

A CRITICAL LEGAL STUDY ON ENVIRONMENTAL CRIME IN INDIA

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Abstract

Environment maybe defined as a word with which we are well acquainted since birth. Environment and human race is always connected with each other. But we, human beings only enjoy the valuable gifts given by our mother nature and taking it to the path of destruction which needs to be checked. Our Indian Constitution has laid down different laws, particularly known as the environmental laws to check these crimes happening in our environment. Environmental crime is an intentional sin which we are causing to our planet. These environmental crimes are still taking place which is needed to be stopped because without the environment, there will be no life, which will consequently lead to no human beings.

Keywords: Environment, crime, nature, illegal, Constitution.

Introduction

‘Environment’, a word, with which we are aware since birth and will continue to know its existence till our last breath.¹ Human beings and our natural world or the world in which we live, that is, the surrounding, also regarded as the environment are inter connected with each other.² Being a human, we are expected to follow the laws amended by our Indian Constitution. Similarly, the Constitution has also provided us with the laws in favour of the environment, designated as the environmental laws.³ We know that when laws are made on one side, on the contrary there can be a reverse effect, that is, the infringement of these laws.⁴ Whenever we will discuss about environmental law, the aspect of environmental crime will always peep in.⁵ Environmental crime, being a major issue needs to be enlightened for making the citizens of

¹Source: <https://www.interpol.int/en/Crimes/Environmental-crime>(last accessed on 15.06.2022)

²ibid

³Source: <https://www.downtoearth.org.in> (last accessed on 18.06.2022)

⁴ ibid

⁵Source: <https://www.activesustainability.com> (last accessed on 05.06.2022)

India aware just like the word ‘environment’.⁶ This paper will deal with the term environmental crime in a broader aspect accompanied with the consequences which our mother nature is suffering.

Historical Purview and Origin of Environmental Crime

While looking back into the history, it is often observed that, because of its strict liability provisions, the Rivers and Harbors Act of 1899 is regarded as the first environmental criminal proclamation and these provisions make it a felony to discharge waste into American navigable waters without initially dumping it into a pertinent container.⁷ Rationally speaking, the United States’ environmental crimes programme dates back to the 1970s, when the Modern Environmental Regulatory System was evolved, and the 1980s, when environmental laws were amended and criminal forfeits for environmental law violations were uplifted from misdemeanours to felonies.⁸ More than just the start of the environmental crimes program in the United States was brought about by the enactment and amendments of the federal Clean Air Act, the Clean Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), and the Resource Conservation and Recovery Act (“RCRA”) in the 1970s and 1980s. Consequently, the 1980s witnessed a number of “firsts” for environmental crime enforcement, and in 1990s, these “firsts” persisted as allegations and trials took place in federal judicial districts had environment crime perpetrations had never taken place. When it comes to India, the notion of protecting the environment is as old as the country itself.⁹ Since the very dawn of our civilization, both men and women have made a constant effort to safeguard and maintain the environment, which gets mirrored in contemporary India.¹⁰ The Indian Judiciary has also made a significant contribution to setting the groundwork for the Parliament to create policies and laws pertaining to a safer and cleaner environment.¹¹ The majority of environmental statutes allow for both civil and criminal enforcement.¹² Prior to 1981, the government’s strategy

⁶ibid

⁷Source: <https://repository.law.umich.edu> (last accessed on 10.06.2022)

⁸ ibid

⁹Source: <https://www.legalserviceindia.com> (last accessed on 12.06.2022)

¹⁰ ibid

¹¹ibid

¹²Source: <https://www.educationjournal.org> (last accessed on 06.08.2022)

for court enforcement of environmental rules and regulations was almost completely to seek civil sanctions, penalties, and injunctive relief, according to Robert I. McMurry and Stephen D. Ramsey.¹³ The use of ordinary criminal law or the criminal elements of environmental statutes was not given much consideration.¹⁴

Various facets of Environmental Crime

The term “Environmental Crime” has been defined in a variety of ways from diverse perspectives. The phrase has no established definition and is frequently used without context. From various angles, Mary Clifford and Terry D. Edwards provide a few definitions of environmental crime.¹⁵ The definition incorporates the duties performed by environmental law enforcement agencies as well as the applicable statutory provisions.¹⁶ As a result, and environmental crime is an act that violates an environmental protection statute that is applicable to the area where the act happened and that clearly outlines criminal penalties for the purposes of policing.¹⁷

Environmental crime for Y. Situ and D. Emmons is a prohibited act or omission that breaches the law and is consequently susceptible to criminal investigation and punishment. Both the environment and human health or safety are harmed and endangered by this crime. Either organisations- typically corporations- or people are served, depending on the situation.

