

DE JURE NEXUS LAW JOURNAL

Author:

Shubhangi Singh

Symbiosis Law School, Noida

3rd Year, BBA LL.B.**ENVIRONMENTAL CRIMES & THEIR LEGAL IMPLICATIONS****ABSTRACT**

This research paper focuses on crimes that are made against the environment, nature & our ecosystem. Environment means an inter-relation that humans exercise with water, air, land, plants & animals. In this paper, writer has emphasized on the substantive laws on environment & how law can prevent further deterioration of environment.

INTRODUCTION

Environment influence several factors that influence the lives of humans & animals on this planet. It is a sum total of biotic and abiotic things. Today, countries are trying to repair the damage that we have done in a very short span. A healthy environment is crucial for us as it sustains life, assimilate waste and enhance the lives. Damage to our environment is evident from the extinction of several species of animals, generation of millions of tons of waste & rising temperature of Earth. Our Earth provides us with huge resources, which should be sustainably & judiciously used by use. Countries have entered into several environment treaties and conventions to repair the existing damage & to prevent the further damage to our earth. Till now, we have had 21 International Treaties & Conventions¹. To implement these, our Indian Government has also formulated several Environmental Laws that criminalize several human conducts that cause harm & damage to our environment, if they remain unregulated. The Indian laws on environment are guided by several environmental legal principles and which focus on the management & preservation of certain natural resources, such as forests, minerals, or fisheries. Even our Constitution & International Treaties whose member is India, reflect the importance of protection and conservation of the environment and sustainable use of natural resources.

ENVIROMENTAL RELAED PROVISION IN CONSTITUTION -

1. **Directive Principles of State Policy (DPSPs)** - They are mentioned in (Part IV) under Article 48A of constitution. It provides an option for the governments at both Central & State Level to frame laws that protect and improve environment and also conserve existing forests and wildlife.
2. **Fundamental duties** - these are mentioned in (Part IV A) under Article 51A of Constitution. These duties are casted upon the citizens of India. These duties are not legally binding but are

¹ Available at (<https://byjus.com/free-ias-prep/environment-conventions-protocols/>).
Dejurenexus.com

morally obligated on citizens. The citizens are expected to take measures to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.

PREVALENT ENVIRONMENTAL CRIMES IN INDIA

According to State of India's Environment 2021 (SoE) report², the courts will have to work hard to dispose 137 Environmental cases every day, so that they can dispose the existing backlog of more than 50,000 environment-related cases. On an average, two environmental related cases are filed every day³. According to UNO, the environmental crimes have expanded in last few years and have become the fourth largest global crime. One of the biggest challenges to sustainability of environment in India is deforestation & killing of wild life for commercial exploitation. The government has created several bodies like Wildlife Crime Control Bureau, National Green Tribunal, and Pollution Control Boards to oversee the actual enforcement of laws. Conviction rate in substantive cases has been around 3% only.

The Environmental Crimes are known as Green-Collar Crimes which includes Poaching, Illegal trade of wildlife, Trade of unregulated and illegal products for financial and material gains which includes trade of timber, ivory, rhino horns or even sandalwood. According to TRAFFIC Report, a hike of 151% was seen in poaching of wildlife during the Covid Lockdowns. Species mentioned under Schedule 1⁴ of Wildlife Protection Act were targeted the most⁵.

LEGAL IMPLICATION OF ENVIRONMENTAL CRIMES

The Environmental Crimes have attained the position of fourth largest crime globally. This could not happen without the support of international operatives. This syndicate has grown bigger with rapid globalization & growth in communication. Even those substances, which the governments have banned due to their nature of depleting ozone layer, are being smuggled.

This is a global problem which the Indian agencies can resolve at their level with the help of international cooperation, intelligence led operations and assistance of National level forensic facilities. Coordination between these agencies is essential to arrest these syndicates.

By damaging the environment, humans are bringing an end to their species. The environmental conditions are becoming harsher day by day. At present there is shortage of water, rising temperatures, melting glaciers & ice bergs, dying animals & birds. By cutting the trees, we are cutting our lives. Poaching of wildlife is also against humanity as we are killing some animal like us just to fulfil mere desires. This activity of ours have disturbed the food chain. Humans are creating hurdles for themselves by damaging the environment.

