which reflects a strong rule of law and serves as the backbone of a just and sustainable society.⁸

⁸ United Nations Environment Programme, *Strategic Approach to Combat Environmental Crime*. Available at: <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/addressing-environmental-crime>.