The House of Commons Environmental Audit Committee provides the following definition of environmental crime in its report:

Environmental crime covers any offenses related to the environment that are either created by statute or developed under common law. Simply put, the environment is the area in which we live.¹⁸

¹³ibid

¹⁴ ibid

¹⁵ Source: <https://www.undoc.org> (last accessed on 12.08.2022)

¹⁶ ibid

¹⁷ ibid

¹⁸Source: <https://www.educationjournal.org>(last accessed on 9.07.2022)

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 1990.¹⁹ According to another definition in that Section, environmental pollution occurs when pollutants that can harm humans or other living things supported by the environment are released into any environmental medium.²⁰ Government has passed laws granting executive agencies 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 fragments of legislation and has not been codified or combined into a single Act. The Water Resources Act of 1991 and the Environmental Protection Act of 1990 contain some of the most often applied criminal penalties.²¹

According to the Royal Institute of International Affairs, environmental crime is broadly defined as unlawful behaviour that has a direct negative impact on the environment. Instances include poaching, wildlife, the illegal trade in hazardous waste, the smuggling of ozone-depleting substances (ODS), illegal, unreported fishing, and illegal logging and the related trade in stolen timber. Environmental crimes entail breaking international agreements meant to stop the trade in environmentally hazardous products or to limit the trade in endangered species.²²

The aforementioned definitions take into account a variety of environmental crime-related issues, from moral and philosophical viewpoints to legal and municipal considerations. These definitions are crucial in light of a variety of factors, including the kinds of environmental crimes committed, who is responsible for them, how criminal the offenders are, how they will be punished, and how they feel about upholding the law.

International Exposure of Environmental Crime

ILLEGAL LOGGING:- One of the most important environmental challenges that the world community must address is serious organised criminality in the forest, tree, and timber industries.

¹⁹ ibid

²⁰ ibid

²¹Source: <https://www.legislation.gov.uk> (last accessed on 11.05.2022)

²²Source: <https://www.chathamhouse.org> (last accessed on 31.05.2022)

Illegal logging is endangering priceless forests from the Amazon through West and Central Africa, to East Asia because it offers minimal risk and big returns on a global market that is mostly uncontrolled for cheap timber and wood products.²³

The illegal harvesting of forests is just one of the major crimes associated with the timber trade. Other major crimes include the illegal acquisition of logging rights, failure to pay applicable taxes, illegal transportation, transshipment, usage of forged documents, incorrect customs declarations, official bribery and corruption, as well as a variety of other financial and social crimes.²⁴ The heinous trade in stolen timber has resulted in intimidation, violation of human rights, violence, and even murder. Although illegal logging meeting place in secret in remote forest areas, it is encouraged by the desire for affordable wood in developed markets.²⁵

Beyond the crime's locus delicti, illegal logging has devastating repercussions.²⁶ In addition, to posing a threat to biodiversity, it fuels natural disasters like floods and forest fires and is a major factor in climate change as the loss of forests is responsible for around one-fifth of all greenhouse gas emissions worldwide.²⁷ Additionally, it causes poverty in communities that depend on forests and illegal logging is thought to cost developing nations up to \$15 billion in lost taxes and revenue every year.²⁸

This significant theft of timber can be planned by cross-border criminal organisations working free from punishment due to pervasive corruption and intimidation.²⁹ Lack of a cogent global regulatory framework that would allow timber that is unlawful in the country of origin to be sold on the international market without difficulty has hindered efforts to address the issue.³⁰ Since the late 1990s, EIA and its Indonesian companion Telapak have been looking into illicit logging and timber smuggling; the most egregious examples, revealed involved massive robbery of

²³Source: <https://sgp.fas.org> (last accessed on 17.06.2022)

²⁴ ibid

²⁵ ibid

²⁶Source: <https://wwf.panda.org> (last accessed on 28.05.2022)

²⁷ ibid

²⁸ ibid

²⁹Source: <https://ec.europa.eu> (last accessed on 01.06.2022)

³⁰ ibid

valuable timber from the Papuan Provinces of Indonesia, a crime worth one billion dollars annually.³¹

