

Environmental Protection: A Critical Analysis of National and International Legislative Framework

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Abstract:

This paper provides a comprehensive analysis of environmental law in India, examining its evolution, scope, and the challenges it faces in the contemporary context. The study explores the rising complexity of environmental crimes, driven by technological advances and changing societal dynamics, and assesses the effectiveness of existing legal frameworks at both national and international levels. Key Indian statutes and constitutional provisions are reviewed alongside major global conventions and protocols, highlighting the interconnectedness of domestic and international enviro-legal regimes. The paper argues that while India possesses a robust legislative arsenal, enforcement gaps and the rapid emergence of new environmental threats necessitate ongoing legal reform and greater public awareness. The conclusion offers targeted suggestions for strengthening environmental governance in India, including alignment with international norms, grassroots education, and enhanced legal enforcement.

Keywords: environmental law, India, environmental crime, legislation, international conventions, environmental governance, legal reform, public awareness

INTRODUCTION

Environmental pollution is a longstanding and global issue. Advances in technology and science, overpopulation, atmospheric effluent discharge, oil spills, and improper waste disposal have significantly altered the human environment. These developments have disrupted ecological laws and disturbed the balance between human life and the environment. Furthermore, such changes have led to the emergence of new offenses, referred to as environmental crimes. Consequently, it became necessary to regulate human behaviour and social interactions through new laws tailored to evolving conditions and values. At this juncture, environmental law emerged as a distinct legal field to address the challenges presented by these developments.

Object

1. To provide information regarding a new type of environmental crime.
2. To provide information regarding legislation available for environmental protection, and some suggestions to provide more effective steps to combat the problems facing environmental protection.

Hypothesis

The study proposed the following hypotheses to guide the enquiry and investigation into the different aspects of the study. These are as follows:

1. Most of the time, the types of environmental crime change with new technology and scientific advances.

2. Most old legislation is incapable of preventing new environmental crime.

DEFINITIONS OF ENVIRONMENT

Simon Ball and Stuart Bell state that, "Environment is a difficult word to define. Its normal meaning relates to 'surroundings', but obviously that is a concept that is relative to whatever object it is which is surrounded. Used in that sense environment could include virtually anything, indeed."

According to the Encyclopedia Britannica, "The environment encompasses all external factors—both physical and biological—as well as other organisms, meaning the forces of nature that surround an individual."

Goudie defines the environment as the sum of the Earth's physical components, emphasising that humans are a significant factor in shaping their surroundings.

ENVIRONMENTAL CRIMES

Defining environmental crimes is a very difficult task. The harm is associated with natural resources, wildlife, biodiversity, environmental quality, animals, hazardous waste, banned substances, and many other aspects of the environment. Environmental crimes are causing harm not only to the environment but also to human life. The environmental crimes are mostly Offensive causing air pollution, Deforestation, Offences against creatures which reduce species, Offences against animals that deprive them of their rights and Activities relating to water pollution, etc.

But as science and technology play an immense role in human life, the types of environmental crimes also change. The changed dimensions cause global warming, loss of biodiversity, stratospheric ozone depletions by the use of CFCs, desertification, and land degradation by land clearance for the unjustifiable agricultural process, marine ecosystem destruction by oil spills, freshwater ecosystem damages due to the release of pollutants and destruction to human health.

AN ENVIRO-LEGAL SCENARIO

NATIONAL SCENARIO:

The environment is a God-given resource for all humans and other creatures. Our country is working hard to protect the environment and has enacted the following legislation to safeguard it.

Constitutional Commitment:

- Article 21, among all fundamental rights, protects life and personal liberty, which is the most important in relation to environmental pollution. The right to a healthy environment is not directly enumerated in Article 21, but, through a series of Supreme Court cases, it is evident.
- Article 32 provides that the court must grant any remedy to protect the environment.

Environmental Law:

Indian Forest Act, 1927

The main object of the act was to regulate dealing in forest produce and augment the public exchequer by the levy of duties on timber and other forest produce.