In-order to fight with Environmental Crimes at a national level, India has made certain laws. Parliament has enacted different provisions that focuses on different areas of environment. Some important laws are -

² annual publication brought out by Down To Earth in association with Centre for Science and Environment (CSE), a Delhi-based non-profit.

³ Available at (<https://www.downtoearth.org.in/blog/wildlife-biodiversity/state-of-india-s-environment-environmental-crime-cases-piling-up-disposal-slow-75655>). Last visited 9.09.2022

⁴ Highest protection is given to them

⁵ Available at (<https://timesofindia.indiatimes.com/india/poaching-cases-in-india-went-up-151-in-lockdown-traffic-report/articleshow/76178698.cms>). Last visited 9.09.2022

1. National Green Tribunal Act, of 2010 - The main objective of this act is to lay down provisions for efficient & effective disposal of matters that relates to protection of environment, conservation of forests, & other natural resources. It also lay measures for providing for providing adequate compensation and remedies for the harms that have been caused to the victims- the property or persons.

2. The Air Act, 1981 - This law was enacted by the government to enlist the measures to reduce & control the air pollution in India. It also mentions punishments for those who violate the law.

3. The Water Act, 1974 - This law was enacted by the government to enlist the measures to reduce & control the water pollution in India. It also prevents further pollution of water. It also mentions punishments for those who violate the law.

4. Environment Protection Act, 1986 - This law was enacted by the Parliament ti fulfil the 26 principles of the Stockholm declaration 1972. The objective of this law is to improve the environmental conditions. It also provides for punishments against those who harm the environment. It also provides measures, prohibition, requirement of licenses for protection

5. The Wildlife Protection Act, 1972 - This law prohibits the poaching & hunting of Specified wild animals. This prohibition secures ecological balance of the country.

6. Indian Penal Code - Even IPC has mentioned substantive provisions for those acts which cause public inconvenience and raise the risk of public safety, public health, public nuisance, negligence. The environmental offences under IPC are -

- Section 269-271- spread of infectious disease is a public nuisance and a crime
- Section 277- to prevent water pollution
- Section 290- Smoking in public is a crime
- Section 426-Pollution caused by mischief
- Section 430-Pollution caused by mischief
- Section 431-Pollution caused by mischief
- Section 432-Pollution caused by mischief
- Section 268 to-Section 294-A

M.C Mehta v. Union of India (Ganga case)1985⁶.

MC Mehta filed Mandamus Writ Petition in the apex court against the leather tanneries of Kanpur as these ternaries were disposing off both industrial & domestic wastes & effluents in the Ganga river that was flowing nearby. These ternaries were also not complying the standards & laws mentioned under The Water Act, 1974. So, the petitioner requested the apex court to pass an order to restrict these industrialists from disposing off the waste in water without proper treating the water. The court in this case held that, State Boards, which were duty bound to take effective measures to prevent such discharge did not pay attention to such violations. Court ordered that these ternaries will have to first establish primary treatment plant if establishment of secondary treatment plant was difficult, & then only they can resume their activities. The court also held that the financial consideration of these tanneries for installing the primary treatment plant is irrelevant as “ just like an industry which cannot pay minimum wages to its workers cannot be allowed to exist a tannery which cannot set up a primary treatment plant cannot be permitted to continue to be in existence for the adverse effect on the public at large which is likely to ensue by the discharging of the trade effluents from the tannery to the river

⁶ AIR 1115,1988 SCC (2) 530

Ganga would be immense and it will outweigh any inconvenience that may be caused to the management and the labor employed by it on account of its closure”.

CONCLUSION

The laws that the government has made for the environmental crimes related to water, animals, air etc. are sufficient, but the problem is that these laws are not being followed properly by the people & offenders are not being properly punished. The problem is also in the mentality of people, as they do not give importance to the offences that are done against the nature & environment & animals. People consider these offences as petty offences. The industrial activities in ecological sensitive areas should be stopped & the government agencies should take care that the factories are actually following the rules & regulations. The punishments of violation of these laws should also be increased as it would scare the people from violating these laws & the penalties should be raised too.



De Jure Nexus

LAW JOURNAL