WILDLIFE CRIME OF SKINNING THE CAT: The illegal wildlife trade has been classified as a serious type of transnational organised crime by the UN General Assembly for seven years.³² However, many nations impacted by wildlife trafficking have logged in making the necessary investments in an enforcement strategy to locate and capture the key players that run the trade.³³

The professional world of law enforcement customarily assigns little importance to wildlife crime.³⁴ The sort of wildlife crime, however, makes it alluring because to its great profit potential and low danger, and the money gained from it may even be used to fund more serious crimes. Just this alone ought to encourage organisations concerned with law and order, security, and socio-economic stability to take a greater interest in preventing wildlife crime.³⁵ The communities in their vicinity are thus deprived of a potential source of revenue through wildlife tourism, in addition to losing the endangered species that are hunted for their body parts and as a consequence, wildlife crime thwarts efforts made around the world to fight poverty and realise the Millennium Development Goals.³⁶

China's markets, where skins are utilised for home decor, apparel, distinguished gifts, or non-cash bribes, are a major force behind the international illegal trade in Asian big cat skins.³⁷ Traders claim that tourists who visit China also buy skins and sneak them out of the country in their luggage, with some claiming to have utilised local and international mail to send skins outside of the main trade centres.³⁸

According to traffickers, India and Nepal are the main sources of the tiger and leopard skins that are being sold on the Tibetan plateau and in Western China.³⁹ Seizures in India along with Nepal have provided data that supports this. In trucks, on pack animals, and by humans, skins are

³¹ ibid

³²Source: <https://www.wpsi-india.org>(last accessed on 03.08.2022)

³³ibid

³⁴Source: <https://eia-international.org> (last accessed on 29.06.2022)

³⁵ibid

³⁶ibid

³⁷Source: <https://earthjournalism.net>(last accessed 15.05.2022)

³⁸ ibid

³⁹Source: <https://www.indiaenvironmentportal.org.in> (last accessed on 21.06.2022)

transported across the Himalayan borders.⁴⁰ Some of the trials have taken place in well-known black market locales along the Indo-Nepal border's old trading routes. Aside from in retail settings, traders also allege government agent's collusion in border regions. One merchant of tiger skins in China claimed that he receives advance notice of any market inspections or raids from his contacts in the regional Forestry Bureau.⁴¹

Although the instances were initially treated separately, a retroactive review of the relationships between the people shows a different picture.⁴² Following the Ghaziabad and Khaga cases, additional inquiries might have been opened, and suspect and associate profiles might have been compiled.⁴³ If this had happened, it's possible that the network known to be behind the striking trafficking of tiger and leopard products would have been more quickly brought to justice.⁴⁴

PLUNDERING OF OZONE-DEPLETING CHEMICALS: The ozone layer, which can be considered as a thin layer of gas in the upper atmosphere that not only protects the surface of the Earth from dangerous solar ultraviolet radiation (UV) but also is essential to all life on Earth.⁴⁵ Due to human activities, artificially high concentrations of chlorine, bromine, and other ozone-depleting substances (ODS) are being released into the stratosphere, where these chemicals are destroying ozone molecules, causing a severe ozone layer depletion.⁴⁶ The culprits are chemical substances that are devised extensively, particularly fire suppressants like halons and refrigerants like chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs).⁴⁷

Health effects from increased UV exposure are immediate. Immune system repression, skin photoaging, cataracts, and skin cancer are a few of the negative effects.⁴⁸ Between two and three million new cases of non-melanoma skin cancer are reported each year, and an estimated 66,000

⁴⁰ ibid

⁴¹ ibid

⁴² Source: <https://www.unodc.org> (last accessed on 22.05.2022)

⁴³ ibid

⁴⁴ ibid

⁴⁵ Source: <https://www.eea.europa.eu> (last accessed on 18.08.2022)

⁴⁶ ibid

⁴⁷ ibid

⁴⁸ Source: <https://www.epa.gov> (last accessed on 12.05.2022)

people worldwide pass away from various forms of skin cancer each year.⁴⁹ The risk of UV radiation's harmful effects is greatest for children.⁵⁰

Plants and ecosystems are also at risk from UV radiation's harmful impacts, which are not limited to people.⁵¹ According to studies, UV-B harms aquatic species' ability to reproduce and throughout their early developmental phases.⁵² In terrestrial plants, increased UV exposure causes a loss in height, a decrease in shoot mass, and a decrease in the amount of leaves.⁵³