The Wildlife (Protection) Act, 1972

This Act is intended to constitute a Wildlife Advisory Board for each state, to regulate the hunting of wild animals and birds, to declare areas as Sanctuaries and national parks, to regulate trade in animals, animal articles, and trophies, and to provide penalties for contravention of the Act.

The Biological Diversity Act, 2002

The objects of the act are to regulate access to the country's biological resources, to conserve and sustainably use biological diversity, and to protect and rehabilitate threatened species.

Prevention of Cruelty Towards Animals Act, 1960

The objects of the act are to prevent the unnecessary pain or suffering of animals, impose penalties for cruelty and establish the Animal Welfare Board.

The Water (Prevention and Control of Pollution) Act, 1974

The principal aim of the act is to prevent and control water pollution as well as to maintain or restore water quality.

Air Prevention and Control of Pollution Act, 1981

The main object of the act is to prevent, control, and abate air pollution, and to maintain or restore the wholesomeness of water; for these purposes, it established a board and a committee.

The Environment (Protection) Act, 1986

The main object of the act is to implement the decision taken at the UN Conference on Human Environment. And also to enact general laws on environmental protection, to coordinate the activities of the various regulatory agencies, and to provide deterrent punishment for endangering the human environment, safety, and health.

National Environmental Tribunal Act, 1995

The primary objective of the act is to implement the decisions adopted at the United Nations Conference on Environment and Development. Additionally, the act seeks to establish strict liability for damages resulting from accidents involving hazardous substances and to create a National Environmental Tribunal.

National Environmental Appellate Authority Act, 1997

The primary objective of the Act is to establish a National Environment Appellate Authority responsible for hearing appeals regarding the restriction of areas where certain industries, operations, or processes, or classes thereof, may not be conducted or may only be conducted under specified safeguards.

Other laws:

Public Nuisance

The law of nuisance has progressed enormously. It has made a substantial contribution to the development of a body of common law, especially by advancing useful concepts for protecting the environment. And for that, S. 133 of the Criminal Procedure Code is widely invoked to maintain public nuisance.

Factories Act, 1948

Chapter-IVA deals with the provisions relating to hazardous processes and to the approval, licensing, and registration of factories, dangerous dusts and fumes, artificial humidification, control of explosive and inflammable dusts, etc.

Indian Penal Code, 1860

Chapter XIV deals with offences affecting public health and safety. Sections 268 to 289 address atmospheric and water pollution, among other matters.

Code of Criminal Procedure, 1973

The Code of Criminal Procedure provides some preventive measures to protect our environment from pollution. Chapter X, Parts B and C, containing Sections 133 to 143 and Section 144, respectively, deal with remedies for public nuisance and for causing air and water pollution.

INTERNATIONAL SCENARIO

Not only at the national level but also internationally, people are working hard to protect the environment. The United Nations is the most important body working hard to save the environment. And to work in that direction, following convention, protocol, etc., is made.

International Environmental Regime:

- As an intergovernmental organisation, the United Nations has provided the principal fora for much of the interstate cooperation necessary for developing international environmental policy and regulatory regimes.
- Key United Nations conferences¹, set the stage for environmental action within these organisations. Important treaties, including the 1992 Climate Change and Biological Diversity Conventions and the 1982 United Nations Convention on the Law of the Sea, form the basis of international environmental agreements.

Main Global Environmental Convention:

1. International Plant Protection Convention, Rome, 1951.
2. Convention on the Conservation of Migratory Species of Wild Animals, Bonn, 1979.
3. Convention Concerning the Protection of the World Cultural and Natural Heritage, Paris, 1972.
4. Convention on Biological Diversity, 1992.