The Montreal Protocol on Compounds that deplete the Ozone Layer was established in 1987 as a result of growing concern around the world about the danger presented by ozone depleting substances.⁵⁴ 189 countries have since endorsed it.⁵⁵ The convention puts legally binding restrictions on national ODS manufacturing and consumption, with full phase-out as the end result and ozone layer recovery as the primary objectives.⁵⁶

THE SINGAPORE SEIZURE: A serious instance of trans-national organised crime (TOC) is the illegal traffic in ivory, and the notorious 'Singapore Seizure' serves as a reminder of the numerous obstacles that must be overcome by law enforcement organisations to successfully disrupt such networks.⁵⁷

Since 1989, there has been a worldwide ban on the trading in elephant ivory. However, in June 2002, authorities detained a ship coming in Singapore from South Africa on its way to Japan, seizing 532 elephant tusks and more than 40,000 conventional Japanese name seals, totalling more than 6.2 tonnes.⁵⁸ A large number of law enforcement agencies, counting the Zambia Wildlife Authority (ZAWA), the Anti-Corruption Bureau (ACB) of Malawi, the Lusaka Agreement Task Force (LATF), and the Agri-Food and Veterinary Authority (AVA) of Singapore, worked together to make the seizure, which dismantled one of the largest and most

⁴⁹ ibid

⁵⁰ ibid

⁵¹ Source: <https://www.unodc.org> (last accessed on 15.08.2022)

⁵² ibid

⁵³ ibid

⁵⁴ Source: <https://www.unep.org> (last accessed on 10.06.2022)

⁵⁵ ibid

⁵⁶ ibid

⁵⁷ Source: <https://www.traffic.org> (last accessed on 14.06.2022)

⁵⁸ ibid

lucrative ivory mobs in the world. Additionally, since the ban's implementation, it was the single-largest collection of illegal ivory.⁵⁹

Notwithstanding early high levels of interagency collaboration, the recovery of notable evidence, and several investigations by a variety of federal and international bodies, no significant convictions have been made six years later.⁶⁰ The Singapore case, which had effectively become a "cold case", had stalled as the result of protracted investigations, ineffective intelligence management, and the loss of crucial evidence.⁶¹ The whereabouts of several important suspects and witnesses are currently unknown, and the guilty gang continues to act with what appears to be indemnity.⁶²

Investigations into the Singapore subjugation turned up a well-established South East Asian and African criminal organisation that crossed at least five borders and operated on two different continents.⁶³ Documentation found during the search revealed that the syndicate had been operating for at least eight years before the seizure and had sent out 19 shipments of a comparable magnitude since 1994.⁶⁴ A history this impressive amounts to precisely thousands of poached elephants and ivory sold on the black market for hundreds of millions of dollars.⁶⁵

Instances of corruption are regularly included in the illegal ivory trade, making national and international efforts to eradicate it ineffective.⁶⁶ This has numerous instances. When a poacher was captured in SLNP, Zambia, in 2001, he confessed that the park warden had hired him to kill 100 elephants for ivory for the Singapore cabal.⁶⁷ The warden was merely moved to a different region rather than being looked into and tried.⁶⁸

⁵⁹ ibid

⁶⁰Source: <https://wildlife.org> (last accessed on 19.05.2022)

⁶¹ ibid

⁶² ibid

⁶³ Source: <https://eia-international.org> (last accessed on 29.06.2022)

⁶⁴ ibid

⁶⁵ ibid

⁶⁶ Source: <https://www.unodc.org> (last accessed on 29.06.2022)

⁶⁷ ibid

⁶⁸ ibid

Environmental Crime and its Indian aspect

- BISHNOI MOVEMENT: Amrita Devi was the leader of this initiative, which witnessed the deaths of about 363 individuals in exchange for the preservation of their woods.⁶⁹This movement can be considered as the initial one of its kind to develop the tactic of voluntarily hugging or embracing the trees for protection.⁷⁰
- CHIPKO MOVEMENT: The Bishnoi's action in Rajasthan over 265 years prior served as the inspiration for this well-known movement, which started in 1971 in the highlands of Uttarakhand.⁷¹ Hug-the-tree movement is referred to as the Chipko Movement.⁷² When a group of women from Reni Village in the Garhwal Himalayas hugged the trees and stopped the hired sawyers from cutting them down for a sports goods company in March 1974, that was the beginning of the Chipko Movement.⁷³ Gauri Devi was the leader of this action.⁷⁴ Throughout the valley, the movement picked up speed very quickly. Women played a significant and important role since they were most negatively impacted by the hardship of both the continued destruction of their environment and the privatisation of essential resources.⁷⁵ Women stepped in to protect their environment and their way of life when trials were made to digress the attention of the men.⁷⁶ Not only in India following independence, but also throughout the rest of the world, this was the initial movement of its sort.⁷⁷ One of the movement's defining characteristics throughout its existence is widely considered as this.⁷⁸
- SILENT VALLEY MOVEMENT: A rich 89 sq. km biological treasure is hidden in the vast expanse of virgin tropical forests on the verdant rolling hills in Kerala's Silent Valley.⁷⁹ A 200 MW hydroelectric dam was planned for the crystal-clear Kunthipuzha

⁶⁹ Source: <https://byjus.com> (last accessed on 21.08.2022)

⁷⁰ Source: <https://epgp.inflibnet.ac.in> (last accessed on 29.07.2022)

⁷¹ Source: <https://www.britannica.com> (last accessed on 09.06.2022)

⁷² ibid

⁷³ ibid

⁷⁴ Source: <https://www.downtoearth.org.in> (last accessed on 15.07.2022)

⁷⁵ ibid

⁷⁶ ibid

⁷⁷ Source: <https://epgp.inflibnet.ac.in> (last accessed on 22.05.2022)

⁷⁸ ibid

⁷⁹ Source: <https://www.conservationindia.org> (last accessed on 07.07.2022)

River as part of the Kundremukh project in the 1980s.⁸⁰ The suggested project was not environmentally sustainable since it would imperil the lives of numerous threatened plant and animal species as well as the significant portion of the Valley's rich rainforest.⁸¹ According to the Government, it is a practical substitute for more expensive and environmentally damaging thermal power sources.⁸² However, environmental and citizen groups opposed it because they feared that it may disturb the intricate ecological balance of the bio-diversity reserve in the Silent Valley that is home to certain rare species.⁸³ Pressure from international organisations like the World Wide Fund for Nature (WWF) and International Union for the Conservation of Nature and Natural Resources (IUCN) on the government resulted in Prime Minister Indira Gandhi freezing the project in 1983.⁸⁴ One of the most unusual occasions when the State bowed to pressure and withdraw was during this movement, which found success relatively early.⁸⁵

- **ANTI-TEHRI DAM MOVEMENT:** The Indian Planning Commission authorised the designs for the Tehri Dam in 1972, naming the main town that it will engulf as well as two populous and productive valleys.⁸⁶ The project was the subject of protests for more than 20 years, starting in 1967.⁸⁷ The people's committee that was established to oppose the dam was successful in getting the government to examine the project multiple times.⁸⁸ The project was put on hold for a while in the middle of the 1980s when the government appointed commission that reviewed it suggested stopping it for environmental reasons.⁸⁹ The opposition movement reached its height in 1992, when the dam's construction was well under way, and it appeared for a while that the protestors may convince the government to once again halt the project.⁹⁰ Environmentalists, perturbed citizens, and others joined the residents of Tehri, other villages, and the surrounding region of Uttarakhand in calling for the removal of what they saw as a destructive,

⁸⁰ ibid

⁸¹ ibid

⁸² Source: <https://gwcgandhinagar.com> (last accessed on 18.05.2022)

⁸³ ibid

⁸⁴ Source: <https://epgp.inflibnet.ac.in> (last accessed on 05.08.2022)

⁸⁵ ibid

⁸⁶ Source: <https://abhipedia.abhimanu.com> (last accessed on 22.05.2022)

⁸⁷ ibid

⁸⁸ ibid

⁸⁹ Source: <https://www.jstage.jst.go.jp> (last accessed on 10.08.2022)

⁹⁰ ibid

expensive, and unneeded dam as the movement gained momentum.⁹¹ The movement ultimately failed, and the government persisted with building the Tehri Dam, finally burying much of Tehri and the projected valleys in 2005.⁹²