¹ 1872 Stockholm Conference on the Human Environment and the 1992 Rio Conference on Environment and Development”

1. Convention and Wetlands of International Importance, especially as waterfowl Habitat, 1972 (Ramsar Convention).
2. United Nations Framework Convention on Climate Change (UNFCCC), 1992.
3. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Washington, 1973.
4. United Nations Convention on the Law of the Sea, 1982.
5. Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention), 1989.
6. Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994.
7. Convention on Fishing and Conservation of Living Resources of the High Seas, Geneva 1958.
8. Berne Convention on the Conservation of European Wildlife and National Habitats, 1979.
9. Vienna Convention for the Protection of the Ozone Layer, 1985
10. Convention on Long-Range Transboundary Air Pollution, Geneva, 1979.
11. Rio Convention on Environment and Development, 1992.
12. Environmental Assessment Convention on the Transboundary Effects of Industrial Accidents, 1992.
13. Convention on Persistent Organic Pollutants (POPs), Stockholm, 2001
14. Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Aarhus, 1998.
15. Convention on the Protection and Use of Transboundary Watercourses and International Lakes, Helsinki, 1992.

Major Environmental Protocols:

1. Montreal Protocol on Substances that Deplete the Ozone Layer, 1987
2. Kyoto Protocol, 1997.
3. Cartagena Protocol, 1997.
4. Protocol to Abate Acidification, Eutrophication and Ground Level Ozone.
5. Protocol on Persistent Organic Pollutants, 1998.
6. Protocol on Heavy Metals.
7. Protocol on Further Reduction of Sulphur Emissions.
8. Protocol on the Reduction of Sulphur Emissions.
9. EMEP Protocol.
10. Protocol on Strategic Environmental Assessment (Kiev, 2003)

11. Protocol on Pollutant Release and Transfer Registers.

12. Protocol on Water and Health.

13. Protocol on Civil Liability.

Major Environmental Declaration:

1. Nairobi Declaration, 1982.
2. Noordwijk Declaration on Climate Change, 1989.
3. Rio Declaration, 1992.
4. United Nations Millennium Declaration.
5. Johannesburg Declaration, 2002.
6. Kimberly Declaration, 2002.

Administering Bodies Associated with the International Environmental Regime

- The UN's Environmental Competence:
- The advent of the UN in 1945 greatly changed the international system. Nowhere in the Charter of the UN is there any explicit reference to protecting, preserving, or conserving the natural environment, or to promoting sustainable development. However, it can be assumed that environmental protection is an essential element in promoting social progress and solving economic and social problems, as stated in Article 1 of the UN Charter.
- The UN has the following bodies associated with environmental education.
- UNESCO (United Nations Educational, Scientific and Cultural Organisation) :
 - It was established in 1945 with its headquarters in Paris. It was set up to promote education, scientific research and information.
- ECOSOC (The Economic and Social Council).
- ILC (International Law Commission).
- UNEPC (United Nations Environmental Programme).
- Earth Watch Programme.
- Earth Scan.
- CITES (Convention on International Trade in Endangered Species).
- WCED (World Commission on Environment and Development).
- Project Earth.
- MAB (Mam and Biosphere Programme).
- WCU (World Conservation Union).
- IUCN (International Union for Conservation of Nature and Natural Resources).
- IMCO (International Marine Consultative Organisation).

- SACEP (South Asia Cooperation Environment Programme).
- EEC (European Economic Community).
- EPA (Environmental Protection Agency).
- IYFE (International Youth Federation for Environment).
- IEEP (International Environmental Education Programme)./
- UNCSD (United Nations Commission on Sustainable Development).

Conclusion:

Hence, from the above discussion, it is clear that we have enough legislation at the national and international levels to save the environment. But as new technologies and sciences develop, the types of environmental crime have also changed. Even with so much legislation, the rate of environmental crime is not decreasing. People find out different ways to escape from environmental liability. So even though we work on so much legislation, India has to find another way to save the environment gracefully.

Suggestion

1. Make laws in accordance with the United Nations international guidelines.
2. Increase the medium to provide Environmental education at the grassroots level.
3. To organise seminars, webinars, and roadshows to raise awareness of environmental protection.

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