- **APPIKO MOVEMENT:** One of India's forest-based environmental movements is the Appiko Movement.⁹³ The Western Ghats district of Karnataka is referred to as the "forest district". The region offers abundant forest resources and a typical microclimate for income crops like cardamom and black pepper.⁹⁴ Rich forest resources were utilised during colonial authority; teak trees were cut down to build ships, and timber and fuel wood were carried to Mumbai.⁹⁵ The Forest Department, which followed the colonial forest policy, turned the original typical woods into monoculture teak and eucalyptus plantations once the government started cutting down trees for money after the country gained its independence.⁹⁶ In a letter to forest officials, a group of young people from Balegadde village demanded that they stop removing the natural forest as a form of protest against plans to develop teak plantations.⁹⁷ But this request went unanswered. Then the villages made the decision to start a movement, and the Appiko Movement was born as a result of the community's love for the trees.⁹⁸

Worldwide Aftermath of Environmental Crime: By using ozone-depleting compounds illegally, we are destroying the Earth's ability to block the sun, which increases the amount of ultraviolet light that reaches the planet's surface and raises the risk of skin cancer and lowers plant production.⁹⁹ Natural disasters are happening more frequently than ever, and because of the expanding population, they have more severe effects.¹⁰⁰

The effects of such calamities would be less severe if forests had not been cut down, causing flooding and landslides, and mangroves had not been removed for development, leaving coastal

⁹¹ Source: <https://epgp.inflibnet.ac.in> (last accessed on 05.06.2022)

⁹² *ibid*

⁹³ Source: <https://www.culturalsurvival.org> (last accessed on 11.08.2022)

⁹⁴ *ibid*

⁹⁵ Source: <https://prepp.in> (last accessed on 03.05.2022)

⁹⁶ *ibid*

⁹⁷ Source: <https://epgp.inflibnet.ac.in> (last accessed on 13.08.2022)

⁹⁸ *ibid*

⁹⁹ Source: <https://www.un.org> (last accessed on 27.05.2022)

¹⁰⁰ *ibid*

areas without any natural defence against erosion or storms.¹⁰¹ Additionally, sea levels rise as a result of global warming, causing flooding.¹⁰² The degradation of habitat causes some species to go extinct before they are even found, and increasing demands for fragile flora and fauna can cause species extinction.¹⁰³ The world's most urgent security and economic concern, climate change, has also been linked to environmental criminality in the forestry industry as a key cause.¹⁰⁴

Constitutional Outlook on Preserving the Environment

42ND CONSTITUTIONAL AMENDMENT: There were several modifications made to the Constitution, but the two most significant ones for the environment were 48-A and 51-A, which are discussed here.

Article 48-A:- The protection and improvement of the environment and the conservation of forests and animals are intertwined under Art. IV of the Indian Constitution's Directive Principle of State Policies, where it is stated that it is the duty of the government to do so. Although the court has the authority to imprison offenders as a tool depending on the jurisdiction of the court and the severity of the offence, recently they have started employing financial punishment as well.¹⁰⁵

Article 51-A:- There was an inclusion of a duty (g) that is elucidated as the people having a duty and responsibility towards the environment, they need to safeguard the rivers, wildlife, and they need to have empathy for all the living creatures around them.¹⁰⁶ This duty is found under Part V of the Indian Constitution, under the fundamental duties, which is labelled as fundamental duties.¹⁰⁷

¹⁰¹ Source: <https://www.unep.org> (last accessed on 11.06.2022)

¹⁰² ibid

¹⁰³ Source: <https://www.unodc.org> (last accessed on 04.06.2022)

¹⁰⁴ ibid

¹⁰⁵ Source: <https://pib.gov.in> (last accessed on 23.05.2022)

¹⁰⁶ Source: <https://www.indianbarassociation.org> (last accessed on 21.05.2022)

¹⁰⁷ ibid

ARTICLE 21: The right to life and personal liberty are covered by Art. 21 of the Indian Constitution, which has the broadest elucidation.¹⁰⁸This right is guaranteed until it is necessary to remove it through legal means.¹⁰⁹Therefore, it was also determined in **M.C. Mehta vs. Union of India**, that the people have a right to a safe and UN- polluted environment, and that this right should be upheld by the government itself. It is the duty of the government and the people of the country to protect this right for one another. This right extends to all the people, including those who are not Indian citizens, and anyone found causing environmental harm that results in or may result in death may be charged with attempting to commit murdered under the country's penal code.¹¹⁰Since the Supreme Court's ruling in **Maneka Gandhi vs. Union of India (AIR 1978 SC 597)**, Art. 21 has occasionally been given a liberal reading. There is an inherent right to an environment that is free from the threat of infection and disease.¹¹¹ The right to live with the dignity includes the right to a healthy environment. In the matter of **Rural Litigation and Entitlement Kendra vs. State, AIR 1988 SC 2187**, it was established that the right to live in a healthy environment is a part of Art. 21 of the Constitution.¹¹² The Supreme Court issued a directive to halt the excavation (illegal mining) in accordance with the Environment (Protection) Act, 1986, in what is the first case of its sort in India to involve environmental and ecological balancing issues.¹¹³

- **Municipal Council, Ratlam vs. Vardhichand and Others 1980 AIR 1662, 1981 SCR (1)**

The Ratlam City Case, also known as, is regarded as a landmark decision made by the Supreme Court of India. In this case, the court observed the effect of the deteriorating urban environment on the poor living in the urban area. In this case, public health was recognised as a human right, which obliged the municipal council to take proper steps, particularly in coping the drainage facilities in Ratlam.¹¹⁴

- **M.C. Mehta v. Union of India (Shriram Industries Case) 1987 SCR (1) 819, AIR 1987 965**

¹⁰⁸Source: <https://blog.iplayers.in> (last accessed on 11.08.2022)

¹⁰⁹ ibid

¹¹⁰ ibid

¹¹¹Source: <https://www.latestlaws.com> (last accessed on 23.07.2022)

¹¹²ibid

¹¹³ibid

¹¹⁴Source: <https://www.escr-net.org> (last accessed on 29.07.2022)

This case, also known as the Shriram gas leak case or the food chemical gas leak case, is a well known ruling in Indian environmental case law. It involved a gas leak of food chemicals in the nation's capital, New Delhi, and the court found that the company was absolutely liable for compensating the victims. This was the first case in India to devise the concept of absolute liability, and it was also the initial case in which the accused person was found guilty.¹¹⁵

- **M.C. Mehta v. Union of India (Ganga case) 1988 AIR 1115, 1988 SCC (2) 530**

This case, also referred to as the Ganga pollution case, is regarded as the most significant one for rivers and their rights. The court in their instance noted and shut down numerous tanneries in the area of Kanpur, Uttar Pradesh, as the Ganga is one of the country's largest rivers and is home to numerous polluting industries. A tannery that cannot establish a basic treatment plant cannot be permitted to remain in operation, according to Justice E.S. Menkataramiah, in the same way that a business that cannot pay its employees the minimum wage cannot be permitted to exist.¹¹⁶

- **Tarun Bharat Singh, Alwar v. Union of India and Others 1993 SCR (3) 21, 1993 SCC Sulp. (3) 115**

In this case, the court ruled that mining was not permitted near the Sariska National Park. Sadly, reports from 2015 indicate that Sariska mining is still going strong and is harming the environment. And not even under Art. 21, which ensures the right to a secure and healthy environment, have any writ petitions been filed before the Supreme Court.¹¹⁷

Conclusion

The harsh truth of our society is, we as human beings have never left a chance to cause harm or damage to our planet. Mother nature has always provided us everything which we needed, but our increasing human greed have given back nothing in return except destruction.

Numerous ways are there which we can adopt for recovering the damages which we have caused which is time consuming, but initially we need proper enforcement of law for bringing a closure

¹¹⁵Source: <https://www.latestlaws.com> (last accessed on 25.05.2022)

¹¹⁶ Source: <https://lawfoyer.in> (last accessed on 08.08.2022)

¹¹⁷Source: <https://papers.ssrn.com> (last accessed on 24.07.2022)

to these kinds of activities. Enough new laws are required which are strict in nature for the protection of the environment.

It is our utmost duty to take care of the environment as it has taken care of us in order for it to continue to provide for all of our needs. Humans, depend on the environment for their survival; the environment does not require humans to live. While there are many activists, intellectuals, and legislators in India and throughout the world, each and every one of them plays a unique part in the development of destruction of the environment. There are a whole lot of things we need to accomplish, but we can't do them if we can't rescue the environment.

In a nutshell, I would like to conclude by saying that each and every step which we are planning to take for protecting our environment from the heinous crimes, must be taken after assessing each and every factor along with following the laws. Environment should be taken care of because of the existence of life and without the existence of environment there would be no life and without life there would be no existence of human race.



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